

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

9:34 a.m.
Thursday,
June 14, 2007

Auditorium
Capitol Extension Building
Austin, Texas

MEMBERS PRESENT:

ELIZABETH ANDERSON, Chair
SONNY FLORES
SHADRICK BOGANY
C. KENT CONINE
GLORIA RAY
NORBERTO SALINAS

MICHAEL GERBER, Executive Director

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P R O C E E D I N G S

MS. ANDERSON: If I can ask you to take your seats, we're ready to start momentarily.

Good morning, and welcome to the June 14 meeting of the Governing Board of the Texas Department of Housing and Community Affairs.

We're glad to see such a great and large group here with us today. I call the meeting to order, and the first order of business is to call the roll.

Vice Chairman Conine?

MR. CONINE: I'm here.

MS. ANDERSON: Mr. Bogany?

MR. BOGANY: Here.

MS. ANDERSON: Ms. Ray?

MS. RAY: Here.

MS. ANDERSON: Mr. Flores?

MR. FLORES: Here.

MS. ANDERSON: Mayor Salinas?

MAYOR SALINAS: Here.

MS. ANDERSON: We have six members present; we do have a quorum.

We're very pleased today in honor of June Home Ownership Month, to honor two of the shining stars in your First Time Homebuyer Program, that makes the dream of home ownership available to many, many Texans statewide.

And this program is truly a partnership as you all know. The Department issues bonds, but the program is not possible without the yeoman's work of lenders all across the State, our participating lenders as well as I would certainly not want to leave out, particularly with Mr. Bogany here, the people that connect the homebuyer with their home.

And that is, our wonderful association with realtors throughout the State of Texas.

MR. CONINE: What about builders?

MS. ANDERSON: Oh, I guess they have something to do with this, don't they?

MR. CONINE: Yes. He's not the only special person up here.

MS. ANDERSON: You know, you just got special interests everywhere you turn, don't you?

So we are here today to honor two -- an individual and an entity that really rank first in our -- around the State in this program.

Mr. Gerber?

MR. GERBER: Madam Chair, Board members, through the issuance of low interest rate mortgage revenue bond loans, the Texas First Time Homebuyers Program in conjunction with our network of lenders and realtors originated over \$280 million in mortgage loans in 2006,

and enabled approximately 2500 individuals and families to experience the benefits of home ownership.

As a result of increased program awareness in the lender community, this program experienced its most successful year to date, and provided home ownership opportunities to individuals and families across our state.

In recognition of their efforts, the TDHCA Governing Board today is recognizing the top lending institution and the top-producing loan officer under the Texas First Time Homebuyers Program.

Our Vice Chair, Mr. Conine is going to present the first award, for the Lender of the Year.

MR. CONINE: Thank you, Mike. In 2006, last year Countrywide Home Loans originated 331 loans totaling over \$32 million through our Texas First Time Homebuyers Program. The homebuyers' average area median family income was 71 percent, and 47 percent of the loans originated were made to minority homebuyers.

They have 93 branch offices located throughout the State. Countrywide also allows mortgage brokers to deliver home loans through their wholesale division as well.

As a result, an additional 71 loans were originated and funded through the program, totaling over

\$8 million.

Now today we have with us two individuals from Countrywide that are here to receive the Department's award, Mike Awadis, who's a senior vice president for government agency sales; and Tonya Beckley, who is the assistant vice president for mortgage revenue bonds.

Please join me in congratulating our Lender of the Year.

(Applause.)

MR. AWADIS: Thank you very much. Appreciate the opportunity. Thank you.

(Applause.)

MR. CONINE: And Mr. Bogany's going to present the award for the Loan Officer of the Year.

Shad?

MR. BOGANY: In 2006, Connie Tharp originated, closed 31 loans under the Texas First Time Homebuyers Program. This represents one of the largest levels of loan origination by an individual loan officer in the State.

She has worked with the banking industry for over 10 years, and she has participated in the Texas First Time Homebuyers Program for the last two years.

She has been an asset to the mortgage industry, she brings to where the tire meets the road, and I'd like

to -- us all together and congratulate Officer of the Year, Ms. Connie Tharp with Wells Fargo Bank.

(Applause.)

MR. GERBER: And Madam Chair, Board members, just because we're acknowledging the hard work of these two -- this company and this individual, we certainly want to express our appreciation to all of the lenders and realtors and other participants in the First Time Homebuyer Program who are in this room, and who are out moving our First Time Homebuyer dollars into the hands -- mortgages into the hands of families who need them.

This has been a great week for TDHCA as we just a week ago closed on the \$97 million in First Time Homebuyer funds for Program 69. And they are moving at a record pace.

And many of you have had the chance in the last week to participate in events around the State to get the word out that more dollars are in that pipeline, and we hope that -- we know that our realtor network and our lender network are moving those dollars aggressively.

And we appreciate the Board's support, we appreciate our stakeholders' support, and we look forward to bringing our next issuance program, 70, to you later this summer. So thanks to all.

MS. ANDERSON: And I want to take this

opportunity to thank several members of staff, including Mr. Gerber, Michael Lyttle, Eric Pike, Jorge Reyes, Jill McFarren and Gordon Anderson for outstanding work that they have done in the month of June, and all of the time, but in the month of June specifically we've had excellent June home ownership events in Laredo, Houston, San Antonio, Dallas and Brownsville, with key legislative partners and the lenders and the realtors in those local areas, that --

And we have the -- the Legislators have given keys to the house and a welcome mat and green plants to new homebuyers who participated in our program in those communities.

It took a lot of work, it's a lot of logistics to pull that off, so I'm very -- I want to ask the Board to join me in thanking the staff for their excellent work.

(Applause.)

MS. ANDERSON: Yesterday we were in Dallas with Senator Royce West and had a great event in Dallas, and I want to thank Senator West also formally for his sponsorship of our use of the Capitol auditorium today.

We now will proceed to public comment. And we have quite a bit of public comment this morning and then we have a presentation that we eagerly await from the HOME Program Advisory Task Force.

But first we'll -- we will have public comment. The first witness is Representative Mike Hamilton. And the next witness is Mayor Brown Claybar.

We're going to ask that you try to limit your comments to three minutes. Thank you.

REP. HAMILTON: We'll make it real short.

Thank you, Ms. Chairman. Members, I just want to tell you out loud number one, to come over here and tell you from the redistricted area with the money finally flowing through to get some help and stuff, and I didn't mean to --

MS. ANDERSON: I know, I know. It made a huge mess.

REP. HAMILTON: -- and I just wanted to tell you all, thank you for everything you all have done there, and Mike -- also I want to tell Mike Gerber what a great person you have here working to -- excellent down there working with us and I just wanted to say, thank you and appreciate all of the help that you all have done.

Today I'm here for a good -- a real quick, well I'll just tell you what -- in a little place called Orange Palm Garden Apartments. It's a senior complex that's going in, it's on your local and consent calendars.

And I just want you to know that this is a very favorable place. It's a really great place to try to

bring some of the seniors into, and we're very excited that it's come, and very happy that it's coming. We look forward to you all approving it real fast and getting it out of the way.

And so I just want to tell you all, thank you once again for everything, and I hope that was short enough. I know I don't want to be here in Austin any more than anybody else -- but I just want to tell you all thank you for everything that we're doing.

MS. ANDERSON: Thank you. We appreciate you coming this morning. You're welcome any time. We love it when you come visit with us. Appreciate it.

REP. HAMILTON: Thank you.

MAYOR CLAYBAR: Madam Chairman and Commission, thank you very much. I'm Brown Claybar, Mayor of the City of Orange. I too am very grateful for the money that is starting to flow, that's coming into our area.

It's been over two years since Hurricane Rita and we're starting to see some of the money and projects come to fruition and really just start of fruition.

Specifically today I'm here to talk about the Plum Garden Apartment Homes. It's Project 07257. My area supports this as evidenced by a \$450,000 grant from the Southeast Texas Regional Planning Commission.

This allows you again to leverage your credit.

We have not had a seniors project up in the Orange area in over the past decade. We still have seniors with blue tarps. This is a desperately needed project. It will also be a very high aesthetic project.

It is a type of housing that I would not hesitate to put my family in. It is a very desirable project, and we hope that this project will come to fruition. In fact, we have some seniors when we showed them pictures of what the projects were, they said, Can we sign up now.

So we hope that Project 07257 will come to fruition. We appreciate your assistance in advance. Thank you very much.

MS. ANDERSON: Thank you, Mayor. The next witness is Mayor Dupuy, and then John Barineau.

MAYOR DUPUY: I'm Virginia Dupuy, Mayor of the City of Waco. I am here to address you on the Historic Lofts of Waco High TDHCA project number 07192.

Madam Chairman, I wanted to --

VOICE: Speaker, Ms. Speaker. Could somebody turn that mike on. I can't hear back here. Thank you.

MAYOR DUPUY: Okay. Maybe I'd better start over. I'm Virginia Dupuy, Mayor of the City of Waco. I'm here to address you on the Historic Lofts of Waco High, TDHCA Project Number 07192.

I've -- Madam Chair, Madam Anderson, Chairman Anderson I wanted to thank you and all of you for allowing me to come before you and address you about our interest in and support of this project.

First of all, this is a unique opportunity for us to be able to exercise good stewardship of an important resource within our community. This project goes far beyond providing needed affordable housing for the City of Waco.

This project preserves a historic landmark and contributes to community revitalization, offering a unique housing option for low-income residents.

This project gives low-income residents a unique housing choice, offering loft living in a downtown setting. It's not a typical housing choice for low income families. In most cities, this type of housing is reserved for higher income brackets.

This type of product allows tenants to experience a housing option that would otherwise be unattainable in most cities.

This project also works to preserve a historic landmark for the City of Waco and I believe you -- I hope you have the pictures there in front of you where you can see this is a magnificent, structurally sound old building, a perfect project for adaptive re-use.

It also preserves -- in preserving this building the last class to graduate from the old Waco High was in 1971. Since that time the building has been unused and risked becoming an eyesore within the heart of our community.

This project is the first financially feasible option available for -- to save this building. This project is the only financially feasible option we have to save the building in the foreseeable future.

A project like this will not only -- contributes to our downtown, it also contributes to our downtown revitalization efforts and acts as a catalyst for future economic growth in our downtown area that would benefit the low income families as well, because they would be a part of that.

Retail stores must have residents in order to operate and to bring more residents into -- who -- of all economic backgrounds into our downtown. We would thus experience continued expansion in our downtown area in the heart of the community.

Our community is a diverse, multi-cultural city. And we encourage and work hard to develop broad-based community interaction. This project is a model for both encouraging and supporting healthy interaction between persons of all income levels being located where

it is.

The -- I also wanted to add that the -- that I, the city council, the city staff, the chambers in the area, the neighborhoods all enthusiastically support this project. Both Representative Dunnam and Representative Anderson have written letters of support on behalf of this development.

These representatives of the State Legislature, representatives for the entire City of Waco. The city has provided a firm commitment for local financial support, and the city has worked diligently to get this property re-zoned.

The city is behind this project 100 percent.

Again I just want to mention this magnificent, structurally sound old building is a project for adaptive use. It's just perfect in our case. So I just urge you to approve this unique project so important to our citizens.

Thank you for giving me the opportunity to talk to you, and thank you for giving this serious consideration. Thank you.

MS. ANDERSON: Thank you, Mayor. Thanks for coming today.

Next witness is John Barineau and then Tammy Bonner.

MR. BARINEAU: Well, thank you. I haven't been up here for a couple of years, and I'm John Barineau and I'm the managing general partner of Reed Park Townhomes from Houston.

And we own Reed Park Townhomes and operate it, as well two other low income housing tax credits in the same near Southside vicinity of Houston.

I'm here to speak in opposition to Cypress Creek Apartments, a new 136-unit family property that's been proposed in this year's round for tax credits, diagonally across the street from Reed Park.

Just last year the Department approved a 180-unit elderly property to be situated basically next door to us. The issue of concentration and close proximity I think is beginning to push the pale.

The -- in the last ten years there have been 17 completed low-income housing tax credit projects in the Southside corridor of Houston.

Since we developed Reed park in the year 2000, there have been 13 projects approved, including bond projects which of course kind of pop off the radar screen sometimes until the end, based on the lottery.

In addition to the 13 that have been built now including two that are still in rent-up, Oak Moor [phonetic] Apartments, 248 units a bond deal; a lot of

units to fill.

You've got Landsborough [phonetic] Apartments that hasn't even rented up to close on their permanent loan.

Plus you've got pending applications from Andalusia Apartments as well as Cypress Creek which I'm here today to oppose.

One of the issues I would like to add on the market study which I've written actually two letters about the concentration issue, and Mr. Gouris, I sent a letter to yesterday critiquing and commenting on the market study by O'Connor & Associates, which is, if you don't mind my saying so -- has much misleading, omitted or incorrect information in it concerning this market and the rent-up, including our own properties.

So I would call your attention to be very cautious and concerned in looking at this property, and I would ask that you not support it for low-income housing tax credits because of the overconcentration and oversupply, particularly with the 60 percent rent tenants that would represent the majority of the tax credit units this new property is targeting for occupancy.

Thank you very much.

MS. ANDERSON: Thank you. Ms. Bonner?

The next witness is Scott Renick.

MS. BONNER: Hi, my name is Tammy Bonner. I'm the occupancy and revenue manager for Bradney [phonetic] and investments, the management company for Reed Park Townhomes, Sky Street [phonetic] Townhomes, and South Union Place Apartments among others.

I am opposing Cypress Creek on the basis that there is not enough 60 percent set-aside traffic to meet the housing in the area, the 60 percent units that are already available.

I use for an example Reed Park Townhomes, where we -- our target is 115, 60 percent set-aside units. Only 60 units are actually leased to 60 percent income tenants. Most of our traffic is under the 50 percent income limit.

We do not see -- maybe 80 percent of our traffic is under the 50 percent income limit. We do not see a lot of 60 percent income traffic at all. So we indeed have to lease our 60 percent set-aside units to those -- the traffic that we have, which is the incomes under the 50 percent limit.

That has been the case with all three of our properties and we have been -- we have never been able to attain our target, 60 percent set-aside units as per our LURA. We've not been able to lease our target.

MR. CONINE: Ms. Bonner, would you convert 50 percent and 60 percent to income levels for me, please.

(No response.)

MR. CONINE: In other words, what incomes are -- and let's just keep it to a single person instead of a family. What income level is 50 percent in -- at your project, and what income level is 60 percent at your project.

MS. BONNER: Well, there are -- I don't have the figures right in front of me the data in front of me, but we use the income limits, the 50 and 60 income limit that are published by TDHCA.

MR. CONINE: For the county.

MS. BONNER: Is that what you're asking me?

MR. CONINE: Yes.

MS. BONNER: I'm sorry, for Harris County?

Yes.

MR. CONINE: Yes, for Harris County.

Okay. I'll find that later. Thank you.

MS. BONNER: Okay.

(Discussion off the record.)

MR. CONINE: Just slip me a note at lunch or something.

MS. BONNER: Okay.

MR. CONINE: Great, thank you.

MS. BONNER: Sorry. Thank you.

MS. ANDERSON: Thank you.

Mr. Renick, and then the next witness is Kevin Caddell.

I'm sorry, Mayor. I --

MR. RENICK: Good morning. My name is Scott Renick and I'm here today representing the Dalhart Economic Development Corporation.

We've submitted a paper that outlines our need for low and moderate rental housing in our area with the growth that we have going on in our community.

We've listed some of our existing employers and their numbers of employees, and the projected companies coming in and their numbers of employees. But what I'd like to do with the rest of the time is give you a different sense of this project so the Committee can better understand.

I've been a community banker in Dalhart for nearly 30 years with a locally owned bank and I've seen growth before. Early on in the process, REBC [phonetic], along with other Panhandle EBCs, the State of Texas, and the Governor's office committed tens of millions of dollars in incentive to attract Hilmar Cheese, and so forth to bring this billion-dollar dairy industry into the Panhandle.

And that process is under way; construction is going on in the Hilmar facility. Now the community of

Dalhart is faced with dealing with the realities of this growth.

Our community has been very fortunate because they have started the process. Our city has built a new \$5 million water treatment plant. Our two counties have gone together jointly and built a new \$3 million jail facility.

Our school has proposed and the citizenry passed a \$20 million bond issue for a new high school campus which is currently under construction.

Our hospital district has built several new clinics and a new \$4 million assisted living center. Our private sector has gone out and is already developing both commercial and retail sites, other housing sites but for home ownership, not rental units.

The pieces of the puzzle are all coming together. The last piece is the need for this low and moderate income rental housing. It's a piece of the puzzle that won't be filled unless programs such as the one we're applying for can be funded.

It is seemingly more and more not economically possible to have these things accomplished in the private sector. It is something in our area in our small community that is desperately needed.

All in all I think our community has gone out

and shown tremendous support for this growth that's going on from the onset through our community leadership in providing all of these other facilities and the ongoing support of our citizenry.

I would ask that the Committee give our request for funding its utmost consideration. Thank you.

MS. ANDERSON: Thank you, sir. Mayor --

MR. FLORES: I have a question, Speaker. Is this matter pending before us? I didn't see it in my book.

MR. RENICK: I believe it is.

MS. ANDERSON: Mr. Gerber, would you answer this?

MS. BOSTON: Thank you, Brooke Boston.

It is actually being considered at the June 28th meeting as one of the preliminary tax credit awards, and you all take final action on that on July -- at the end of the July --

MR. FLORES: But there was no reference to it at all on the documents sent to us?

MS. BOSTON: No. It's just that time of year where people start to --

MR. FLORES: Okay.

MS. BOSTON: -- tell you about their deals.

MR. FLORES: Thank you, because I just found a

letter here, then I haven't had a chance to read it.
Okay.

MR. RENICK: We're just laying a little
groundwork. We just want you to know who we are --

MS. ANDERSON: The public comment period we get
all covered. So -- Mr. Mayor, I'm sorry I didn't call on
you sooner. We're honored to have you here.

MAYOR CADDELL: That's fine. Madam
Chairperson, members of the Board, thank you for allowing
me the opportunity to address you this morning concerning
the Stone Leaf at Dalhart -- I'm sorry --

MR. GERBER: Would you identify yourself for
the record.

MAYOR CADDELL: Oh, yes. My name is Kevin
Caddell, I'm Mayor of the City of Dalhart.

You have been given a packet this morning that
will outline some of the information that we ask your
consideration, to read that and it has some very valuable
information in it.

This is the Stone Leaf at Dalhart 07-131
project. Our community is in full support of the project
and we're asking today for your consideration for tax
credit funding.

Our community of 7,000 population is
experiencing and is poised to experience considerable

growth with the oncoming dairy industry and the opening of the Hilmar Cheese \$280 million processing plant.

The plant is scheduled to open in October 2007, initially creating over 100 jobs and growing to 350 jobs by the end of its phased construction.

The move of Hilmar Cheese and the accompanying dairy industry to Texas makes it the largest agricultural expansion project in the history of our great state. It is anticipated to bring over 4,000 jobs and more than \$1 billion in expenditures to the State of Texas.

An unprecedented cooperative effort between the State of Texas, the Dalhart community, and the Amarillo Economic Development Corporation provided an incentive package to Hilmar consisting of the following components:

A \$7.5 million grant from the Texas Enterprise Fund; \$750,000 from the Texas Capital Fund Grant; \$6.7 million in Texas Department of Transportation infrastructure funding; \$2.4 million in Texas Workforce Commission job screening, recruitment and skills development funding; \$1.8 million from the Enterprise Zone funding; \$9.9 million in manufacturing equipment sales tax exemptions; \$12.2 million in local tax abatements from Dalhart entities in cash, tax credits and abatements; and a \$5 million grant from the Amarillo Economic Development Corporation.

As you can see, a major victory has been won by attracting this new industry to the Texas Panhandle region. The State of Texas has invested a considerable amount of money. The problem facing us now is affordable housing for our new residents. The jobs are available, but places for people to live affordably are not.

Private enterprise has made strides to create housing developments and address housing ownership issues in our community. However, the deficit is in affordable rental housing for moderate to low income individuals.

Private funding alone without the help of tax credits will not work economically in the rental environment in our community.

The Stone Leaf at Dalhart 07-131 project satisfies a desperate need. Texas has opened a door, and many are willing to enter if they can live affordably. I respectfully ask for your consideration for tax credit funding for the Stone Leaf at Dalhart 07-131 proposal, and if the project does not receive an award in this 2007 application round, that you consider forward commitment funding for 2008.

Thank you for your time and consideration.

MS. ANDERSON: Thank you for being here, Mr. Mayor. Next witness is Dennis Wells, and then Cynthia Bast.

MR. WELLS: Good morning, Madam Chairperson. Thank you for your kindness to give me an opportunity to speak on this subject.

I am Dennis Wells. I am from Liberty Hill, a small town northwest of here quite a ways. I'm here to speak in opposition today to a Gabriel's Crossing low income housing development, Application Number 07-220.

I believe this is supposed to be addressed on the 28th session so you won't find it on our agenda for today. It's supposed to have closing action I believe at the end of July as well.

Okay. Let's see, okay I'd like to start off by first saying that, originally or initially this project was put forth as a senior community with a medium density requirement, zoning requirement which was met by the City of Liberty Hill some time ago, I think probably about a year ago and the zone was reclassified as SF-2 from SF-1.

This was a concession on the part of the people because we felt there was a real value to having this senior community in our area, because there is a need in our area based on our demographics.

Over the past year this has -- this project has seemed to bloom into a low-income subsidized housing project, which the community is largely against, and there has been petitions to that effect that have in excess of

323 signatures in opposition to this.

Some of the points of contention that a lot of us as the homeowners in the surrounding core historical area of Liberty Hill have to this project are as follows:

Number one, it's incompatible with the historic character of the downtown core area of Liberty Hill. I myself live in a 100-plus-year-old Victorian amongst many others within a quarter mile of this proposed project.

The city infrastructure is currently insufficient to accommodate the population concentration of this magnitude, to include the transportation network which is not there whatsoever to transport a lot of these occupants to their jobs, which would not be in Liberty Hill, because there just aren't that many jobs yet in Liberty Hill.

Insufficient police force, or trained police force. Again we are just growing; we just incorporated in '98 or '99 I believe so we're still growing. We're not quite ready for a -- this concentration of people.

The water and sewage infrastructure is completely insufficient. The sewage infrastructure hasn't even been started yet. It has been proposed though that many of the residents that surround adjacent to this development be taxed to cover the cost of putting in a sewer infrastructure for this new project.

A lot of us are opposed to that because a lot of us can't afford it. We are moderate to low income ourselves, so we do feel a certain responsibility to those that are trying to get housing in our area. This however is the wrong way to do it. It's in the wrong location, it's at the wrong time.

They need to wait, put this off, let Liberty Hill grow a little bit, get its infrastructure in place and then develop appropriately.

Furthermore I'd just -- I'd like to encourage you to disapprove this development at this time, give it a little more time like I said for the city to grow into it, and also to find an alternate location that's a little bit more appropriate for transportation and network for city services. That's all I had to say.

MS. ANDERSON: Thank you, sir.

MR. WELLS: Thank you for your time.

MS. ANDERSON: Ms. Bast, and then the next witness is Bernadine Spears.

MS. BAST: Good morning. I'm Cynthia Bast of Locke, Liddell & Sapp, here representing Capmark Financial Group.

On February 6 I submitted a letter to Ms. Anderson as Board Chair and Mr. Gerber as Executive Director, requesting reconsideration of a Board action

taken in December 2006 with regard to the Claremont [phonetic] property Arlington.

As described in my letter, that Board action was directly contradictory to a Board action taken in August 2006, for a property with virtually identical circumstances.

So we have two similar properties, two identical requests, in August 2006 the request was approved, in December 2006 the request was denied, for Claremont.

The inconsistency between these two Board actions is the grounds for my request for reconsideration, so I respectfully request that in accordance with my February 6 letter, the Claremont item be placed on the next available Board agenda for reconsideration. Thank you. Any questions?

MR. CONINE: Are you saying we messed up?

MS. BAST: It happens to the best of us.

MR. CONINE: Yes.

MS. BAST: No.

MS. ANDERSON: Ms. Spears --

MR. CONINE: It's up to the Chair. That's why they pay you the big bucks.

MS. ANDERSON: I'm not hearing a bunch of screaming --

MS. SPEARS: Madam Chair, Board members, staff.
Bernadine Spears, 124 East Second, Odessa, Texas,
representing Key West Senior Village Phase II.

I'm here again asking for your consideration in
the next 2007 round for 07-151, Key West Senior Village 36
units of senior housing.

There is no known opposition. We are -- we
will probably never have an at-risk development because
seniors just don't -- they don't tear up the property.
They keep it in pretty good shape, so we probably will
never be at risk.

Phase I was a very good development; it is 100
percent occupied, has been since Day One. In 2001 we were
allocated 120 units, and it is still running smoothly. If
we had 36 more units we could rent them today, get
everybody certified today.

So I'm asking for your permission if you don't
mind, please consider Key West Senior Village, Odessa,
Texas. I know that the other developments in our area
that has applications are well deserving. We just want to
be kept in the numbering and remember Key West Senior
Village Phase II. Are there any questions.

(No response.)

MS. SPEARS: Thank you for your time.

MS. ANDERSON: Thank you.

Michael Sanchez, and then the next witness will be Gary Pritchett.

MR. SANCHEZ: I'm Michael Sanchez, city councilman, City of Odessa, and I'd like to speak on behalf of the Odessa Senior Village Key West also.

Phase I was a complete success. It is -- it's been a nice addition to the neighborhood and I'd love to see the other part of it closed off to build the additional 36 units, so that we could have additional senior housing in that neighborhood.

Is there any questions.

(No response.)

MR. SANCHEZ: Okay, thank you.

MS. ANDERSON: Thank you for being here, sir.

Mr. Pritchett, and then the next witness is Charles Wylie.

MR. PRITCHETT: Good morning, Madam Chair and members of the Board. My name is Gary Winslow Pritchett.

I am a recent candidate for Mayor of the City of Dallas, and I am appearing today on my own behalf, and on the behalf of those senior citizens who so desperately and deservedly require adequate, safe and affordable housing.

I am here today in strong support of the Frazier-Berean Group and Carpenters Point Project, TDHCA Number 07-101.

Madam Chair, members of the Board, I want to first commend you for your service on this vital and August board. As you undoubtedly know, your work touches the very fiber of the lives of countless of citizens of this great state, most of whom you will never meet.

The lack of adequate, safe and affordable housing plagues every state of this great nation. In the City of Dallas, particularly south Dallas, the lack of adequate, safe and affordable housing presents an avoidable crisis for the body politic and quality of life issues for seniors who are on waiting lists for adequate, safe and affordable housing that is so substantial in length that it could take up to a decade to provide adequate, safe and affordable housing under the present circumstances.

This creates a moral crisis, particularly for seniors. But we know where there is crisis there is also hope. TDHCA Project 07-101 represents that hope. The project by Frazier-Berean Group represents hope for over 195 senior citizens who unfortunately do not have the time to wait nor the capital to spend to timely achieve adequate, safe and affordable housing.

It is therefore altogether fitting in my opinion and proper for this August board to allocate the 9 percent tax credit to Frazier-Berean Group so that it can

continue its good work in responding to this moral crisis which presently exists in the lack of adequate, safe and affordable housing in south Dallas.

Fervently do I pray that you join with the Frazier-Berean Group by taking an affirmative vote on their application for the 9 percent tax credit. Thank you very much for your time.

MS. ANDERSON: Thank you, sir.

Mr. Wylie. The next witness then is George King.

MR. WYLIE: Good morning Madam Chairman and to the Board members. My name is Charles Edward Wylie. I also come on behalf of the Frazier-Berean Group for the Carpenters Point Project. I am a native Dallasite, and I am familiar with this particular area, which has been blighted for nearly half a century.

This is a ray of hope which Mr. Pritchett was talking about for the people of the Frazier Group. To give you some background, in the recent bond election for infrastructure improvements for city and streets, this particular area was not included.

It is a sin and a guilt against the City of Dallas to ostracize a group of people who only want to have a better way of life. And what can be better than giving someone a better way of life that's going to

improve their mental and physical health in this particular area.

This is what this group is about. This is what they're trying to give to their community in allowing this.

We have cooperation from the City of Dallas, and from the Dallas Housing Authority. We have according to them almost 400 seniors who are awaiting adequate housing in the City of Dallas.

So as I take my seat I would ask that you please consider the Carpenter's Point, 07-101, the Frazier-Berean Group for this senior housing development.

Thank you.

MS. ANDERSON: Thank you, sir. Mr. King, and then the next witness is Steven Shirley.

MR. KING: Good morning. I want to thank the Board and you Madam Chair for allowing me an opportunity to speak.

My name is George King and I'm the president and CEO of the Frazier-Berean Group in Dallas, Texas. I also serve as the president of the Carpenter's Point Senior Development.

I'm appearing on behalf of our group and the Carpenter's project Number 07-101. I want to begin by saying on behalf of our organization and our senior

residents in Dallas that we really appreciate deeply the time and the effort and consideration that you have given our request for an award of low-income housing tax credits for this project.

A growing number of leaders and citizens in Dallas have encouraged us in our plans for senior-specific housing that we have presented in our application for 9 percent tax credits 2007.

A number of our citizens and leaders from Dallas have made their support known in personal correspondence addressed to you and will do so in appearances here in this forum.

In view of the need of affordable senior housing units in Dallas and in light of the lack of adequate quality housing in our community, many people in Dallas have come together to change the face of the Frazier Courts neighborhood, and believe that now is a time for us to invest in a neighborhood that has been neglected.

The Frazier Revitalization Initiative is a 1200-acre plan to revitalize the neighborhood surrounding the Fair Park area. Carpenter's Point is in the middle of it.

Our history in the Frazier Courts neighborhood spans over 17 years of service to one of the most

impoverished areas of Dallas. For years I have personally witnessed and experienced the defeat of one plan of action after another, without any significant changes ever taking place.

I have witnessed the poor housing conditions that seniors live and have died in, that are now unlivable. Many seniors do not have the capacity to repair or improve their housing, and as a result are forced to live out the remainder of their lives in substandard housing.

With counsel from seniors we propose to build Carpenter's Point as an example of what the neighborhood could accomplish. These seniors have made tremendous investments of time, talent and resources to help us to design a facility that can adequately meet their needs and can serve as an example to other neighborhoods facing the same constraints.

Dallas Housing Authority has led the way with the demolishing of the old Frazier Courts Housing Projects and replacing it with new townhomes and single family homes. They are not at this point contemplating providing senior-specific housing.

This is where Carpenter's Point comes in. We desire to provide at least 150 units for seniors who want to remain in the community, and for others that want to

return. Yet it is not financially feasible for us to undertake conventional means of financing in order to make this project happen.

Without the 9 percent tax credits to underwrite this significant project, it cannot happen. In other words, it is life or death for seniors who will have to wait until we gain the necessary points to be awarded tax credits.

It is now or never for our plan, and waiting two more years for this specific project to come to fruition will be too late for some seniors. Without a forward commitment for our tax credit award allocation, Carpenter's Point will be impossible.

Therefore we urge you to decide in favor of our proposal, for the benefit of senior citizens of Dallas. We thank you for your consideration of this project.

MS. ANDERSON: Thank you, sir.

MR. SHIRLEY: Good morning. My name is Steve Shirley. I represent Frazier-Berean Group. As -- growing up I struggled -- three things, and only one of those three things I struggled with the most.

I wasn't thinking of being a black, African-American. But I didn't struggle with that because I grew up in a mostly predominantly white environment, and some black, that wouldn't be it.

I thought of a struggle having a speech impediment. Somehow or other one of my dear sisters taught, and coming from a small town didn't have all of the speech therapy as you would think.

But the thing I struggle with is homes, housing. We lived on a farm, and Mom and Dad married for 50 years, and a great couple. And they are always together.

But raising 14 kids you know, on the farm, and hard -- a home life, a house that we just didn't live in that fit. No running water, you know. No bathroom. And that always bothered our family. But it was a love and joy to overcome that.

And I appeal today as for last -- two years ago my mom was lying on the side on the bed, has a stroke, and I called and got the ambulance -- and a stroke so severe that she had to go to a nursing home in that small time, and the nursing home is very loving and cared with. And it dawned on me that housing is still in front of me.

I found a great place for my mom as we had built a new home for her and she had lived in it for ten years and got -- enjoyed that. My dad had passed away, and it hit me that seniors need a place to go where care can be provided.

And I found myself in South Dallas. I

almost -- had worked at Prestonwood, one of the great churches in Dallas, in the nation, and I -- you know, my first instinct was to go there for all of the buildings, all of the great homes. And then work with the Fellowship of Christian Athletes, Coach Landry. But -- I found myself in South Dallas and I said, Man. Again, housing faced me again.

And today I ask you for a forward commitment for Frazier-Berean Group, and if not, we appeal that. And because we had six generations living on the face of the earth, and seniors are right at the end, and what are we going to do with that senior place.

And we want to give them a great place to live out their days. Thank you very much.

MS. ANDERSON: Thank you, sir.

The next witness is Jackie Martin and then Tom Oliver.

MR. MARTIN: Madam Chair, Board. My name is Jackie Martin. I'll be speaking later on Projects 07-191 and 07-192, and for right now I'm just going to yield until that presentation. So I will defer.

MAYOR OLIVER: Madam Chair, Board members. My name is Tom Oliver, Mayor, City of Greenville. And I appreciate the opportunity to address you this morning. I'm here to speak in support of two projects. Projects

Number 07-190, and 07-191, the Washington Hotel Lofts, and the Austin School Apartment Projects.

The Washington Hotel Lofts project affords low-income residents a unique housing opportunity. They offer loft living in a downtown setting not typically available to low-income families. In most cities this type of housing product is reserved for higher income brackets.

This type of product allows tenants to experience a housing option that would have otherwise been unattainable in most cities.

The project also serves to preserve a historic landmark in Greenville. I'm a fourth-generation Greenville resident and in fact, revealing my age my wedding rehearsal dinner was held at that hotel some 41 years ago. So I have a personal interest in this project as well.

I think photos have been handed out. You can see the state of the old hotel. In the second photo in the background to, I believe to the left there's a building that was restored. It was an old bank building in Greenville and now it's called the Paul Matthews Exchange Building.

Our senator, local senator Bob Deuell as well as State Representative Dan Flynn both have offices in that facility and we would hope that through approval of

this project and moving forward that it would be restored in a similar manner as the Exchange building.

A project like this not only contributes to our downtown revitalization efforts but it also acts as a catalyst for future economic growth in downtown Greenville.

Retail stores need residents in order to operate, and by bringing more residents of all economic backgrounds into our downtown, we'll experience continued economic expansion in the downtown area.

The city does receive support from this project from both Senator Bob Deuell and Representative Dan Flynn.

And as I mentioned before, they do have offices in a building adjacent to the old Washington Hotel.

It would be an excellent way to show both of these representatives, State Representative and Senator that the State's Affordable Tax Credit Program provides multiple benefits to communities of Texas.

The Austin School Apartments is converting city surplus property into downtown affordable housing. We want to encourage families to move into this neighborhood, repairing existing homes or building new homes at vacant lots.

We think this development will represent a catalyst to the north side of Greenville in redeveloping

the neighborhood. The Austin School will again bring additional families to downtown, create a stimulus for more retail shops to return to downtown.

We are doing everything we can in Greenville to reclaim downtown with a new public safety facility, new sidewalks, streetscape -- now we need downtown residents to continue our growth.

In summary, the Landmark Group is a quality organization with a proven track record. Landmark has the expertise in rehabilitation and has the resources in place to obtain certification by the Secretary of Interior that its rehabilitation projects are consistent with the structures' historic character.

We are absolutely thrilled the Landmark Group has chosen Greenville as a site for these investments. Completion of these projects is extremely important to the City of Greenville and our efforts to revitalize the downtown community. Therefore I respectfully request the Board's support for the Washington Hotel Lofts and Austin School Apartments projects.

Thank you very much for your time.

MS. ANDERSON: Thank you, sir.

To clarify, Mr. Martin you want to speak at the agenda item rather than in public comment? Is that what I --

MR. MARTIN: Yes.

MS. ANDERSON: Okay, fine. Thank you.

That concludes the public comment for people that wanted to speak during the public comment period.

We're going to take a ten-minute break, and then we're going to come back and have the HOME Task Force Presentation, which is a 90-minute presentation, and then we're going to take a lunch break because the Board has an executive session.

So we're going to take a ten-minute break until about 10:40. We'll be then going to lunch about 12:15, 12:20, for you know, probably until -- an hour, Kevin for the executive session? Until 1:15. So we'll do lunch from like 12:15 to 1:15.

MR. CONINE: Madam Chair --

MS. ANDERSON: Yes, sir.

MR. CONINE: -- could we move the Consent Agenda?

MS. ANDERSON: Yes. You want to move the Consent -- if --

MR. CONINE: I mean, I think there's some people waiting out there.

MS. ANDERSON: Okay. We'll remain in session -- do I hear a motion on Agenda Item Number 1?

MR. CONINE: I 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: Mr. Bogany.

MR. BOGANY: The Consent Agenda is all of the items that we had in Item 1.

MS. ANDERSON: Yes, sir.

MR. CONINE: Correct.

MS. ANDERSON: Any other questions?

(No response.)

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: The motion carries, the Consent Agenda is adopted.

MR. CONINE: Thank you.

MS. ANDERSON: So now, we're taking our ten-minute break.

(Whereupon, a recess was taken.)

MS. ANDERSON: If I can ask you all to take your seats, we'll get started. And my oversight -- I missed four witnesses who wanted to make public comment, so we're going to take that comment before we start the HOME Task Force Report.

The first witness is Walter Martinez. The next witness is Laura Waller de la Rosa.

MR. W. MARTINEZ: Thank you Madam Chairman. I'll be brief, I know you have a long agenda.

I'm here to speak -- my name is Walter Martinez, I'm representing the Kingsville LULAC Manor Trust and National Housing Management Corporation which manages the property in Kingsville, Texas.

It is an applicant in the 2007 Tax Credit Program. It is an 88-unit family complex located in Kingsville, Texas. It's part of the at-risk applicants pool, and it has strong support in the local community, also from local elected officials as well as our legislative delegation.

In 2006, Kingsville was not successful in getting funding. We tried, we didn't score well enough in the pre-app and we said, Well, we'll try again and we'll try to regroup.

This year it got a good score. We're right

there at the point where hopefully we'll get recommended. We'd like for you to consider it.

The rehab would make it possible for this organization, which is a nonprofit to continue to provide safe, decent affordable housing in the Kingsville community. It's been there for over 35 years and we'd like for you to consider it -- and as I said, the -- there were three projects I believe in the Kingsville area this year, although there hasn't been I think a tax credit project funded there for four or five years.

This year, our project came in first, or the highest as far as score. So we'd like for you to consider it, and I know it's coming up soon. Thank you very much for your time. Appreciate it.

MS. ANDERSON: Thank you, sir.

Laura Waller de la Rosa, and then the next witness is Michael de la Rosa.

MS. DE LA ROSA: Okay. My name is Laura Waller de la Rosa. I'm from Liberty Hill. I just want to make a point of record that there is an overwhelming and pervasive opposition among all classes of people in Liberty Hill against the low-income, multifamily housing project, San Gabriel Crossing, Application Number 07-220, currently being proposed by the Texas Housing Foundation.

The city council knew fully well that we were

against the project, but it has shown total disregard for public opinion.

As a point of record, each member received a FedEx, a package containing an overview letter of opposition to this project, paper petitions in opposition to the multifamily housing project by Liberty Hill residents totaling 323, copies of online petitions in opposition to this project which also include individual comments, totaling 326; petitions to request denial of a re-zoning application that would allow this project to be developed in a single-family zoned area by the majority of the residents in this area, also submitted separate petitions.

This is a single-family, residential area. The property was purchased for four times the appraised value rate, before -- and it's still not zoned commercial, which is an interesting thing to me in and of itself.

The residents in this area did not receive any prior notification as required by law, that this project was going to be put in, and the only way we knew was a sign that was posted. We were never informed as a community.

On the sign, when we called the city hall of Liberty Hill, they told us this was not a public hearing for this project but rather an economic growth development

corporation meeting, that did not involve public opinion or public hearing.

Okay. We have provided the copies of all of these petitions and the difficulties we're having with Rick Perry, John R. Carter, Senator Ogden, Representative Gattis, Jana Duty, Williamson County Attorney, Michael Gerber, Executive Director Robbye Meyer, Director of Multifamily Finance Production, and at Liberty Hill Independent School District.

And I'd like to provide a copy of that to you here as well, along with my letter.

Here's the problem. We do not have an infrastructure in the city. We do not have jobs available in the city for the individuals that would be moving into this multifamily housing project.

We have a great need for Habitat for Humanity houses, we have a great need for low-income houses, for My First Texas Home, First Texas Homebuyer Programs. We have a lot of old, historic homes in the downtown that could use I guess subsidy money for people of lower income to come in and use it to repair and to fix up these homes, to have their own homes which to me is the right way to help people, to empower them in their lives.

This is a residential area. There will be a time when we will need to look at multifamily housing

projects, when we do have opportunities for work in this area that we don't have now.

We do not have a supermarket. The listing of the grocery store on the application is a Shell station called, LH Food Mart. It's a Shell gas station. The other one is a convenience store called, Allman's.

The listing of a restaurant that's in walkable distance is a Motherlode's takeout and delivery pizza, that's about five feet across.

There are many falsifications in this application. You run the risk of bringing people here who are in need, and setting them in the center of a city that does not offer job opportunity, that does not offer any groceries they can afford, because I can't buy at Parker's, or at those convenience stores and wouldn't want to. And they have no access to walking distance restaurants.

There are places and there are times for this kind of development. But Liberty Hill has a very large demographic group of elderly citizens. A senior citizen retirement community was originally proposed for this exact piece of property. The council turned it down because there was no frontage road and no sewer.

Well, there's still no frontage road. But they're giving an in-kind grant of \$6900 for sewer that

the rest of the residents will pay.

We have a large elderly population that does need help. We have low-income people in homes that do need help. But we do not need to bring in additional people who need services and support before we help the people who live in the community at this time.

As our community grows, the infrastructure grows -- we don't even have a police force. We just hired five people as police officers. As our community grows, then we will have an infrastructure, and there will be places where we can have low-income housing, multifamily units.

Thank you for your time, I appreciate it. And if I may hand this to you --

MS. ANDERSON: Michael de la Rosa, and then the next witness is Michael Hunter.

MR. DE LA ROSA: I would just yield my time to a later time based on the assurances from the Executive Director that we would be provided with a copy of the marketing study that was done on this project which we've never been provided before, but -- based on his assurances and his staff members' that we would be given this marketing report and have the opportunity to refute it, then we'll do that at a later time. So I would yield to a later time. Thank you.

MS. ANDERSON: Thank you. Okay.

MR. GERBER: And Madam Chair, just to clarify for the Board, I mean, all of these materials are available on these developments that are -- they're all publicly available on our website and we will be sharing with the de la Rosas and others about this project.

We are very concerned that there may be some members of the public in Liberty Hill who feel that they did not have adequate access to these materials, and so we are working during this session to get them CDs of that material and certainly Robbye and I are available to them to try to --

And we'd like to meet, to make sure that the public has had an opportunity and that this Board has prioritized public and [indiscernible] input, and we want to make sure that that's adequately reflected so this Board can make an appropriate decision when that time comes.

MS. ANDERSON: Thank you, thank you.

Mr. Hunter.

MR. HUNTER: Good morning. My name is Michael Hunter, I'm with Hunter & Hunter Consultants. I'm representing Affordable Housing in Parker County this morning, and Al Swann [phonetic], the executive director. He couldn't be here; he's having some medical procedures

run this morning.

And really all we wanted to do was take a moment -- well, to thank you for one thing, for your open mindedness in looking at some issues that evidently came up in the April Board Meeting, and we're -- we've been working with staff and will continue working with staff diligently to bring hopefully some solutions to some ideas to you in the next couple of Board meetings.

And that's really all we wanted to say, was to say we appreciate your open-mindedness and we look forward to bringing some ideas to you.

Okay?

MR. GERBER: Madam Chair, Board members, I would just add to Mr. Hunter's comments that we are working and -- I'm sorry that Mr. Swann couldn't be here today and we're all certainly cognitive of his illness, and send our best wishes.

We will have some issues that are working through PMC, and through the Office of Internal Counsel, and we will be bringing those issues to you in due course, probably at the first July Board meeting.

MS. ANDERSON: Okay.

MR. HUNTER: Thank you.

MS. ANDERSON: Thank you. Okay, that does conclude the public comment, and so we are ready now for

the HOME Task Force Report.

And just to open up I want to thank our Deputy Executive Director Brooke Boston for her work on this effort. She's given a lot of time and thoughtful preparation, and she does in all things, and so I -- on behalf of the Board I want to thank you, Brooke, for working with this group.

And then I want to thank the members of the Task Force. This is a large body of people that have met over several months, have contributed significant time, dedication, thoughtfulness to this effort. And so I want to thank everyone who has given time to this effort.

This morning, the Board -- we have set aside 90 minutes to hear the presentation of the HOME Task Force, and as the Board members see from their agenda, we have a number of people that will be speaking on certain -- they'll speak on certain topics.

And after they speak, there's a period of time for questions and answers. We need to try to -- you know, we need to stay on time, on this, both from the speakers and perhaps sometimes more of a problem is the Board members.

You know, we need to sort of be mindful of our five-minute Q and A, and then we can have some discussion afterward about what we would like the staff to bring to

us for formal consideration in subsequent board meetings.

So Mr. Gerber, do you have any opening comments?

MR. GERBER: Madam Chairman, other than I am going to turn it over to Brooke in just a moment, but as you're aware, the Department spent these last ten months working on a thorough review of our HOME program.

Part of that has been an internal recommitment and reorganization which you're well aware of, and part of it has been a concentration on improving our report card score.

And a significant part has been in identifying areas to address and asking for significant, in-depth discussions by those people who use our programs to help low-income Texans have affordable housing alternatives.

Here today, five people are going to make presentations about the results of the HOME Task Force. These presentations are highlights of some long and often difficult discussions that took place over several months.

For today's purpose, again this is not an Action Item but really an opportunity for the Board to hear first hand the results of that task force report, and I also extend my gratitude to Brooke Boston and to the members of the Task Force for their many, many hours of challenging discussion in coming forward with such a -- in

such a productive way with such a -- we think a useful product with interesting recommendations that I know will provide for a possible discussion, which Brooke, I'll turn it over to you to lead.

MS. BOSTON: Thank you. And thank you too, to the Board for the encouragement and creating the group, and supporting us in getting all their input for this.

I just wanted to clarify a couple extra comments. Mike, Mike and Beth I really want to thank the group, I think, for those of us who were in those meetings, everyone appreciates how much went into it.

If the people in the room who are on the Task Force would mind standing up. I know not everybody could make it today. But just so the Board can see who some of the members were. Thank you very much.

(Applause.)

MS. BOSTON: And then I would also like to thank all of the staff who also helps, both with working on the report itself, there were a lot of people who put time into drafting language.

Veronica Chapa [phonetic] did yeoman's work in keeping the group organized, making sure everyone knew where to be and when, and it was definitely a group effort to get us to this point.

In terms of how this is organized, I just want

to point out to you, the first page behind the tab marked "HOME Task Force" is an agenda that is just for this item, and it shows how we are organizing this.

The report itself which you have is organized into eleven separate topic areas. However, the task force in deciding how they wanted to make their presentation to you did not necessarily think it would be as effective to have eleven separate speakers.

So they chose to combine several topics. So you're going to have five speakers, most of whom are covering more than one topic.

We -- and your agenda does show what topics you're going to be hearing about, so you can flip back and forth between the report, as well as obviously just listening to their testimony.

As Ms. Anderson noted, there is room for question and answer. But I do want to affirm for you that every question that you ask, even if you don't get an oral response, we're going to be jotting down that question and we'll follow up with the task force and make sure we give you one compilation of -- a written compilation of the questions and answers.

So that if you're trying to jot notes or if you just want to focus, or in some cases it may be something they can't answer right at that moment, the person

speaking may want to go back and check with their subcommittee members, and we'll just make sure that you get all of the responses that you need.

And with that, I will turn it over to the first presenter, the Honorable Jerry Agan. He's a judge from Presidio County, who will be presenting on MATCH and Loans versus Grants.

JUDGE AGAN: Thank you very much, Madam Chair, Board members. Thank you for allowing us up here to do this.

I'd like to compliment the staff at TDHCA for their open-mindedness in the way they let the ideas flow during this task force process.

It was refreshing to have a group of individuals that are experts listen to us, that need the programs out there.

My name is Jerry Agan, I'm the Presidio County Judge. This -- in far west Texas, it's -- this program is very vital to us, with 87 percent Hispanic population and 12 percent unemployment, with about the poorest county in the State. So we utilize this program to do a lot of work out there, it's good.

I've been asked to present on two issues, the issue of owner-occupied, the Loan Versus Grant, and then the MATCH issue, which is Issue Number 2 and Number 8.

Several options were discussed and presented in the HOME Advisory Task Force. The change from a grant to loan program has been controversial. Many stakeholders expressed written and verbal comments opposed to the forgivable loan program.

In the spirit of addressing these objections, the options presented here can improve the acceptance of the loan program.

We're talking about a graduated income for loan grants. This option was suggested for future owner-occupied program applications as 2006 and 2007 program years are established under the forgivable loan program.

One -- maybe 30 percent or less area median family income and Rider 4 income limits would return to a grant program.

This is the program that we exclusively use in Presidio County. We've never gotten beyond this first option because all of our applicants that we can provide housing is in the 30 percent or lower, so --

The other one is the 31 to 50 percent excluding Rider 4 eligible households, the five-year deferred forgivable loan, and 50 to 80 percent an amortized, direct loan.

The second was the revised appraisal requirements. Our objective was to simplify the appraisal

process by reducing the number of steps, while maintaining the desired benefits for the program beneficiaries.

We consolidated the before and after appraisals into one single task: appraise land and existing improvements and use of our as-built for proposed improvements based upon the construction plans, specifications and construction contract amount; accept the method as currently used for multifamily home projects; still safeguard homeowners' equity and simplifies the appraisal process, and reduces the time to determine the final loan amount -- loan less appraisal adjustments to fully complete and close the project.

And then provide for unfunded additional soft costs. This was an area that was of concern to both the applicants and the grant administrators and the people that help us run the program.

The owner-occupied program has experienced considerable growth in the amount of paperwork in the past few years, while soft costs have actually been reduced.

The forgivable loan program adds approximately \$2,800 in soft costs, without any increase in the capital soft costs. Our objective is to have the owner-occupied program increase the soft cost cap to provide for the additional services and activities necessary for the forgivable loan program.

We would ask as an alternative to modify the soft cost caps by allowing the cap to be exceeded for specific loan program activities. Soft cost limit of 12 percent of hard construction costs would be increased by the actual out of pocket costs for the new loan program activities, or increase the cap to the total amount of assistance from the recently adjusted amount of \$60,000 to \$62,500.

That additional \$2,500 would be reserved for out of pocket expenses, for the added third-party services required under the loan program. The increase in soft costs of \$235 resulted in the recent increase in the total expenditure cap, would be adequate for the added service delivery costs incurred by the contract administrators.

Requiring four years' additional homeowners' insurance. This is one of the areas that was quite controversial because this is an out of pocket expense that the applicant has to provide after the four-year -- after the first year, excuse me.

The remaining four years of insurance costs are prohibitive, and the Rider 4 beneficiaries who often earn less than \$12,000 a year. This requirement forces a choice between insurance and the necessities of food, utilities or medical expenses.

And that was the Loan Versus Grant issue. The

other issue I was asked to talk on is the MATCH issue.

The MATCH issue was discussed by the Task Force. It concerns the MATCH. There are three options and a plea for revisions to the MATCH guide regarding the donated MATCH.

We would ask to eliminate the MATCH requirements to -- for TBRA administrators, change MATCH from a scoring criteria to a threshold requirement, and reduce MATCH percentages to smaller cities and counties.

An example of that would be, a city population of 3,000, county population of 20,000, required match would be 5 percent. 3,000 to 5,000 city population, 20 to 75,000 would be 10 percent, and this would allow the MATCH donations to be more acceptable and be easier to use.

The plea that we have is, donated MATCH was eliminated with the adoption of the MATCH guidelines in the fall 2005. The comments provided by the Department of at the HOME Advisory Task Force regarding MATCH correctly states that donated MATCH is ineligible -- or is eligible, excuse me.

The report further states that HUD indicated the Department was not fully utilizing all of the eligible MATCH forums. The HUD language permitting MATCH for consultants and construction contractors is further enforced in OMB Circular A-87, under "Donated Services."

Since this form of MATCH is allowed by HUD, accepting it would give any subrecipients the ability to meet their HOME MATCH requirements. Our request is to revise the MATCH guidelines to allow this form of MATCH as soon as possible.

And thank you, that concludes my presentation.

MR. CONINE: Are we waiting until the very end to ask questions?

MS. ANDERSON: No. You can ask questions now, of Mr. Adan. Thank you.

MR. CONINE: Thank you for your presentation. I -- again obviously the Loan Versus Grant issue is one that I -- is my hot button I guess, and I heard you say that below 30 percent you know, the group wants to go back to a grant.

And -- but I didn't hear a reason why.

JUDGE AGAN: Well, there's several reasons. And I could speak from experience in Presidio County on one of the main reasons, is -- and the reason I mentioned, we have 87 percent Hispanic population.

We're on the Border. And our income is very low. And most of the elderly people is who we're providing for. Our applicants, we had -- in the last round we had something like 45 applicants. We were able to do nine. All of those were low-income elderly people.

Traditionally in that -- in the border area, they've done -- we call them -- well, build by the paycheck. You start a house and 20 years later you finish that house because you're buying a door this payment, and they don't traditionally want a city loans, because they don't like loans; they're afraid of loans.

And they never -- some of our elderly people don't even go to banks because they're afraid of banks.

They just don't do it. And you mentioned loan, and they're gone. You mention grant, and they -- just the word "grant" is a lot better perceived out there.

So when we changed over to loan with a deferred -- you lost a lot of the people that would have done it, or shy away from anything that has anything to do with a loan, because that's an obligation. They have a very limited income.

MR. CONINE: Did you fail to use the money that was allocated --

JUDGE AGAN: No. We went through -- the last one we did was under the grant program. We haven't -- we didn't go into the last -- round, so I'm not sure -- what the reception out there -- we'd like to keep it that -- as a grant program.

MR. CONINE: I guess I can understand, back to the age-old argument. I can understand why people like to

hear the word "grant" versus loan. I can't understand the -- what I consider to be the overarching reason for doing the loan, which is to do the second, third, fourth house --

JUDGE AGAN: Right.

MR. CONINE: -- with the same dollars.

JUDGE AGAN: Right.

MR. CONINE: Seems to me that helps more people than the -- a grant program would.

JUDGE AGAN: Well, the -- as I said before, most of ours are the forgivable loans. If we did go into it, it would be the forgivable loan under the 30 percent salary or income.

You wouldn't receive any money back out of that program anyway, because it's a forgivable loan, there's nothing paid back in that. So you're not going to get any money back to re-do that.

And we have areas all over the Border that are like Presidio County. The other -- circumstance I didn't mention was, a lot of our people don't go into assisted housing or assisted living, and when they get elderly, get older, traditionally daughters or sons will take care of them.

The daughters, as particularly or normally they never marry, they stay home, they take care of their

families. And that's their job for their life.

What concerns us out there, and I've talked to quite a few of the local leaders is that during that five-year period, if they pass away, the home goes to the State. Where does the assisted -- the person that's provided the assisted living for all of their -- most of their adult life, where do they go?

Because it was always kind of understood in the family that they will get the house. You know, the house will be theirs.

MS. ANDERSON: Well, it doesn't -- I mean, the way I understand it doesn't go to the State. The loan is forgiven at a rate of 20 percent, you know, per year --

JUDGE AGAN: Per year --

MS. ANDERSON: -- and part of what we're trying to do is, assure -- after the State makes this investment, that we assure the continued affordability -- preserve the affordability, you know, so that we don't have someone -- I mean if it's just a grant, then someone can transfer the ownership of that home to someone that's not at the 30 percent level. I mean, there would be no income restriction.

So how else would you suggest that we preserve the affordability of these units?

JUDGE AGAN: Well, it's not so much as the

process, it's the concept. When you go into a grant, you know, they understand that a lot better than if you go into a loan, deferred loan -- they really don't --

MS. ANDERSON: That's exactly my point. If it's a grant, then we can't preserve the affordability.

JUDGE AGAN: I know. I know, but it's just -- it's the perception in the community. It goes back to Loan Versus Grant. You know, they -- it's the same thing that we had to explain to them, when we go in to do a project now, we tell them up front that, Your property taxes are going to go up, because you have a much better house.

And that was one of the big hurdles we had to get into, to even get them to apply, is to make them understand that your utilities and your property tax is going up. They also look at -- but it's not -- they don't go -- they don't understand the process.

If they hear, loan, they're -- you know, they're worried about all of the different things, one of them being, is the -- and the transfer of the house, and the concept of the -- what you're talking about is lost on them.

MS. ANDERSON: Yes, sir.

MR. BOGANY: I have a question. If [indiscernible]. What happens when a person --

JUDGE AGAN: Sorry. What happens when the person dies? Well, that's what we were talking about. There's a process they go through that transfers the house.

MR. BOGANY: Okay.

JUDGE AGAN: But a lot of these -- the seniors, they -- or a lot of the people that are applicants, and their families included, don't -- the concept doesn't -- you know, it's passed to -- it can pass down by heirship --

MR. BOGANY: Okay.

JUDGE AGAN: -- and it's done, you know, that way. But it's just the concept that they don't get.

MR. BOGANY: Well, when I was reading through, Unclear Title, and issues of repayment and things, as I was going through it -- and this may seem very farfetched, but it looked like if I'm going to get a grant or a loan, and I kind of agree with Mr. Conine about the loan process, but if I'm going to get a grant or a loan, is -- what's wrong with requiring that person to get a will put together as part of that package?

Because what I see is that, the property not being able to pass anywhere, or anything be done with it because of title being held up, or title issues and things of that nature.

And so then you have a property that we've loaned money on, and all of a sudden it's just tied up. It's nobody can really do anything with it. So I was just -- and it seemed farfetched, but I was just wondering, and if the group ever looked at requiring at the point of getting this money, that you have a will set up.

MS. ANDERSON: Let's ask staff to look into that.

MR. BOGANY: Okay.

MS. ANDERSON: Okay?

MR. BOGANY: Okay.

JUDGE AGAN: That's one of the issues that, as a probate judge out there I deal with daily. It's not far-fetched --

MR. BOGANY: Okay. So you know what I'm talking about, because --

JUDGE AGAN: I know exactly what you're talking about --

MR. BOGANY: -- I mean, it's just tied up. Okay. And I think that was the only question. Oh, taxes.

If the property is not -- you know, if they don't -- say we loan them or grant or whatever, and they don't pay their taxes, then they're subject to lose that property because of taxes.

Is anything that you guys discussed in regards to that, how do taxes get paid?

JUDGE AGAN: Well, we don't -- as you know, if you're a senior over 65 you don't pay your taxes, you don't --

MR. BOGANY: Okay.

JUDGE AGAN: -- get thrown out of your house. It doesn't come up until you're deceased, and then your heirs if they want to keep that property, pay the taxes, if they don't, it goes --

MR. BOGANY: Well, that daughter or family member that lived and took care of them, those taxes would rely on them, to be --

JUDGE AGAN: Well, it would be normally the daughter or son that takes care of them, has very little income. It's going to be the rest of the family that's going to make that up.

MR. BOGANY: Okay. All right. Thank you very much.

MS. ANDERSON: I have a question, Judge. In the discussion of Loans Versus Grants, there's some discussion about the soft costs, and in the increased administration costs, on page 19 it talks about costs for the initial appraisal property survey and title search are not reimbursable as soft costs?

It's my understanding those are reimbursable costs. So --

JUDGE AGAN: Well, one of them is. One of them is, I think is the way it -- well, I'm going to have to look into that.

But I know they were trying to get the appraisals into one. Because they allowed for one, not all three.

MS. ANDERSON: Right. I -- that's my next question. So if staff would look at the section on page 19 that discusses what soft costs are and are not reimbursable and,, you know, I think we could use some clarity about that.

Now, about the going from two appraisals to one, could you talk us through that.

JUDGE AGAN: Well, the appraisal starts, you know, you do an appraisal before you go in, and then you do an appraisal at the start.

The way we're doing it now is, we're not really doing a rehab any more, because we've got into too many problems trying to rehab houses. You get in and you tear a wall down, and you get in there and it's just -- it's a mess.

So it's more of a scrape and build. So why would you need two appraisals, and -- you know, do the

appraisal either after the project's done because it's a new house anyway.

MS. ANDERSON: So you're suggesting that you just do the appraisal on the front end and then have an as-built kind of value because you know what you've put into the house.

JUDGE AGAN: Correct.

MS. ANDERSON: Okay. And then on the MATCH discussion I'm interested in staff at some point coming back to us and -- because I think the issue of relief on MATCH is a very legitimate issue in smaller communities.

So I'm interested in some staff analysis on how much MATCH we can afford to forgo. Other questions for the Judge?

MR. BOGANY: Was the insurance part of your deal?

JUDGE AGAN: The flood insurance?

MR. BOGANY: Uh-huh.

JUDGE AGAN: Yes.

MR. BOGANY: Okay. I had a question about the -- and I didn't really understand the insurance. I understood the flood insurance that you wanted to require during the five-year period of time, but as far as insurance on the house, were you thinking that the State should pay for the insurance during that five-year period

to protect the investment?

JUDGE AGAN: No.

MR. BOGANY: I didn't understand that.

JUDGE AGAN: No. The first year --

MR. BOGANY: Uh-huh.

JUDGE AGAN: -- and then after that, it's the flood insurance that's added the cost on. The insurance on the houses are now being paid by the homeowners --

MR. BOGANY: Okay.

JUDGE AGAN: -- they do that. But it's the flood insurance that raises the extra cost. When you have somebody making \$12,000 a year, you're asking for an extra burden on them, and in a border area like we're at in the desert, you know -- although it's happened, you know, look at El Paso. I didn't think they'd ever flood but they did.

MR. BOGANY: So --

JUDGE AGAN: It's just -- it need to be addressed and looked at a little bit closely.

MR. BOGANY: Okay. Thank you.

MS. ANDERSON: Thank you for being here, sir. We really appreciate it.

JUDGE AGAN: Thank you very much for allowing us --

MR. BOGANY: Thank you.

MS. ANDERSON: Ms. Bast?

MS. BAST: Good morning. I am Cynthia Bast. Thank you Mr. Gerber, so much for asking me to participate in this Task Force. I greatly benefited from that participation.

I'm here today representing the Multifamily Subcommittee of the Task Force. When the Task Force was originally assembled, the staff had provided certain issues and topics to be considered within those issues.

And as the larger group began to deliberate, it became clear that the Multifamily group had its unique issues that should be addressed separately.

Thus, a Multifamily Subcommittee was formed as part of the Task Force, and this seemed appropriate given that the HOME investment partnerships rule states that the purpose of the HOME program is to expand the supply of affordable housing, particularly with primary attention to rental housing.

So our subcommittee was unique, because we had a blank slate. We didn't have a list of questions to work with. We were also diverse. We had representatives of for-profits, nonprofits, developers, consultants, advocates, governmental employees, and even a lawyer type.

MR. CONINE: I was hoping you'd get to that.

MS. BAST: This was a really dedicated group,

and surprisingly, we agreed on many things. We agreed that the HOME program is a precious resource that needs to be used effectively across our state to build and preserve housing.

And we agreed that in a perfect world, the HOME program for Multifamily would be widely accessible, and encourage broad participation. It would serve the lowest income tenants possible.

It would build and preserve housing, particularly in areas where there are no other funding programs really available to do that. And it would promote recycling and re-use of the funds for other purposes.

So we fashioned our recommendations to try to achieve those goals. One thing that impressed me as I worked with this subcommittee is that, HOME funds for multifamily are used in a very diverse set of circumstances.

Sometimes HOME funds are used as bridge financing or gap financing, as a secondary source, with tax credits or other commercial financing. Sometime they're used as a sole source of funds.

In the former context they may be used to help deeply skew rents, or to help acquire property in an inner city that would not otherwise be affordable for

development.

In the latter context, they may be used for the acquisition and rehabilitation of a multifamily property in a rural area that may be the only property serving the community.

So that creates interesting issues when you have that kind of diversity. There were two things that I heard over and over again as our subcommittee deliberated.

The first is that, the process for accessing the HOME funds through TDHCA has become too complex. And that this complexity, and that the costs associated with it, are discouraging applicants, particularly CHDOs.

Now, I certainly understand the regulatory environment in which this agency works, the accountability that is required of you. And I understand how that can lead to complexity.

But in fact, just yesterday I was working with a CHDO client trying to respond to some administrative deficiencies on a HOME application. And he said to me, They make this too hard. It makes me not want to work with this program.

My heart sunk, as I thought about the things that my fellow subcommittee members had said to me through the course of this process.

The second thing I heard through the course of

the process is that the HOME funds need to be flexible. Federal law as you know makes the HOME program very flexible. It can be a loan, it can be a grant, there can be a variety of business terms.

And because these properties can be very diverse, we believe it's important for Texas to maintain its flexibility in implementing the HOME program.

HOME funds should be used in the way that is most beneficial to the property and the residents. In many cases the property can support repayment of the HOME loan, and interest.

And we agreed that this Department's preference should always be -- run towards loans that are repayable, with interest, so that those funds can be recycled.

However, we don't want to close the door for other uses of the HOME funds as a forgivable loan, grant, below-interest loan, so that some of these other kinds of diverse properties that may not be financially viable in a traditional way can be served.

So these two concerns, simplicity and flexibility really are not unique to the multifamily context. I think as you hear these presentations today you'll see that theme running through.

To address them, what our committee did was set out some recommendations that I'm going to highlight for

you, just a few, not all of them.

First, let's talk about the application process. One thing we recommend is establishing a pre-application process for HOME applications that are not also participating in the tax credit program.

We feel that the tax credit pre-application process has been very successful in helping people assess their competitive position and decide if they want to pour more money into an application.

We also encourage the use of application conferences with staff, the HOME and real estate analysis staff, to discuss the big picture associated with the project.

Again, sometimes there is -- in these kinds of unique properties, sometimes there is relevant information that just doesn't quite fit on these forms that we have to fill out, but that would be important to be considered, so that the staff can make a well-informed decision about the flexible application of HOME funds that meet the needs of the property and the residents.

Another very simple recommendation for the application process is to permit applicants for rural developments to use the environmental review required by USDA RD, instead of a separate environmental review.

Some of our recommendations also go to real

estate analysis underwriting. Developers in rural areas are concerned about the rents that are being used to calculate proposed income.

They feel like in their areas it is often hard to establish market comps, and in the absence of market comps, TDHCA rules permit the underwriter to use the lower of the net program rent, the market rent or the restricted market rent.

They feel like in these rural areas, the net program rent is often unattainable and therefore an alternative is needed. Perhaps for certain rural areas it could be a percentage of the net program rent.

Another concern that was expressed by our group relates to the new 65 percent rule. That is the rule that says that if the Year One annual total operating expenses for a property divided by the Year One effective gross income for the property is greater than 65 percent, the project is deemed infeasible.

The general impression of our group is that this calculation can be troublesome for deeply subsidized properties, and properties that generate lower effective gross income in -- again in border, rural areas, seniors' properties, et cetera.

The majority of our committee feels like the HOME program is intended to finance and subsidize housing

that might not otherwise be financially feasible under other kinds of programs. So if the subsidy there is sufficient for the property to operate with a positive cash flow over the long term, then the 65 percent rule should not be an impediment.

Our group agreed that TDHCA HOME funds should not be used to qualify for local political subdivision funding in the tax credit application round. They feel like this encourages developers to chase HOME funds for points, when they may not really be needed and it diverts the use of the HOME funds away from projects that may otherwise have a greater need.

Finally, our group discussed how important it is to be able to measure outcomes, to see how we're doing with this program. And particularly, one of the things we asked early on is, how the HOME funds are doing at serving residents of the various -- lowest income with the HOME Multifamily Program.

There seems to be some concern that the reporting program currently used by TDHCA may not adequately capture the data as to the incomes being served and I'll give you a hypothetical.

Let's say you have a 60 percent unit but you're serving a 30 percent tenant in that unit. The reports are that when developers are asked to submit their annual

reports, they're checking the boxes for a 60 percent unit and not for 30 percent, and so you may not be getting the data that shows you the extent to which the low-income community is being served.

And I think it's important for you to be able to mind that, to measure your outcomes and measure the efficacy of the program.

There are other recommendations in our report and we hope that you will read them and give them all serious consideration because we certainly did. We can make the HOME Program for Multifamily simpler and more flexible.

We can achieve that hypothetical perfect world, and -- where there's broad participation, building housing in areas that really need it, serving the lowest possible incomes and promoting the recycling of the funding.

We sincerely, sincerely appreciate the opportunity to present these recommendations and our other written recommendations as well.

MR. FLORES: Madam Chairman, may I?

MS. ANDERSON: Yes.

MR. FLORES: Ms. Bast, repeat again about the 65 percent rule and accepting border and lower incomes --

MS. BAST: Sure thing.

MR. FLORES: -- I didn't quite get that.

Repeat it real slow.

MS. BAST: The 65 percent rule is a fraction. You take the first year's operating expenses --

MR. FLORES: I know what it is. I just want to find out what the recommendation is --

MS. BAST: -- you divide it by the first year's effective gross income. If that amount exceeds 65 percent the project is deemed to be infeasible.

The feeling is that because projects in rural areas, projects that have lots of one- and two-bedrooms, like elderly projects, projects along the Border with lower incomes, because they generate lower effective gross income for that denominator, it's harder for them to meet the 65 percent test, than it would be for others.

And so it's a -- now, it is a calculation that was established by staff for the first time this year to try to analyze the long term feasibility of the project, and ensure that instead of looking at 30 years' worth of cash flow, looking at it a little bit differently to ensure that it will trend in a manner that effectively doesn't go negative.

But the concern is that that particular calculation doesn't fit the lower income properties very well.

MR. FLORES: I'm waiting for the

recommendation. You've given me all of the concerns, which are my concerns and so on, but what is this recommendation --

MS. BAST: Our recommendation is to eliminate it, and --

MR. FLORES: Eliminate it completely?

MS. BAST: -- eliminate it for these HOME properties --

MR. FLORES: These rural areas --

MS. BAST: -- or at least -- pardon?

MR. FLORES: In rural areas? For elderly? For border areas? For lower income people?

MS. BAST: Yes.

MR. FLORES: For all of the --

MS. BAST: That there are other ways to measure financial feasibility of a property without using this particular standard.

We're not saying get rid of financial feasibility. That's not in anybody's interest. We're saying that we believe that this particular item is problematic for these kinds of properties.

MR. FLORES: Would you add something in either -- in lieu of this 65 percent rule for those particular exceptions? You have four or five exceptions here --

MS. BAST: We don't a particular recommendation but I'd be happy to go back to the subcommittee and seek input on that.

MR. FLORES: I think it would be helpful to me, and I know another member of this Board.

MS. BAST: Uh-huh.

MR. FLORES: Thank you.

MS. BAST: Mr. Bogany, did you have something?

MR. BOGANY: He answered.

MS. BAST: Okay.

MS. ANDERSON: I'd like to ask the staff, I mean, given that we already have HOME deals in workout, and that HOME is different from tax credits.

There's no guarantor, the Department is directly on the hook for repayment from non-federal sources, if a home deal goes south, you know, to --

In your discussions among yourselves and at some point, to come back to the Board and explain, you know, the reason that the 65 percent rule was selected, alternatives that might replace that and still protect the Department's interests in making sure that deals don't, you know, go south and come back to us, and we have to take money and stop building other things so that we pay back a HOME deal that goes south.

I'm also interested in staff's thoughts on the

Task Force's recommendation that our HOME funds not be used for local political subdivision points. I don't know if that's a legal determination or what, but -- I think that's something that the Board might benefit from a little more information on.

And then I -- when I read this report Ms. Bast, I was reading about flexible legal documents versus one size fits all legal documents --

MS. BAST: Uh-huh.

MS. ANDERSON: -- I mean, could you go a little -- I think this is recommendation number 73 on page 88, could you be a little more specific than the report is about which legal documents are not flexible enough, or which legal documents are causing the particular heartburn.

Give us a little more focus there?

MS. BAST: Sure. I think that where we have encountered some difficulties has been with the loan agreement or the program agreement, which is a fairly standard document that has a variety of terms and provisions, some of which apply sometimes and some of which don't apply sometimes.

For instance, a circumstance where you're using your HOME funds as a permanent loan. Construction is already completed. But you've got this loan document,

this agreement that has all of these construction draw procedures in it.

Things like that. So my recommendation would be, put the very basics in the loan agreement or the program agreement, and then perhaps sort of like your LURA, you could have the exhibits of, Okay if it's a construction loan, these are the things that apply. If it's a permanent loan, you know --

So that it can tailor itself a little bit more to the kind of transaction we're doing, especially if we make it flexible for loans versus forgivable loans, et cetera.

MS. ANDERSON: Thank you.

Yes, sir.

MR. CONINE: Yes. The Multifamily group talk about I guess I would call it the spectrum of deals. To me, if you're -- if you get rid of the 65 percent and you get \$500,000 of HOME funds to go buy and rehab a deal in rural Texas, and the income and expenses are equal, they offset each other, there's no cash flow --

MS. BAST: Uh-huh.

MR. CONINE: -- and a CHDO wants to come do it. That to me is the extreme HOME fund use, probably targeting very, very low income people, okay? But at least in theory you're not losing money, and in theory,

the project is probably not worth a whole lot because it's not generating any money.

But then if you ratchet up another notch of income where you have some cash flow, then all of a sudden I have the hypothetical half a million dollars becomes repayable maybe, and then you ratchet up another notch of income, you can lay out a spectrum of use of HOME funds here that goes from, you know, at the bottom of the barrel all the way to bridging, using it for gap money, on a normal, you know, deal.

So I guess where's the cutoff point? Did the Multifamily group talk about a cutoff point, or is there a cutoff point? Do they believe there should be a cutoff point?

MS. BAST: I think they believe there should not be a cutoff point.

MR. CONINE: Okay.

MS. BAST: I think they believe that because the HOME program is special in its ability to be flexible, that you should be able to do that deal where nobody is making any money but, you know, you may be providing air conditioning -- you may be using the money to rehab to provide air conditioning to people who have never had air conditioning in rural Texas.

At the same time, it should be able to be used

for, you know, an inner city deal in Houston that is fully repayable.

You're right, the spectrum does make it hard I think for your agency to decide where to draw lines and where to prioritize the use of the funds.

But we do believe that at the end of the day, the properties and the residents are best served if you can find ways to establish that flexibility across the spectrum.

MR. CONINE: So can we successfully write rules of the game that give us that flexibility? Because as a Board member here, we would have to discern between a grant in one case versus a repayable loan, and again you get back to the -- you know, is it better to serve that project or is it better to recycle the money several times.

Quite frankly I think there is -- there are cases out there where we should just say that that situation is so bad and that town doesn't have any other alternative that we need to help those people.

So I guess what I want to make sure we can do or the Task Force thinks through with staff, is that we create a mechanism to give us that flexibility.

MS. BAST: And I'd be happy to participate in additional meetings as I'm sure others in my Subcommittee

would to try to figure out how --

You're right, Mr. Conine. How do you make these rules fit that circumstance. I'm not quite sure but I sure would like to see us give it a try to benefit those properties.

MR. CONINE: Thanks.

MS. ANDERSON: Other questions? Thank you so much, Ms. Bast.

MS. BAST: Thank you.

MS. ANDERSON: Tres Davis?

MR. DAVIS: Good morning everybody, I'm Tres Davis, Vice President of Grant Works, and I'm here to talk about Issues 1, 3 and 4 for my subcommittee.

But first I just want to start by thanking you all for having the initiative to put together the Task Force. I think it was very important.

And I think staff should be commended; they just did an amazing job, from Brooke who was somehow able to herd cats and keep this very diverse group on track, to Veronica, who, if you ever need anybody to organize you, you've got her. I mean, she's amazing.

I've got a little -- just a little handout just of the bullets of my yammerings, so if you all want to look at those you're more than welcome to.

But I'm just going to start with Issue 1. And

that's Improving Commitment and Expenditure Rate on the HUD snapshot.

And the HUD snapshot is that listing you all get every now and then that just shows where Texas falls compared to other states in commitment and expenditure.

And we believe a good option is for TDHCA to continue working with other large states to get HUD to change their formula. Because currently they don't take into account size of state, size of allocation or activities being performed.

So if you've got a state like Rhode Island, that gets a couple million dollars a year and is doing maybe one or two activities, obviously they're going to be able to commit and expend those funds very quickly compared to a state just geographically the size of Texas, doing every activity that HOME allows, and getting about \$40 million a year.

You're not comparing apples to apples. So we really think that should be taken into account in the HUD formula.

A couple other options are to use the benchmarks that I'm going to talk about here in just a minute as triggers to help administrators stay on task and stay on track, and identify early if somebody's having a problem and get out and help them get back on track.

And then finally to look at the contract terms. And that's just going to take me right into Issue 3, which is Determination of Appropriate Contract Terms. An option for tenant-based rental assistance that the Subcommittee believes is a very good option is to go from 30 to 36-month contract terms, and for Olmstead from 30 to 48 months.

This increase will really address some of the issues of folks who are at risk and other special needs populations. And then also it gives more time for people transitioning out of institutions and into apartments, and kind of the -- just the different factors that are associated with that kind of transition.

Furthermore, an increase would allow enough time to identify appropriate units, to qualify the families, make sure everybody's qualified, and then a system for the full 24-month term that's allowed under the TDRA program, so nobody's getting short-shifted as far as the tenants are concerned.

For owner-occupied, we think a very viable option is to go back to the 24-month contract. And it's just simply because it's a better representation of what it takes to actually implement one of those programs.

But one again like I said, even within the contract terms we need to look at the benchmarks, which

takes us to Item 4, Interim Contract Performance Benchmarks. And in the little handout that I just gave you, and I know it's also in you all's packet, there are a couple of tables.

And it shows the current benchmarks that are in the contracts and then some of the options for changing the benchmarks so that they more accurately reflect really what it takes to implement the program, and where you should be at a given time.

And we think that, you know, adjusting that could give you all a better snapshot really of what's going on at any given point in time.

Another option would be to make the contract start date the day that it's executed by the TDHCA Executive Director. Because currently that contract start date may be a few months before actual execution, and that's not totally TDHCA, it's also the administrators have to give it to their attorneys, you know, and go through all of that rigmarole.

But you may be a few months into the contract and if that first benchmark is six months in, you've lost half your time to reach it before you can even get started.

So we think changing that start date would certainly be a good option. And as would allowing for

procurement of professional services, even before a contract award. So that if a city or county is going to hire an administrator, that they're allowed to do that up front, because the RFP process can also be time-consuming, especially in these rural communities where you've got a paper that if you're lucky comes out once a week, for their advertisement.

And then councils meet once a month, and that's assuming they can get a quorum together that month. So now all of that can really make the RFP process pretty lengthy that once again pushes you that much closer to that benchmark date.

So we think that the adoption of those two options would make the first benchmark a more realistic goal to hit. But in keeping with that and especially if those options are considered and made, or those changes are made, we believe that if you've missed the first benchmark, that should be a real red flag for TDHCA.

And it should initiate a technical assistance visit where a workout plan is put in place between the administrator, TDHCA and the consultant if they have one.

And then if the second benchmark is missed, they need to give you a good reason why. You know, and God forbid we get another hurricane that comes through, but natural disasters happen, city halls burn, different

things happen.

So there may be extenuating circumstances. The reason I said, city halls burn, we just had one burn, one of our clients; terrible. Everybody was fine, though.

But, you know, and if there are extenuating circumstances, then require monthly progress reports from those folks who've gotten behind so far, until they get back up to date and caught back up.

That way you'll know immediately if somebody's slacking or just not doing their job, and at that point an option would obviously be deobligation. And I beat the buzzer.

MR. CONINE: On the TBRA, you're not -- you're proposing to keep the 24-month assistance to the renter --

MR. DAVIS: Yes, sir.

MR. CONINE: Not changing that.

MR. DAVIS: No.

MR. CONINE: We're just giving the administration of it more time.

MR. DAVIS: Right. Just because of the start-up of them from what I understand, and I don't deal with them I just know enough to hurt myself, it just takes longer than the couple of months that they have up front to identify the units and get the households qualified.

Until then, if you've just -- if you want to

give them that full 24 months, a 30-month contract just isn't long enough.

MR. CONINE: Okay.

MS. ANDERSON: I'd like to ask the staff sort of in -- as they think through these issues, about TBRA, you know, I sense from some of the appeals and amendments that have come to us lately, that TBRA is also being used for elderly people that, you know, are not, frankly, unfortunately likely to ever become self-sufficient.

And so then we've created -- you know, then we've created a dependency that's got a 24-month stop on it, and, you know, should we -- you know, should we be awarding TBRA contracts like that that set us up, then 24 months down the road to be accused of throwing seniors, you know, off of --

You know, or is that really better -- you know, should that be really Section 8 or some other source of subsidy. I'd just like to have the staff walk us through sort of those issues, you know, in the context of this, because I think there's some bigger issues around --

MR. DAVIS: Sure.

MS. ANDERSON: -- TBRA. I'm also interested in having staff look at -- when we think that we've got a HOME division, Reconstituted Home Division, because we wanted to make that investment because HOME is so

different.

And then we have PMC. And it seems to me, you know, we award contracts and then sort of -- it gets sort of thrown over the fence at PMC, and maybe around some of these TA issues and stuff, it's better done with the HOME division keeping control of a bigger part of the process to make sure we get these things started off right, before we -- before they go into a peer monitoring situation.

So I'd like the staff to kind of look at that.

And then I have a pretty -- what I -- maybe I misunderstand

MR. DAVIS: That's okay.

MS. ANDERSON: But I think one of the fundamental issues and what the Board was trying to address was our frustration over how long it takes between award and getting housing on the ground for these low-income seniors that need it.

MR. DAVIS: Sure.

MS. ANDERSON: Okay? And so we did some things in the rules to try to collapse -- reduce the number of units, collapse the contracts, et cetera.

And my perception is that one of the issues is that because cities and counties don't have the capacity to do this, they hire consulting companies like yours to help them with it --

MR. DAVIS: Uh-huh.

MS. ANDERSON: -- okay? And so you're very important partners in this process. Part of my perception is, when the award is made and they hire you, you know within -- you know 90 days or four months after that award, you're still working on contracts from two years ago, and so they sit in queue for some period of time, and one of the reasons we have to do extensions is because, you know, you're going from city -- everyone's going from city to city working these things.

So my question for you is, How could we work down that backlog? How do we work down that backlog?

MR. DAVIS: Sure.

MS. ANDERSON: So that when we make awards in 2008 and they hire you to -- then you're ready to start in that town or that series of towns more expeditiously?

MR. DAVIS: Well, I think that you'll find, and obviously I can only speak from my personal experience, but that there's been a real push in the consulting community to do just that.

I mean, we heard what the Board said, and like I know that our company went back, looked at our processes and changed a lot of them. And we've taken applications for every one of our clients for 2006, and we have them almost all qualified.

And so we're -- we listened and certainly jumped on top of it. But nonetheless with the changes in the 2006, it's new for us, it's new for staff, and it's still a little confusing maybe on how it's going to be issued or how it's going to be exactly handled.

And I think a lot of the confusion is on our part, it's not on staff's part, but we've just never done it this way before.

So that may create a little bit of a logjam on the 2006s, but I think once we've gone through those with the 2007s it will go pretty smoothly.

MS. ANDERSON: Okay --

MR. DAVIS: I don't know if that really addresses your question --

MS. ANDERSON: Well, no. It does --

MR. DAVIS: -- but --

MS. ANDERSON: That's good.

Okay. Are there any other questions?

(No response.)

MR. DAVIS: Thank you all.

MS. ANDERSON: Thank you.

Matt Hull.

MR. HULL: I'm Matt Hull with the Texas Association of CDCs, and passing out just some bullet points as well.

And I too just want to thank staff, Sandy [phonetic] was helping us with our particular group within the Task Force and she did a great job of keeping me in line and prompting me to do more than my regular job but to participate as the facilitator of this particular group, which was --

I was elected in absentia, by the way. They just said, You go do it, Matt, and I walked back in the door and they applauded. Thank you so much, Task Force IV.

MR. CONINE: The way it goes.

MR. HULL: Sorry?

MR. CONINE: That's the way it goes. You learn to show up.

MR. HULL: Exactly. And I -- have three topics as well and we'll start out with Topic 5. And Topic 5 was the Distribution of HOME Funds Across Eligible Areas.

And I really dreaded this particular discussion. I thought that this would be the most contentious discussion we would have within the entire Task Force.

And as it turned out, I think everyone just agreed to disagree up front. And we've really only spent about 15 to 20 minutes on this. So -- on the very last day. So I thought -- I found that was kind of refreshing,

and I think that the recommendations in the report are pretty obvious and bear out what you would assume.

Multifamily developers want more HOME funds for multifamily. The single-family guys want to keep as much as they can or even increase the amount for single family.

People like me just want low income people in the CDCs to have a fair shake in the process.

So I don't think there's anything too revolutionary in that Group 5 or Number 5 part of the Task Force. But let me just go over a few of the things that we talked about.

You know, obviously one of the big issues, and Tres touched on this as well, is the expenditure rate. And one of the concerns in the HOME program is, the expenditure rate for the CHDO funds and the obligation rate for CHDO multifamily funds.

Now, I think Mr. Hunter who will follow me will have a recommendation on creating a single-family subdivision new construction program using some of the CHDO funds, and that could go a long way to helping get, one, additional units on the ground, two, of a single family nature which seems to be what rural communities tend to prefer based upon the community needs survey that the Agency does every few years.

And it would also be a way of getting those

CHDO funds out the door. And, you know, we think that's a fine idea.

In the report however it says, more funding for non-CHDO rental -- multifamily rental development as one of the recommendations. And in support of that, that might increase the expenditure rate for some of those funds.

However, moving -- it can only come from single-family, so on the con side is that we would be moving money from an area that already has a fairly high expenditure rate and has a fairly -- its oversubscribed programs.

And moving that to something that is also oversubscribed and has a fairly high expenditure rate, so you wouldn't really be addressing the expenditure rate that seems to be the problem program, which is CHDO Multifamily. So, just wanted to be up front about that.

You know, other suggested note changes to the allocation formula, you know, and again people touched on this earlier, HOME is a very special program. They're -- Texas, because it gets more money than many of the smaller states does a variety of different programs with it.

Both multifamily, single-family; underoccupied housing, TBRA, et cetera. And so they would just suggest that you maintain that.

Others would say, Well, again you might not be using the funds more efficiently and you might not be expending them as quickly as you want to, you know. That's just something to consider for the Board.

And then the last recommendation, and it seems almost slightly misplaced in the report, but I think it does work, is to award the HOME Homebuyer Assistance Program through a statewide reservation system.

Basically an organization could qualify to be an administrator, there would be a pool of money that it could go to, draw the money down when it has a family ready to use that, and you could move on.

You know, one thing that it would do on the pro side is it would possibly help expend the money faster; on the negative side, the State might not know what the true demand for this resource is, and also organizations might not be able to budget appropriately as to how much they would have access to based on the demand for that program.

It's not a bad idea and it might be something worth considering in the future. There will be a similar recommendation for the Bootstrap program, later on.

Which takes me to Issue Number 9 which is Modification of the Assistance Amount for the Homebuyer Activities.

One of the issues that the Task Force, or the

work group, dealt with was, in many parts of the State, or in all parts of the State, Homebuyer Assistance is capped at \$10,000.

Due to the rising construction costs and relatively flat rises in income, that many families that had been able to qualify in the past are no longer able to qualify for home ownership using just that \$10,000 in down payment assistance.

And so while we didn't ask the staff to run any numbers, is there a way that you could use a sliding scale amount for homebuyer assistance whether it be based upon income of low income families, whether it be based upon the area median family income perhaps, based upon the sales price of the home -- to where lower income families that need more assistance could go above that \$10,000 and then higher-income families that were -- could get less than \$10,000 but still get enough to help them shore up that down payment and closing costs gap.

So again just something to consider. And one of the other more -- what I felt was interesting about the recommendations was, in homebuyer assistance -- down payment assistance is that, once the State makes that award, they really do not know what type of loan agreement the borrowers are getting into.

And so in many cases, the concern particularly

amongst people in the disability community it seemed, was that, yes, you're getting this down payment assistance but you're getting into a sub-prime loan, or a loan that's an ARM, you know, an adjustable rate mortgage, and you might be able to stay in that home for a certain period of time but then there are liable to be a balloon payment or the interest rate rises, and you won't be able to keep up.

And so could there be, and this is something that again we didn't get that involved in making the recommendation, but just to get staff and the Board to consider it:

Is there a way that you could require lenders or put certain constraints on lenders to where, you know, they could only go up to a certain, you know, percentage points over prime, you know, have restrictions on the closing costs and the fees attached to it, and prevent certain predatory lending practices as a part of the down payment assistance program.

And just something again that we would recommend that the staff and Board look into.

Which takes me to Issue Number 10, which is HOME versus Bootstrap. And I had before going into the Task Force, I had no idea that this was even an issue within the field.

And that is, people using the Bootstrap

program, and we all know the Bootstrap program is self-help housing, usually along the Border for people who want to build their own homes, that organizations are having a hard time keeping families in that program because they can jump over to First Time Homebuyer Program or to the Owner-Occupied Housing Program.

And it's very difficult for some of the groups along the Border to keep people who get the -- Bootstrap awards, because when you apply for the award you have to have people lined up, due to certain delays in actually getting the money and signing the contracts, by the time, you know, it can be three to six months later, by the time you actually get the award and can make the loans, those families have typically already moved on and figured out another way into home ownership.

And so you have to go back and you have to find new families to qualify. And so what they're seeing is that because OCC can be a forgivable loan, there's no sweat equity involved, and it's a faster process, is that they're seeing these families move over.

And a couple of the recommendations related to Bootstrap to help solve this delay, and the problem that they're seeing in the delay is to create a reserve system very much like you had with the mortgage revenue bond program years ago.

To where an agency would get qualified, they could then pull money down when they have a family that's ready to take that loan, and it would be a fairly quick process.

And again very much like the Homebuyer Assistance Reserve System, it has some pros and cons. On the pro side of course, if done well, it could be a faster program, it could drawn down money quicker and you could get families into home ownership and building their homes faster.

It could also help prevent extensions on the back end. You know, if people are building their homes faster, and a shorter time into the contract period, then you might not have to go beyond the two-year contract period as often.

On the con side, it might be harder for the Agency to administer, and it might not allow organizations to do very accurate budgeting based upon the demand of the program in any given year.

So with that I'll conclude but certainly will entertain any questions.

(Pause.)

MR. HULL: All right.

MS. ANDERSON: Not so fast.

MR. HULL: Oh, okay.

MS. ANDERSON: Something, you know, on -- thank you very much for participating and for your presentation.

Right there at the end, it sounds to me like on the down payment side -- it sounds like I'm hearing a contradiction on -- between the issues.

And this is probably not the only place where that occurs. Because some of this stuff is inter-related and intertwined, but you know there's a recommendation that says, Raise down payment assistance, you know, above \$10,000. Because, you know, because people with lower incomes need more down payment assistance to get in homes.

It seems then that if we did that, that operates against what you then talked about, which was -- it seems to me that encourages more defection from Bootstrap.

MR. HULL: It could. Now, keep in mind that they're separate programs --

MS. ANDERSON: Right.

MR. HULL: -- one is through HOME, one is through Trust Fund. It could very well do that. And so the recommendation for Bootstrap is to make that a faster process, to where when someone, you know, goes to a CDC at Brownsville or McAllen Affordable Homes, or Puerta Azteca [phonetic], when they go there, they don't have the three-month to six-months wait period in order to get that loan

to start. It could be --

MS. ANDERSON: What causes the wait period now?

MR. HULL: Well, a lot of times the way I understand it, the way it's been explained to me is that the organizations that are applying for Bootstrap have to have families lined up ahead of time --

MS. ANDERSON: Okay.

MR. HULL: -- and then they make the application, there's a period from the time applications are made to the time awards are made, then there's an execution period where everyone's getting their ducks in a row.

So for some families that get in early --

MS. ANDERSON: Right, they're sitting around --

MR. HULL: -- exactly. And those are the families that are most likely to go find another program that could help them.

MS. ANDERSON: But if we make the award without having -- requiring you to have -- if we make Bootstrap awards without requiring them to have the families lined up, then what substitute criteria can we put in place so we know that they're really ready to proceed?

Because there's a -- sometimes Bootstrap's not been oversubscribed --

MR. HULL: Sure.

MS. ANDERSON: -- and so it really wouldn't be an issue then, but I think last year Bootstrap was oversubscribed, and so you theoretically could be awarding applications to people that didn't have anybody -- didn't even have a gleam in the eye about who the families to be served would be --

MR. HULL: Right.

MS. ANDERSON: -- and they'd get an award, and somebody that had people lined up --

MR. HULL: Well, the way I understand the reservation system is that there would be no award. Is that there would be a pot of money that could be accessed, and you would qualify as an organization. And once you'd qualified --

MS. ANDERSON: You'd just draw 60 at a time --

MR. HULL: -- exactly.

MS. ANDERSON: -- or whatever --

MR. HULL: For a specific family that went through the counseling process, or whatever the requirements are. And when that family is ready, then you could draw down.

And so you -- and that's what I meant by, there might be issues in budgeting on both the state side and the organization side, is that if --

MS. ANDERSON: Because we've got to reserve the

whole block --

MR. HULL: -- exactly.

MS. ANDERSON: -- even though there are only drawing it down 60 at a time.

MR. HULL: Exactly. If Habitat, out of, you know, wherever, has 20 families that year, then, CDC at Brownsville that normally would have 20 might only have access to ten. Or whatever, and so --

MS. ANDERSON: Whoever got it first.

MR. HULL: Exactly. That's right. It's whoever works the quickest, and whoever can draw the money down the fastest. And so it really is a first-come, first-served system.

And what that would eliminate -- and everyone that I talk to understands that, and seemingly they're fine with it. Because they would rather have access to the funds quicker, than have a long delay period from the time that the application is made, to the award, to the drawdown period.

And it seems to me like it would allow them to work more continuously, as opposed to getting 20 families lined up, having to delay, losing a certain percentage of those and then having to go out and re-qualify new homebuyers for the Bootstrap.

MS. ANDERSON: Okay.

MR. CONINE: Matt, do you know what -- whether we have -- staff has the underlying data on the underlying mortgages on these down payment assistance, or not?

MR. HULL: I don't know, but something that I found interesting and this is what the HOME staff told me is that oftentimes you do not, because, and this came up in a discussion about mortgage foreclosure, and staff saying, Well, you know, we have a very low mortgage foreclosure rate in the HOME program, you know, as a second lienholder.

And then someone else on staff said, Well, you know, actually we don't really know because if the first lienholder isn't made full, we might not ever know if there was a foreclosure at all.

So I -- you know, that's a great question. I don't know if staff has the underlying data.

MR. CONINE: We need to take a look at that. That doesn't -- that's a very valid point, in light of today's world.

MS. ANDERSON: Thank you.

MR. HULL: Thank you.

MS. ANDERSON: I noticed that -- in Issue Number 5 there was a comment made about sort of awarding projects in like -- we've got 13 regions, so one year you'd award, and seven regions the next year you'd award,

and six regions --

MR. HULL: And when we were asked to present, we were asked to present the most likely --

MS. ANDERSON: Right.

MR. HULL: -- and the ones that I understood the most.

MS. ANDERSON: Okay.

MR. HULL: And that was a suggestion that -- it was certainly offered up, it made it into the report --

MS. ANDERSON: That doesn't sound --

MR. HULL: -- we never --

MS. ANDERSON: -- to me like it's following the RAF, but I'd, as we're required to do by statute, so I'd like the staff to kind of rule that one in or out, for us.

MR. HULL: Sure.

MS. ANDERSON: You know.

MR. HULL: And I think it's something that's done in the private activity bond side, for different housing finance corporations. Some -- you know, there's sort of an informal system to where they only access money once every three years and it kind of moves around the State --

MS. ANDERSON: They don't have an RAF in their staff, so --

MR. HULL: Exactly. So I don't know.

MS. ANDERSON: Let's rule that in or out, if we can do that fairly expeditiously, the staff that would be good to just know. And I thought that -- I think the discussion around down payment assistance is also worthy of, you know, staff looking at, you know, how do we set an appropriate standard for what down payment assistance ought to be offered to people.

And I would wrap into that beyond HOME, what down payment assistance terms are on our single family mortgage revenue bonds, because I would -- and I don't know what locals are doing either.

I mean I know Dallas has its own down payment assistance program.

MR. HULL: Sure.

MS. ANDERSON: So I think we ought to look at, you know, what other -- not only how we handle homebuyer assistance for HOME, but how we handle it with our own issuances, and then how locals, you know, some sampling of how locals handle it so we get a broad picture of what's going on around down payment assistance in the Texas market overall.

MR. HULL: And I believe Mr. Bogany has a question.

MS. ANDERSON: Oh.

MR. BOGANY: I've got a question for staff in

regards to the sliding rule of down payment assistance based on the area median income, can we do that? Is that possible in this -- within the HOME rules?

(No response.)

MR. BOGANY: It is possible?

MR. GERBER: [indiscernible]

MR. BOGANY: Okay. Because I can tell you in the real world, you got people at 30 percent of median income, they're never going to be able to buy a house unless it's \$20,000 or \$30,000 because of the prices of homes are constantly rising, and even in Houston you can, we see it for the low to low-mod, you can't even get them in a house with the money that they're given because of the prices.

So I would truly like to see staff really look at that, having a sliding based on 30 percent, 40 percent, whatever. And seeing if that would work in especially the rural areas.

MR. GERBER: Jeannie, would you like to touch on that?

MS. ARELLANO: Jeannie Arellano, Director of the HOME Division. That is -- there is no requirement in the final rules that we as -- that there is some limit to -- except for the overriding 203(b) limits, the total amount of assistance that can be provided to a household

for down payment assistance.

The only exception is with our ADI funds. Those are limited to first time homebuyers and \$10,000 in down payment assistance and closing costs assistance.

We are -- I have been in communication with the HOME program in California and several other state PJs [phonetic], where the discussion has been looking at, we've all kind of talked about an affordability analysis for homebuyers.

And what calculation we could maybe come up with to determine what a more adequate level of assistance would be to homebuyers based on income levels.

And we've got a spreadsheet that we've kind of sent around to kind of look at that. We're also looking at it right now for the Colonia model subdivision program, because that program was approved with two tiers in financing and how that's structured.

So we're about to have some real world experience with it, and hopefully be able to provide some good analysis from that.

MR. BOGANY: Good. Well, a perfect example of that is our bond program, the area 60 percent never moves. The reason is, those people can't buy houses --

MS. ARELLANO: Right.

MR. BOGANY: -- unless you're giving them much

more assistance.

MS. ARELLANO: Right.

MR. BOGANY: So -- and that, and I would like to see that sliding. I'm glad you guys already started doing the research on it. So -- but that's one way of moving that money is to give a bigger assistance.

MR. CONINE: But, devil's advocate viewpoint here is, in some cases, and at some certain income levels you can be encouraging people to buy more house than they can afford.

I think to me family size has a lot to do with it. You know, are you buying a three-bedroom house, are you buying -- do you need a five-bedroom house.

Those can be additional factors in my mind, that if you're going to create this thing that moves around a lot more than just a kind of a standard program, then you've got to drill down to, you know, what price house are they actually trying to buy, and how much assistance are we going to try to give them --

MR. BOGANY: Yes. I agree.

MR. CONINE: -- and not just base it solely on the income of that particular either person or family.

MR. BOGANY: No. Okay.

MS. ANDERSON: No, I don't think it's a service to give them more assistance and get them in a house that

they then can't take care of, and then they end up in a real mess, and foreclosure and then they'll never get another loan.

MR. BOGANY: Right. Well, and I agree totally, but it also includes maybe putting whatever the area median income -- I mean, area median price in that neighborhood, or that region, or that city or county would help too.

So I think not just one but a group of items as Kent just brought up and -- but I think you need a combination of all three to make it work. And I think area median house price is really a good spot because even in Houston the builders start raising their prices because they know they've got another subsidy in the area, so they raise their prices.

And it still doesn't really help the families.

MS. ARELLANO: And all those factors are things that we are looking at in this analysis, have already looked at, and more.

MS. ANDERSON: Thank you.

Thank you.

MS. ARELLANO: You're welcome.

MS. ANDERSON: Michael Hunter. And as I promised you on the phone last week, you get your full allotment of time, and we will stave off -- everyone will

stave off their hunger, and --

MR. HUNTER: I'll try to go fast.

I'm Michael Hunter with Hunter & Hunter Consultants out of Rockwall, and like some others I was drafted into this. Really the person who's supposed to be making this presentation is Don Currie [phonetic].

So if you'll all take a moment and pretend that I'm Don, he had a medical emergency and is in recovery, he couldn't make it. So pretend that I'm handsome and intelligent, and erudite and a lot more rested than I am. And we'll try to get through this.

What you have in this bullet point that's being passed out is actually what you got in the report, but really put into a one-sentence format.

And the reason for that is because most of the stuff that's in this, you've already heard because we're talking about a type of entity that's coming to you for funding, and most of the things that have been recommended we're re-recommending inside the CHDO with a couple of caveats on it.

When we looked at this at the beginning, we realized a couple of things. One, that the CHDO expenditure rate was not the greatest thing in the world, historically. Two, the number of CHDOs that we had that are truly good CHDOs, well grounded, have lots of

reserves, run their business well and are rural, you can almost count on the fingers of one hand, in the State of Texas.

And the thought of the group that was working on this is that, by minimum we ought to have one for each region. Okay? So the question is, how do you get that, number one.

And number two, how do you ensure that you can develop those organizations so that they are a true financially solid partner with the State in developing affordable housing out in the rural areas of Texas.

Well, running through this pretty quickly I think there's a couple of things. One deals with processing, and the other deals with the type of activities that can be funded, and that CHDOs can do.

You've heard before in the conversations that one of the things that really the staff and the Department and those on the outside should look at is, how to streamline the processes and simplify the activities of getting the money out, shortening the time, getting the money into the field and getting the contracts and the houses started, getting it moving. Okay?

So one of the things that we're suggesting is that we really ought to look at, in terms of CHDOs, how do we simplify the process for the application implementation

process? You know, how do we seek to apply for funding to successfully complete their projects?

The other thing that we noted is this: There is a problem that's occurred. It's unknown; it popped up. We started doing and certifying CHDOs as they made applications.

So there were only -- a CHDO for that application, that is, if they made another application they had to re-certify themselves. They had to re-submit, re-apply.

What happened was that, the local taxing entities said, If you're not a CHDO, you don't get the tax-exemption. So we had to figure out another way, because as soon as it was applied, they were no longer a CHDO. They had to wait until the next time.

So we're suggesting then that the way to get around this is that when you certify a CHDO, we certify them for a period of about five years, and then annually let them re-certify through a checklist period. This would solve that problem.

We also looked at creating a funding set-aside for first time applicants. One of the things we heard the Board say last year was that one of the things we wanted to do was diversify the number of entities coming through for financing. We want more entities coming through, more

new ones coming through.

Well, one way of doing that and at the same time helping hold their hand through the process and really develop themselves would be to create a separate funding set-aside of a small amount to let first time only organizations apply for under that cap.

And make it a very small amount, like \$100,000 or \$150,000 award total, do one or two projects, let the staff work them through and develop it and they understand the process, and then the second year or the second time they apply they go in with all of the rest of the sharks in the big pool.

And that way it would give them some training and some ability to prepare themselves, and to develop the systems and put them in place that would help them survive.

One of the other things that came up in our discussion was that there are opportunities out there, just like in any business, and a CHDO is a business. But just like any business, there are opportunities that arise, that require swift action.

A land, a piece of land may come up, and all of a sudden you can acquire that land or put an option on it, but we have to wait for a funding cycle to be able to get the funding to pay for it and to do the project.

So we're out there at times, CHDOs are out there at times, 18, 24 months in advance, trying to secure land and the projects, and waiting for the funding cycle.

An easy solution to this would be to consider an open funding cycle for CHDOs, so when they get their deal and they come in, they can come in and apply for it, the staff can review the project, make sure it's feasible, economically feasible, come to you for financing of it.

And that way they can jump on those projects that come up periodically and they could take advantage of them, make it work.

One of the projects that you all are trying, and we commend you for starting, and we think is a really good one for CHDOs is to look at single family subdivision development in rural Texas.

One of the problems we have with multifamily, and we've got CHDOs that are doing multifamily in rural Texas, but one of the problems we have is, to make multifamily work financially you're looking at about 200 to 250 units to make it financially work and stand on its own.

Well, putting a 200- to 250-unit complex in a town of 1500 is just not going to work. Okay? And we've looked at other arrangements to do that on the multifamily side, of being able to put 50 units here and 40 units

there, and 60 units there, all within say a ten-mile radius where you could centralize the maintenance and all of that type of stuff.

And that can work. But really what attracts local, small rural communities is the idea of getting new single family housing, either rental or ownership being done in their community.

Because they have no developers that are going out there and building it. Everything that is done in rural Texas is being done by, you know, builders who would build \$250,000 houses. That's what they're looking for to make their income. There's nothing going in there to build the smaller ones, and the more efficient ones.

And by doing that, then, we could do two things. One, you've got a project to build say ten houses in a small town; the CHDO builds it, they get a return immediately from the sale of those houses, your money is going out and if you're putting the money in for the interim construction, et cetera, you're getting a return of 80 percent within a -- 15 months or so, as far as program income is concerned.

And a portion of that could be put for down payment assistance to help people afford the house. So it's a very workable concept, and I think you ought to consider that for CHDOs. It's something that they can use

to help develop their business and maintain it.

We also like the idea of doing some forward commitments, with the understanding that you may not be funded any more by HUD. You know, that's sort of in the background, that could always go away, I suppose.

But the idea is this: If you're doing a multifamily project like I said, a multiphase project, 20, 30, 40, 50 units in different towns and you're trying to build up to your 200-unit deal to make your finances work, it really makes sense to have that whole project approved up front by you guys.

And to say, Look, over the next five years we're going to fund you if you meet all your thresholds, you meet all of your requirements we've put on there, we're going to fund you each year; we're going to forward-commit it.

That allows them to go out and have some synergy with their local community, their local financing community and to leverage those funds to be able to do it, and not have to have them apply competitively each year for each phase, where they get three phases done out of five, and the fourth they don't get funded, and then they're in trouble, see. So we would suggest you look at forward committing.

We think loan guarantee programs really need to

be looked at, and they haven't been looked at in the past for CHDOs.

Not only for acquisition and interim construction, you can take HOME funds and you can guarantee a local bank, a local rural bank if you guys would come out and do the interim construction financing, we've got a guarantee here. You're not going to be -- you're not going to lose your money. Okay?

They're probably not anyway if you've done your underwriting correctly, but those banks are afraid to step out, those small rural banks, and that could get them involved, and it's an easy way to leverage your funds.

Also, to look at takeout financing for first time homebuyers that cannot qualify for A paper credit. There's a real issue there, and that's something else you might want to look for as far as your loan guarantee program.

Internally, we think that there ought to be developed across --

MR. CONINE: Could you explain that a little more for me, that -- the A paper credit, tell me how that works.

MR. HUNTER: Okay. If you have -- most of the programs that are tied to your homebuyer program, at least the ones I'm familiar with are pretty much tied to A paper

credit. That is, your buyers have to qualify for A minus or above mortgage product. They have to be -- you have to be within about two points of the current Freddie Mac interest rate.

What happens with your lower income folks, you have a poorer credit history. You have more debts to income ratio. And so they have a hard time making that A paper level.

So they end up in a higher pool, a B or a C pool, which is the -- which results in a higher interest rate.

What that does over time basically is increase the possibility of default, of them not being able to make their payments. So one of the things we're looking at, is there a way to after a certain period of time, to pool some funds and take them out of that paper and put them into a better position.

MR. CONINE: Okay. All right. Seasoning.

MR. HUNTER: Yes. Exactly, thank you. I told you -- more rest. Seasoning is a great word.

Internally, we think that one of the things that would help CHDOs and help develop CHDOs in the State would be for the Department to develop a cross-departmental vetting team. Somebody from every division who works together to develop the CHDOs and to look at

their projects and approve them and work them through.

That process would keep the Department hands-on with those organizations to help moving them forward.

We agree with the pre-application process that's been told before, we think that's a great idea for CHDO developments. We think there ought to be a capacity building funding pool to support colleague mentoring programs.

We have two or three great CHDOs, well, let's get them out into other areas to help build some others. And it's a great way to do that, but there needs to be some financial way to do that, and we think that you can use your funds to do that.

And that's basically it in a nutshell, the ones that we wanted to bring to your attention, so if you have any questions I'd be glad to answer them.

MR. BOGANY: I have one question. In regards to the certifying CHDOs for five years, is it appropriate to look at the success that that CHDO had?

MR. HUNTER: Oh, yes, I think so. For example, the way it works now is, if a CHDO makes an application, they're making two. They're making an application for the project, they're also making an application to be designated as a CHDO.

They're doing it every time, every year they go

in, they do this. Part of the problem is that, let's say you get a multifamily deal. Okay? Your multifamily deal is stretching out there 20 years for the payback.

Well, you're a CHDO for the whole term, but as far as the local taxing entities are concerned, you've lost that CHDO stuff because you have to apply each year.

MR. BOGANY: Okay.

MR. HUNTER: You see what I'm saying?

MR. BOGANY: Okay.

MR. HUNTER: So -- and what we think happens, if you do the five year, and then every year you send them out a checklist, say -- hit this checklist. Do you still have the same board members? Do you still have the same financials? Do you have --

Then your staff is looking at, are they making their commitments and are they doing things right, and then you have the opportunity to remove that CHDO status.

MR. BOGANY: Okay, thank you.

MR. CONINE: Why should we use HOME funds to develop a capacity building funding pool? Aren't there enough private foundations out there doing that sort of stuff?

MR. HUNTER: My research of private foundations, okay, is that there are a lot of private foundations. There are a ton of them. There's more money

in private foundations than there is in the federal government HOME program. Okay?

The problem with private foundations is that the number of foundations that will finance housing or housing-related activities is really pretty small. Most of them are into medical, they're into children's issues, they're into that type of social issue that they're funding, and most of those private foundations, the vast majority of them are family-related foundations.

And so what they've done is, they've already completed their list of who they're going to fund and their annual reports are just showing what their funding level is, and going out there.

It's very hard to break into some of those foundations. About 90 percent of it's hard to break into.

There are some foundations that do that; Meadows Foundation does it. Amon Carter Foundation does it --

MR. BOGANY: MacArthur [phonetic] does --

MR. HUNTER: Yes. There are some. But they also do other things, so is there enough? I don't think, I could be wrong but I don't think there is right now to take on that burden.

MR. CONINE: I'd be interested to see some research on that. There -- any time I go to a national housing conference group and you see a list of sponsors,

there's a gajillion foundations on there.

MR. HUNTER: Yes, sir. You're right about that. And being a person who's gone -- tried to go to foundations for funding, I'll tell you that it's a hard apple to peel.

MR. CONINE: Okay. I just thought I would ask.

MS. ANDERSON: I have a couple of questions. In the report, and thank you for your participation and for your presentation today, there are 22 issues listed in the report, and then there are 13 on this sheet of paper.

Is it fair to assume that these 13 are the highest priority, or is --

MR. HUNTER: There --

MS. ANDERSON: -- there's 22 issues boiled into 13 bullets?

MR. HUNTER: Both. Okay? I've taken some and combined them, okay? And I was told, and again I apologize I was doing this at 1:30 this morning but I was told that we wanted the handout we give to you, we wanted it to be sort of a top priority.

MS. ANDERSON: Right.

MR. HUNTER: So on that I tried as much as possible to combine them so that all of them got in here.

MS. ANDERSON: So that all of them are priority.

MR. HUNTER: Well, really and truly, that's really what it is, because really what it is, it's a holistic issue.

MS. ANDERSON: Okay. I'm going to ask staff to work with you --

MR. HUNTER: Sure.

MS. ANDERSON: -- and your subcommittee to try to prioritize -- some of these things are interrelated and you don't do one without the other and stuff.

But -- and then on the emergency funds for CHDOs, which is on your handout, what would the source of funds be for the -- I mean, what were you envisioning the source of funds for the emergency fund? Because you can't use HOME funds to --

MR. HUNTER: I think the committee was thinking more along the lines of doing some housing trust fund stuff, is -- I think as I recall, that was the comment that came up. This was not really one of the ones I was involved in, but as I recall, that was the comment that was --

MS. ANDERSON: Okay.

MR. CONINE: I'm also intrigued with your single-family subdivision development program concept.

MR. HUNTER: Uh-huh.

MR. CONINE: Do we not have the internal staff

capacity to -- because he's suggesting that we do not, internally today. And I'm -- I wouldn't think -- I think we do. Maybe we don't. Can you shed some light on that, Brooke?

MS. ANDERSON: Let's look at it --

MS. BOSTON: It's something we do very little of right now. We obviously for our Colonia model subdivision program; that is a single-family development program, and we've obviously, the staff developed the concept. Underwriting underwrote it.

I do think if it's something we continue to do at a much larger scale, we would probably make some adjustments to make sure that we could accelerate the rate at which we do it.

You know, our first one recently, the Colonia Model Subdivision one has been somewhat experimental. So.

MR. CONINE: Let me also suggest to you that his idea of a loan guarantee program from interim and acquisition and development lending, is one that I've had a lot of involvement with at the national level in trying to create a secondary market for AD&C [phonetic] financing.

And I think what he's proposing here in a minor way, especially in rural Texas, where I don't necessarily

agree that you'd have to guarantee the whole interim or construction loan, but following the PMI example of mortgage insurance out there, where you would guarantee the top 25 percent, let's say, and create a little fund that would do that.

And there's also, believe it or not, some third-party companies that are looking at doing that now as we speak on a national level.

So maybe this would be a short-term thing to look at until the third party companies actually get into the business here fairly quick. But that would get those small banks in rural Texas over the hump, I think, and getting some of these subdivisions put on the ground. I'd to see us pursue some of that.

MS. BOSTON: We could definitely do that.

MS. ANDERSON: Thank you.

MR. HUNTER: Thank you.

MS. ANDERSON: Again, I want to thank the Task Force -- and we have one witness who sits on the Task Force, Mr. Harms, and we'll call on him in just a minute.

And he's the only thing standing between us and lunch.

MR. CONINE: I have a question of staff.

MS. ANDERSON: Go ahead.

MR. CONINE: I have a question of staff. We had talked at our last Board meeting or maybe the one

before that, about having some HOME funds that would be set aside for some homebuyer assistance in the defaulted bond portfolio. Did that hit the Task Force level?

MS. BOSTON: Actually, that's Housing Trust Fund.

MR. CONINE: Okay.

MS. BOSTON: And that was -- that is now part of the official funding plan for Trust Fund, it's about \$100,000 and we'll probably be bringing you the actual proposal of what the Board's options will be at the early July meeting.

MR. CONINE: But can't we use HOME funds for that too? Or is -- are we prohibited from -- is that a prohibited use?

MS. BOSTON: I don't know. We'll have to look into that. It's -- it doesn't jump out as something that would automatically meet HUD regulations, because --

MR. CONINE: Let's take a look at that --

MS. BOSTON: -- you don't know that you'd be able to retain the affordability on it. So --

MR. CONINE: Because we generally have more HOME funds laying around than we do Housing Trust funds laying around. Let's take a look at it.

MS. BOSTON: Okay. We'll do that and make sure that our writeup in July addresses that.

MR. CONINE: Great, thank you.

MS. ANDERSON: Sort of just as an overall comment I want to thank the Task Force and staff that have been working with the Task Force.

We've heard a lot of -- we heard some very good presentations today, and we're going into a rulemaking cycle and so I don't think we heard necessarily anything today about changing the Board's intent of what it was trying to do in terms of speeding up expenditure and commitment in putting housing on the ground.

But I would just sort of -- I would recommend that we give staff some pretty broad latitude, to evaluate the Task Force findings, the comments heard today, the Board member questions today, and then I think we would be flexible as to how we would entertain you bringing those back to the Board.

Some of them may come back in the context of proposed modifications to rules; some of them may come up as their own issues. And so I -- you know, I would sort of suggest that we give the staff some fairly broad latitude into how they -- you know, bring their point of view about -- around these 78 or 80 recommendations back to us.

MR. CONINE: I would also echo the simplification process. We have become way too

complicated, in my opinion. Way too un-user-friendly in a lot of our areas, and we need to figure out how to make it more attractive to -- and simpler, to access this money.

MS. ANDERSON: Okay. Mr. Harms.

MR. HARMS: I withdraw. Let's go to lunch.

MS. ANDERSON: All right. We're all for you.

So we --

MR. CONINE: Is that the last of the public comment period?

MS. ANDERSON: -- have an executive session and so we will -- it's 20 till 1:00, we will reconvene at 1:30. 1:15?

MR. CONINE: 1:30.

(Discussion off the record.)

MS. ANDERSON: We'll zip through it?

(Discussion off the record.)

MS. ANDERSON: Thirty?

MR. CONINE: Thirty.

MS. ANDERSON: Well, if we say 1:30 and we're ready at 1:15 we can't start at 1:15.

We're going to shoot for 1:15. Knowing that we might, as usual, we're a few minutes late.

(Discussion off the record.)

MS. ANDERSON: Oh, and then I have to read this thing. On this day, June 14, 2007 a regular meeting of

the governing board of the Texas Department of Housing and Community Affairs held in Austin, Texas. The Board adjourned into a closed executive session as evidenced by the following:

The Board will begin its executive session today, June 14, 2007, at 12:40 p.m., subject matter of the executive session deliberation is as follows:

The Board may go into executive session and close this meeting to the public on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code Chapter 551.

The Board may go into executive session pursuant to Texas Government Code 551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.

Number one, discussion relating to the salary for acting director of internal audit, number two, deliberations on hiring of internal auditor.

Also consultation with attorney pursuant to Section 551.71(a) of the Texas Government Code, which affects pending litigation, styled *Dever vs. TDHCA*, filed in federal court was -- pending litigation styled *Ballard vs. TDHCA*, filed in federal court with respect to the

possibility of requesting an Attorney General opinion regarding the use of a legislative intent for rural development, with respect to any other pending litigation filed since the last Board meeting.

(Whereupon, the meeting was adjourned to executive session.)

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

(1:36 p.m.)

MS. ANDERSON: Mr. Conine requests we duly let the record show that he suggested 1:30 to begin with, and we didn't even quite make that.

Let's see. The Board has completed its executive session of the Texas Department of Housing and Community Affairs on June 14, 2007, at 1:30 p.m.

I hereby certify that this agenda of an executive session, Governing Board, Texas Department of Housing and Community Affairs was properly authorized pursuant to 551.103 of the Texas Government Code.

The agenda was posted at the Secretary of State's office seven days prior to the meeting pursuant to Section 551.044 of the Texas Government Code, that all Board members were present, and that this is the true and correct record of the proceedings pursuant to the Texas Open Meetings Act, Chapter 551, Texas Government Code.

(Pause.)

MS. RAY: Madam Chairman?

MS. ANDERSON: Yes, sir.

MS. RAY: I move that we increase the salary of the acting internal auditor by an amount of \$12,496.

MR. BOGANY: Second.

MS. ANDERSON: And this is for the period of

time that he remains in this acting role?

MS. RAY: Until a new auditor is hired, internal auditor is hired, yes. Or a six-month period, whichever is less.

MR. BOGANY: Yes. Not to exceed --

MS. RAY: Not to exceed six months --

MS. ANDERSON: -- not to exceed six months.

MR. BOGANY: Second that.

MS. ANDERSON: Second, thank you, sir.

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: The motion carries. Because of the schedules of a couple of Board members, we're going to proceed next with Item Number 2(b), which are 2007 Competitive Housing Tax Credit Appeals.

MR. GERBER: Madam Chair, Board members. Robbye Meyer is going to walk us through, who heads up Multifamily, will be taking you through these appeals individually. Robbye?

MS. MEYER: Robbye Meyer, Director of Multifamily Finance. Good morning, Board members. We have five appeals; the sixth appeal in your list has been withdrawn so we have five appeals to discuss this morning.

The first is 07-190. This appeal is for the Stephen Austin School Apartments that's proposed for the City of Greenville. The applicant is appealing the assessment of a five-point penalty associated with an extension of a carryover deadline that was requested and granted in 2006.

This penalty is required by the Department's governing statute and the QAP, the Qualified Allocation Plan.

As, you know, after an award of tax credits, an applicant is responsible for meeting various deadlines and benchmarks. One such deadline is the documentation of the carryover allocation. The statute requires that when these deadlines are not met, that points are reduced in the following year's application for anyone affiliated with the application getting an extension.

Last year there was an award made to a 2006 Hurricane Rita application, the Beaumont Downtown Lofts, and the carryover documentation was due on November 1 for the Beaumont Lofts development.

The ownership of that application has some of

the same members as the ownership structure for the appeal that is filed today. Further, the same affiliate received a forward commitment in July 2006, out of the 2007 ceiling, and that was for the Moore Grocery Lofts.

While the penalty point reduction was only assessed to the Beaumont Downtown Lofts, the applicant's counsel is making a connection between the two and contends that there was confusion with the deadline for carryover for the Beaumont Lofts due to an incorrect date that was in the commitment notice for the Moore Lofts.

Now that I've got you all confused with the lofts, although there was an error in the Moore Loft's commitment, that should not have a bearing on the application submission of the documentation for the Beaumont Lofts, because the carryover date was correct in the Beaumont Lofts' commitment notice.

The application asserts that the applicant did not know of the penalty at the time of the extension request in 2006 because the Beaumont Lofts application was the first application the developer had submitted for the tax credit program in Texas.

Confusion of this type is exactly why we have all applicants certify to the fact that they've read all of the rules, they've read the regulations of the programs with which they are applying, and why staff strongly

encourages the engagement of experienced consultants.

Again this penalty assessment is statutorily required, and the Board is not permitted to waive statute.

Five points were deducted on the final application score.

MS. ANDERSON: I have public comment on this item. Mr. Martin. And the next --

MR. FITCH: My name is Hollis Fitch. I'm the developer for the project. I think Mr. Martin is actually on the next one, for the Washington Hotel Lofts.

MS. ANDERSON: Yes. Wrote down all three of these numbers, so --

MR. FITCH: Okay. Do you want to defer --

MR. MARTIN: I'll defer to the next --

MS. ANDERSON: Okay. You're up.

MR. FITCH: I'm sorry. My name is Hollis Fitch. I'm the developer -- I apologize.

Madam Chairman, members of the Board, my name is Hollis Fitch, I'm the developer for this project, 07-190, Stephen Austin School. I'm also the developer for the following two projects you're going to hear about.

The issue concerning the carryover extension is actually a minor part of our total appeal today of these three projects.

In these appeals, we're asking for a large number of points back for our applications, and I'd love

to tell you that it wasn't our fault and, you know, we received unfair review of our applications, but that's just not the case.

The staff did exactly as they were supposed to do according to the QAP and, you know, went through the letter of law.

Our type of work is unique. Eighty percent of the work that we do is adaptive re-use of historic structures, and they all incorporate community revitalization and historic preservation.

In this application cycle we undertook three very complex projects. And the QAP for the State of Texas makes it very difficult for us to undertake these projects, that involve historic, adaptive re-use.

It makes the application process much more expensive for the developer before the awards are made. We put together three applications this year for adaptive re-use projects in difficult to develop areas of these cities.

The applications all had very high initial scores, and overwhelming community support as evidenced by the two mayors coming this morning and speaking in public comment.

Due to the misunderstandings and technical difficulties of these types of projects during the review

period we were unable to make the necessary changes to our drawings in order to satisfy the Department review for the QAP.

We submitted our changes as we felt the Department wanted them, within the cure period, but due to the complex nature of the projects, the drawings did not meet the requirements.

These additional changes took more time and started deducting points from our applications. Our architect from the projects has come today to answer any questions or concerns you have on the drawings.

The one thing I want to reiterate on all three of the applications that you're about to hear about, the merit of these deals has never changed.

The cities have supported the deals since the beginning, but due to the fact that these projects are treated as new construction when they don't really fit into the new construction box or the rehabilitation box, it makes it very difficult for this product type to be developed in Texas.

MS. ANDERSON: Mr. Fitch, I need to caution you to be speaking to Stephen Austin School Apartments only --

MR. FITCH: Okay.

MS. ANDERSON: -- at this point in the testimony.

MR. FITCH: Okay. I do apologize.

In that case I'm going to defer my time to Ms. Bast to speak to the specific issues concerning this request.

MS. ANDERSON: Okay, thank you.

And Paul Fitch has yielded to --

MS. BAST: Good afternoon. Cynthia Bast, Locke, Liddell & Sapp, representing the applicant in this appeal for the reinstatement of penalty points.

I believe Ms. Meyer was very accurate in her presentation of the facts surrounding this circumstance, and I will provide you just a little bit more explanation.

As she indicated, this development team was participating in Texas for the first time in 2006, with two awards, a Hurricane Rita award for the Beaumont Downtown Lofts, and a 2007 forward commitment for the Moore Grocery Lofts.

And although this team is new to Texas, they have been operating across the country for quite some time. Last year they worked on ten different projects in seven different states, so they have quite a bit to manage, and as a result they internally viewed their Texas projects as a package, if you will.

And they allocated their employee resources so that the projects would be worked on concurrently, to

maximize their efficiency.

So when the Moore Grocery Lofts commitment notice came out with an error that needed to be corrected, they were concurrently working on Beaumont Downtown Lofts to meet the carryover requirements.

They actually did acquire the land and meet all of the carryover requirements prior to the deadline. But because they were still working on Moore with the staff, they held onto that and didn't submit it, because the plan was to try to get the landscape, get all understood, get all the ducks in a row and then proceed with these deals in tandem.

So as soon as the Moore Grocery Lofts problem was resolved, the Beaumont Downtown Lofts carryover had already been completed, and it was immediately submitted.

So of course this was done without their immediate knowledge of the penalty that would apply this year, and in trying to handle these two projects in tandem, they made a grave error.

So in considering this appeal, I ask you to remember that the Beaumont Downtown Lofts, which is the matter creating the penalty here, that the carryover items were completed before that deadline, they just asked for the extension to make sure that they could get all of their ducks in a row with their Texas projects for which

they worked as a package, and they thought they were using a logical approach.

So we request that you reinstate the five points for the Austin School Apartments. Thank you.

(No response.)

MS. BAST: No questions?

MS. ANDERSON: No questions for Ms. Bast.

That is the completion of public comment on this application.

MR. CONINE: The -- Robbye?

MS. MEYER: Yes, sir.

MR. CONINE: The Beaumont loft project was a part of that special allocation of tax credits for the hurricane-damaged area --

MS. MEYER: That's correct. In that \$3.5 million.

MR. CONINE: And it should have -- it had a carryover date of when?

MS. MEYER: November 1, 2006.

MR. CONINE: And the Moore project was --

MS. MEYER: Was a forward commitment --

MR. CONINE: Is that right?

MS. MEYER: -- at this year, and it will be due November 1 of this year. You awarded a forward commitment last July --

MR. CONINE: Right.

MS. MEYER: -- out of the 2007 ceiling. So therefore it would be -- their carryover documentation for the Moore Lofts would be November of this year.

And they are correct, we did make a mistake in their commitment notice on Moore Lofts, not on Beaumont.

MR. CONINE: Yes, but there's no harm yet because the date hasn't come. Right?

MS. MEYER: That's correct.

MR. CONINE: But my understanding of the special allocation of credits from the federal government in hurricane-damaged areas was to get the projects on the ground as fast as they could, that's why we went to -- okay.

I move we accept the staff recommendation to deny the request.

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: The motion carries. Mr. Gerber,

or Ms. Meyer?

MS. MEYER: The second appeal is for 07-191, the Washington Hotel Lofts. This is also proposed for the City of Greenville. The applicant is appealing point losses for three different sections in the QAP.

One we just discussed in the previous appeal, and the staff suggests the Board's decision on that one to also apply in tandem with this application of 0-191 for that specific item because it also applies for this one.

In addition to that appeal of the penalty points for the carryover extension, the applicant for the Washington Lofts is appealing two additional items.

First, the Applicant is appealing the loss of five points pursuant to the administrative deficiency process. And Section 49.9(b)(iv) of the QAP outlines this section of the process, which department staff follows in reviewing applications.

The Department may issue a request for clarification of information submitted in the application.

An applicant has until 5:00 p.m. on the fifth business day following the issuance of the deficiency notice to provide a satisfactory response to that deficiency notice.

Five points are deducted for each day following that deficiency deadline. If deficiencies are not received by 5:00 p.m. on the seventh day, the application

is terminated.

The applicant for Washington Lofts did not submit all of their deficiency documentation requested until after 5:00 p.m. on the fifth day, but before 5:00 p.m. on the sixth day. Therefore, five points were deducted from the applicant's score as required by the Qualified Allocation Plan.

In the appeal, the applicant asserts that the architectural plans as Mr. Fitz just discussed with you, the architectural plans for an adaptive re-use development are too comprehensive to produce within the deficiency period.

The length of the deficiency period though, should not be in question. because the architectural plans are due in their entirety when the application comes in on March 1.

The second appeal attached to this appeal is, the applicant is appealing the loss of pre-application incentive points.

The Department's governing statute requires the Department utilize a pre-application process. In Section 49.9(I)(13) of the Qualified Allocation Plan it allows the application to receive six points for the submission of the pre-application as long as the full application meets certain requirements and does not deviate in score more

than 5 -- decrease in score more than 5 percent or increase in score more than 5 percent.

Because of the loss of points for the carryover extension, the loss of the points for the administrative deficiency, and two additional scoring points that the applicant is not contesting, their score deviated more than 5 percent, it decreased more than 5 percent, and therefore it lost the six points of the pre-application.

It should be noticed that the loss of the pre-application points was due to the applicant's own previous actions or omissions, and the loss of points could have been avoided if the applicant had acknowledged those penalty points in their self-score during the full application.

MR. CONINE: Is there any testimony?

MS. ANDERSON: Yes, there is. Mr. Martin, would you like to speak at this point?

MR. MARTIN: I would love to but I think Mr. Fitz would like to go first.

MS. ANDERSON: Well, he's yielded his time to Ms. Bast on this -- development.

(Discussion off the record.)

MS. ANDERSON: Well, no. He's yielded his time on this one. I have the -- affirmation form in front of me.

MR. MARTIN: My name is Jackie Martin. I'm with Martin Riley Associates. We're architects out of Atlanta.

And I would like to go through the process that we have to go through on a historic rehab very briefly, because I think that has a bearing on what we present to you in our application.

As, you know, historic buildings, typically they're over 50 years old. Very few drawings exist, and so we have to scrounge around when we start the process, to find anything and everything to give us a hint of how many square feet, the shape of the building, size of the building and so forth.

So the first thing that we do on a project is put together a concept of how many units, how many square feet, and so forth. Then we take a entire team, go to the site, we measure the site, we crawl over the site with flashlights because typically there's no electricity.

We measure, find out all of the issues that we think are there, we make assumptions based on what we think the National Park Service is going to require us to save and what they will allow us to demolish and so forth.

And so we have to go through this long process just to get to the point where we know how many units and the general shape of those units.

We have to lay it out based on how many windows we have, how much square footage is available.

Once we make that determination, and this is when we are ready to actually present the drawings for the first time and that's what you're seeing with those drawings there, we show the outline of the units, the square footage that goes with that unit, and then we take a series of units and show you those in the exact layout that we're going to do.

We don't design every single unit, because that process of when we refine is when we -- after we get funding we have to go back to the site with the same team, re-measure, re-go-over and in effect we redesign.

Because there are always things in a big building that we have no clue we're going to find when we start the process.

And so it's an ongoing process, and to give you every single plan -- because every plan has a little deviation. One plan might be five feet larger. One plan may be five feet smaller, but it's the same layout.

And that's how we -- when we say, it's similar to or opposite hand, we're indicating that the layout is -- the general layout stays the same, the area may vary just a little.

And so that's why when we do our initial

submission we don't give you every single plan. And I just wanted you to understand that it's not that we don't want to give it to you, but the process of trying to nail down every single unit is just not something that we can do at that early stage, because we will have to go back two more times in the process before we can finalize the absolute layout of the plan.

Now, square footage won't change, of the unit; the mix won't change. But the actual layout of those individual units will change.

So I just wanted to present that to you. Thank you very much.

MS. ANDERSON: Ms. Bast, and Mr. Hollis Fitch and Mr. Paul Fitch, and you do have a time limit.

MS. BAST: Thank you. Cynthia Bast, Locke, Liddell & Sapp.

As Ms. Meyer noted, this project does have essentially two appeals, the first being the reinstatement of the penalty points for the carryover extension, which you just heard in Stephen Austin so I am not going to address again.

And the second being the reinstatement of the penalty points associated with the administrative deficiencies and the pre-application points.

I think that Mr. Martin really highlighted how

challenging an adaptive re-use project can be, and one thing I've learned in working with this client is that TDHCA's rules do not always accommodate adaptive re-use projects very neatly.

You may recall last year we had a whole discussion about whether adaptive re-use was rehabilitation or new construction.

So typically if you think about a typical new construction context or even a rehabilitation context of a building that has already been established as housing you've got several different floor plans, several different sizes, each with the same square footage.

In an adaptive re-use, as our architect indicated, that square footage is going to differ, even among the same unit types, to accommodate the infrastructure.

Washington Hotel Lofts has three unit types. A one bedroom, one bath; a two bedroom two bath; and a three bedroom, two bath. All of the one-ones are proposed to be the same size; the two-twos are proposed to vary in size but all have the same configuration; and the three-twos are proposed to vary in size, but all have the same configuration.

All in all there are eleven different square-footage types for these units. So the QAP requires, this

is what we're getting down to is, what does the QAP require, what did we provide, and then how did we respond to the administrative deficiency.

The QAP requires that the applicant submit a floor plan for each type of unit. So in the original submission, there was a floor plan for the one bedroom, one bath; the two bedroom, two bath; and the three bedroom, two bath, because the applicant thought that that would satisfy the QAP.

So as Ms. Meyer indicated, it wasn't that we weren't aware the floor plans were required. We were aware that floor plans were required from the beginning. The problem came when the determination was made that a floor plan was needed for each of the eleven different square footages that are anticipated for this building at this time.

So that's when the administrative deficiency was issued, and this very short time frame kicked in for the architect to all of a sudden create these additional plans to resolve the deficiency.

He worked diligently over Good Friday and the Easter weekend, to try to satisfy that deficiency, and unfortunately yes, it was delayed, and this did -- and that is what caused the five-point penalty.

Then due to that imposition of penalties we

roll into also the penalties associated with the pre-application points.

So as you think about this and think about how this should apply in this particular context, I'd like you to consider several things.

As our architect indicated, the square footages for the various unit types in an adaptive re-use cannot be exactly stated until an exploratory demolition is conducted.

And despite the fact that there may be some changes in the square footage of these various individual units, your net rentable square footage remains the same because you're working in a box. You have a finite space to work with.

With regard to the requirement for the submission of floor plans, the Washington Hotel Lofts is basically being held to the same standard as all of the new construction and rehabilitation projects, and this is a different kind of product.

With regard to the pre-application points, I would assert that the intent of the pre-application point penalty was to encourage fair competition, by giving the applicants an incentive to self-score themselves accurately.

This change in points doesn't come from someone

who self-scored, you know, to the moon and then couldn't prove up that score. This change in points comes from the imposition of penalties.

So deducting pre-application points in this particular instance does nothing to serve the intent of the penalty to promote fair competition.

So based on all of these facts, we believe that this project deserves reinstatement of the penalty points for the administrative deficiency, and the pre-application points. Thank you.

MR. CONINE: I have a question.

MS. BAST: Yes, sir.

MR. CONINE: What was the variation of square footages?

MS. BAST: The variation of square footages --

MR. CONINE: Between --

MS. BAST: In the two-twos and the three-twos, the two-twos go from 903 square feet to 1,075 square feet; the three-twos go from 1,028 square feet to 1,406 square feet.

MR. CONINE: And the 1-1s all were the same.

MS. BAST: Yes, they are all at, I believe it's 708.

MR. CONINE: Okay.

MS. BAST: So for instance we have two 3-2s at

1,028; we have two more 3-2s at another square footages and two more 3-2s at another square footage and two more 3-2s at 1,406.

MR. CONINE: So your contention is that, no matter what, the total square footage is going to be the same --

MS. BAST: Right.

MR. CONINE: -- but the staff got too picky on the individual units, even though the overall pro forma and income-expense pro forma that was submitted dealt with the total gross amount, let's call it gross amount of footage that could be conceivably possible.

MS. BAST: Right. Right.

MR. CONINE: Now, but let's just assume that some of that square footage could be in a two-bedroom, and some of that square footage could be in a three-bedroom, and it would be hard for staff to know, wouldn't it?

MS. BAST: We have sent out --

MR. CONINE: Within the ranges of square footages you gave us --

MS. BAST: Uh-huh.

MR. CONINE: -- how would --

MS. BAST: We have set out in the application that it's anticipated for instance that there will be two units that are two-bedroom, two bath at X square feet, and

two more units that are two-bedroom, two bath at Y square feet.

So the two-bedroom, two bath will have the same configuration, they're just going to go like this a little bit, from what I can tell.

MR. CONINE: So the only real practical impact would be the cost of a bathroom? Well, and not even that, because you've got --

MS. BAST: No, because you've got --

MR. CONINE: -- two bathrooms, too.

MS. BAST: Yes. Maybe the cost of a little carpet, tile --

MR. CONINE: There's really no cost impact, the way I see staff -- there's really no impact on that --

MS. BAST: And the intent is not to change from three-twos to two-twos once we get in there, and start doing the demolition --

MR. CONINE: The number of units actually stayed the same --

MS. BAST: Right. The intent is to keep the number of units and to keep the unit plan --

MR. CONINE: Okay.

MS. BAST: -- if you will, but as the architect articulated much better than I can, the necessity of an adaptive re-use is you have to be a little bit flexible as

to how that actually -- the square footage actually fits.

MR. CONINE: Right. Okay. Thank you.

MAYOR SALINAS: How many points are --

MS. BAST: Five -- let's see. Five points for the administrative deficiency, and six points for the pre-application.

MAYOR SALINAS: So that totals eleven?

MS. BAST: Yes, sir.

MR. CONINE: Could I have staff kind of come back up and articulate now that I've heard that side or the story, what the damage -- damage is not the right word, what the problem was related to the way they submitted the application.

MS. MEYER: Well, when they first submitted the full application they gave us building plans for one-bedrooms, two-bedrooms, three-bedrooms. And they said that the other units were similar.

So staff doesn't know how to compare those if they don't have the information. And they had one-bedroom units ranging -- you know gave a range of the net square footage on the one-bedroom units, same for the two-bedroom units and same for the three-bedroom units.

And we asked for clarification on that so that we would have the information, to know exactly what they were doing. And when they came back, they were still

deficient in giving us each floor plan and how -- what the square footages were, for those floor plans.

MAYOR SALINAS: But you have them now.

MS. MEYER: We have them now, but they -- it was after the deficiency deadline.

MS. ANDERSON: They're in violation of the QAP is why we're having this appeal discussion here.

MR. CONINE: Are you through --

MAYOR SALINAS: I just think that this project is very important so --

MR. FLORES: Madam Chair, may I?

MS. ANDERSON: Mr. Flores.

MR. FLORES: Robbye Meyer, what does our rule say about submittal of architectural plans, and to what extent are the details to be available to us? How detailed are they supposed to be?

(Pause.)

MS. MEYER: I --

MS. ANDERSON: Would you give the citation to --

MS. MEYER: It's 49.9, H-5(a), "All of the architectural drawings identified in Clauses 1 through 3 of this paragraph, while full-sized design and construction documents are not required, the drawings must have an accurate and eligible scale, and show the

dimensions.

"The developments involving new construction or conversion of existing buildings not configured in the unit pattern proposed in the application must provide all of the items identified in Clauses 1 through 3 of this subparagraph.

"The developments involving rehabilitation for which the unit configurations are not being altered, only the items identified in Clauses 1 through 3 of this subparagraph are required.

"A site plan which is consistent with the number of units and unit mix specified in the rent schedule provided in the application identifies all residential and common buildings and amenities and clearly delineates the plan boundary lines, and all easements shown in the site survey.

"Floor plans and elevations for each type of residential building and each common area clearly depicting the height of each floor, and a percentage estimate of the exterior composition and unit floor plans for each unit showing special accessibility and energy features.

"The net rentable areas these units' floor plans represent should be consistent with those shown in the rent schedule provided in the application."

MR. FLORES: Do you believe that interpretation, then, asks you to ask the developer to present full floor plans for each and every floor?

MS. MEYER: Yes, sir.

MR. FLORES: Is your interpretation of that. In the past 12 months, how many applications have we had for -- I think they call it, adaptive, what do they call it? They have a -- I call it renovation but they call it something else. Adaptive re-use of old buildings.

MS. MEYER: I --

MR. FLORES: Ten? Eight?

MS. MEYER: -- couldn't answer that question. I can certainly get back to you, but I --

MR. FLORES: No, no. I wanted an answer now. Is it somewhere between --

MS. MEYER: Less than -- probably less than five.

MR. FLORES: More than six and less than 12?

MS. ANDERSON: Less than five.

MS. MEYER: Probably less than five.

MR. FLORES: Less than five. Of those five that were submitted, or so, did you require them to have the plans -- the full floor plans --

MS. MEYER: Yes, sir. It's a threshold requirement of the QAP.

MR. FLORES: Don't you think it's a little unfair to have -- let these folks off the hook and have the other ones present the full set of plans?

MS. MEYER: That would be the Board's determination, that would not be my --

MR. FLORES: You don't have to answer that. Thank you very much.

MS. MEYER: -- mine.

MR. FLORES: You just answered --

MS. MEYER: I follow the rules that you set out --

MR. FLORES: -- my question. Thank you very much. You answered my question. Thank you. I 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.

MAYOR SALINAS: No.

MS. ANDERSON: The motion carries. There was one no vote, for the record, Mr. -- Mayor Salinas votes no.

The next development is Historic Lofts of Waco High.

MS. MEYER: The next appeal is for Application 07-192, the Historic Lofts of Waco High proposed for the City of Waco. Now, this application includes the same three appeals that we just did, as the Washington Hotel Lofts, the only difference being that they had an additional five-point penalty for the deficiencies because it came in after 5:00 p.m. on the sixth day.

So they had a -- what?

MS. BAST: The Lofts --

MS. MEYER: Okay. They withdraw this appeal, so we'll move on to -- the fourth appeal.

MR. CONINE: Before we move on --

MS. MEYER: Yes.

MR. CONINE: -- I'd like to say something, because I was going to say it during my rebuttal or question to the third appeal for this particular project.

I think what you guys are doing is fabulous. I really do, you're doing some great work, it's work that needs to be done in this State, and I don't want to -- I would hate to leave the impression that this Board doesn't like what you're doing.

I think the local communities like what you're doing. And through this process we have what I believe is

an unintended circumstance here, and we always have a master list of things we need to tweak the QAP on; this needs to go on it.

To try to figure out how again to simplify in an era of simplification, our QAP, especially on these rehab projects, or adaptive re-use is what someone said a minute ago. So we can make these a little more user-friendly in the future.

And I -- even though we're just talking about point reductions right now, I think -- I would suggest that we underwrite these projects as we go through the process, so that we can have a good solid feeling when it comes time for forward commitments this year, to take a strong look at these three projects. Yes, sir.

MR. FLORES: I also want to add something to that, and that is that if indeed, you know, adaptive re-use has certain quirks and unusual circumstances that are different than the other perhaps we ought to take a different look at the rules, and make different rules for them. Because certainly we do hope that a lot more people do that.

We all know it costs more, and it's certainly a harder job to do, to redo an old building than it would be to do a brand new one.

The other thing is, of course, you're then

saving history. So -- this is nothing to discourage that type of construction, but I also want to be fair to all of the rest of them lined up behind this. Thank you.

MS. MEYER: Yes, sir. The next appeal -- actually the next two appeals deal with quantifiable community participation. 07-210 is the next appeal, the New Hope Housing at Bray's Crossing.

This application is proposed for Houston. The applicant is appealing the award of points for quantifiable community participation.

Pursuant to Section 2306.6710 of the Texas Government Code, and 49.9(I)(2) of the QAP, the second-highest scoring item in the competitive tax credit cycle is quantifiable community participation, better known as QCP.

This score item encourages qualified neighborhood organizations to participate in the public input process by submitting letters of support or opposition for a specific development. These letters of support or opposition may impact the score of an application.

The neighborhood organization is defined as an organization of persons living near one another within the organization's defined boundaries. These boundaries contain the development site, is on record with the county

or state, and has the primary purpose of working to maintain or improve the general welfare of the neighborhood.

In this case, a QCP letter was received from an organization called a Super Neighborhood. The City of Houston recognizes these organizations as Super Neighborhoods, and they are comprised of smaller neighborhood associations, civic groups, business owners, individuals, et cetera.

The Department received a letter of support from Super Neighborhood Council 64 and 88, requesting that the letter be scored for QCP.

The Department also received two other letters of support, and one letter of opposition from member organizations of that Super Neighborhood Council.

The Super Neighborhood Council was determined to be ineligible according to the legal determination from the Department's general counsel, which is included in your Board materials.

According to that legal determination, a Super Neighborhood organization does not meet the definition of a neighborhood organization as defined in Section 49.9(I)(2) of the QAP.

Super Neighborhood organizations encompass large geographical areas, and as such were determined to

be broader-based community organizations.

The applicant asserts the Super Neighborhood organizations were determined by the Board to be eligible in 2004 and 2005; however, since that time the Board has refined the definition of what organizations qualify as neighborhood organizations for the purpose of QCP.

You may recall in November the Board added a new scoring item for -- in the QAP under 49.9(I)(16), for community support other than QCP. This new scoring item allows broader-based community and civic organizations such as Super Neighborhoods to participate in the scoring process when they would not otherwise meet the definition of a neighborhood organization.

Based on the size of the area represented and the membership of the organization, it appears that Super Neighborhood organizations are broader-based community organizations. Therefore, they are ineligible to be scored as QCP, but they may qualify for the community support other than QCP.

In addition, as stated previously in this appeal, there was one member organization of the Super Neighborhood Council that was in opposition to the development, and it could be concluded that not all members of the Super Neighborhood group were in support of that development.

The Department staff believes that the letter for the Super Neighborhood Council is ineligible for the points.

MS. ANDERSON: I have public comment on this item. Do you want to do that next? Thank you, Robbye.

Ms. Brown? Then the next -- then Mr. Selman, and then Mr. Palmer.

MS. HORAK-BROWN: Good afternoon. I'm Joy Horak-Brown, and I'm the executive director of the New Hope Housing family of companies, which will include NHH at Bray's Crossing, our tax credit hoped-for development, which will be at I-45 and the Griggs exit in Houston, Texas, 149 units of single-room occupancy supportive housing that will take what is an officially cited public nuisance project for the City of Houston and will turn it into a valuable community asset.

I was just handed, if I may take a moment to show you, a product from the last development of ours that was funded by the Department, one and a half million dollars, the Canal Street Apartments.

Matt Hull of the Texas Association of CDCs handed me their annual report which has the picture on the cover. We're very proud of that, and also the five-page beautiful article in *Texas Architect* this month.

May I remind you that we are a true nonprofit,

we were founded originally by the people of Christ Church Cathedral Episcopal, our customers, 75 to 80 percent of them have incomes of less than a thousand dollars a month.

This is our first ever tax credit application.

We intend to be a very competitive participant for years to come, and are happy to assist in building and keeping a system of fair rules.

The thrust of our appeal is that a Super Neighborhood in our case less than a five-square-mile area, in the fourth largest city in the United States, is really not a very big organization. It does not cover a broad geographic area.

It is also the method that the City of Houston has established for neighborhoods to have a strong voice. It's the method that is recognized by our elected officials.

And Super Neighborhoods 64 and 88 has a fierce voice, and we dealt with that. We met with them many times in many neighborhood meetings, we walked away with 80 percent support, which is a lot, as they were turning another developer away, and that has turned to 90 today.

To now deny us support after the neighborhood worked so hard to deliberate, after this is the established voice for the City of Houston, in my mind is simply wrong, and fails to take into account the fact that

TDHCA appeal determinations on these same Super Neighborhood letters have in fact in two separate occasions gone the other way in the past.

I ask you to please grant our appeal.

MS. ANDERSON: Mr. Selman?

MR. SELMAN: Madam Chair and Board, thank you for allowing me to speak. My name is Doug Selman. I'm a retired executive from ExxonMobil. I've been devoting all of my time to volunteer activities in the City of Houston, both in the education area and with New Hope Housing, where I've served as a board member for the past seven years.

I chair the board development committee which is responsible for bringing on 18 outstanding board members for this particular New Hope Housing board. And we have done a successful job in bringing a very active group of qualified people to help manage and run this board.

You're well aware as Joy has just mentioned, we have several successful projects in Houston that are really showcase kinds of projects. We're very proud of the quality that we bring to those projects and to the City of Houston.

And of course this appeal is concerning, as Joy mentioned, this latest Bray's Crossing project, in which

we feel that we have extremely strong community support for this project.

You've received some of the letters, but there were other letters that I think maybe came in later, from the Community Development Cooperation Association of Houston, the Coalition of Homeless of Houston, Harris County, the Corporate Real Estate Executives Association, Houston HOPE, the Women's HOME, the Open Door Mission, the Search for the Homeless Project and several others.

So there is extremely high community support for this project. In the application process we understood that Houston Super Neighborhoods would be counted towards a qualified QCP input, and our board was obviously very disappointed to find out that this was not the case.

That those points were not counted because this was not considered -- that is, the Super Neighborhoods 64 and 88 were not considered as a valid mechanism for providing support -- for providing input, even though this may be the only available QC input in our area surrounding this particular project.

Therefore we really ask as a Board that you give serious consideration to this appeal, and to allowing that particular QC input to be counted. Thank you.

MS. ANDERSON: Thank you. Mr. Palmer?

MR. PALMER: Good afternoon. My name is Barry Palmer with the Coats Rose law firm, and we're the attorneys for both the New Hope housing at Bray's Crossing and the Cypress Creek at Reed Road, that are arguing essentially the same appeal here.

And if the Board's indulgence I would ask that you consider the testimony on both of them if possible before voting, in that it's really the same issue.

And that issue is, whether or not the definition of a neighborhood organization should include Super Neighborhood groups in the City of Houston, so that they qualify for the community support points.

In Houston, there are 88 Super Neighborhoods. And these groups are charged by the city to promote the welfare of that particular area. They have an elected council comprised of residents in the area, and they are really in Houston the go-to group for support or opposition to a project.

When a tax credit developer is trying to get a project approved, they are the people that you go to first. If you go to your city council member and ask for their support, the first thing they're going to ask is, Have you been to visit the Super Neighborhood, and what's their position.

They really are the most important community

input, in my opinion, in the Houston area. And the definition of a neighborhood organization, as Robbye pointed out earlier, is an organization of people living together within the organization's boundaries that contain the proposed development, and that has the primary purpose of working to maintain or improve the general welfare of the neighborhood.

That is exactly what a Super Neighborhood is. And the QAP doesn't say how large the neighborhood can be, all it says is that it can't be the whole city. And that seems to be the language that the general counsel has relied on as to why a Super Neighborhood doesn't qualify, is because it's too big.

Well, again in Houston there are 88 Super Neighborhoods. The Super Neighborhoods that we're talking about here make up approximately one and a half percent of the population in an area the size of the City of Houston.

So it's certainly not the entire city. It's a much more defined area.

And this exact issue has come to the TDHCA now, at the '04 and the '05 funding rounds, and it's been the subject of appeals that have come to the Board, and in both cases the Board granted community support points to Super Neighborhoods.

And so based on that, the development community

has relied on that, that that was still the case. And the language of the QAP since 2005 on this has not changed. This is the exact same language as in '05 when the appeal came to the Board, and the Board upheld Super Neighborhoods.

It's the exact same language as last year, when staff granted points for Super Neighborhoods, without the issue coming to the Board.

So I would urge the Board to be consistent with its prior decisions on this, that if this is going to be changed it should be changed in the QAP for next year; it should be specifically addressed.

Either a Super Neighborhood is or is not a community organization. But to change the rules in the middle of the game after these developers have relied on precedent, after they've spent all kinds of money and all kinds of time on these applications is just totally unfair. Thank you.

MS. ANDERSON: Thank concludes the public comment on this item. Questions for staff, or --

MR. BOGANY: I have a question for Mr. Hamby.

Mr. Hamby in regards to the Super Neighborhood, were you given points in the past?

MR. HAMBY: I wasn't here for the '04, '05 cycle, and we had a different manager this year, so it was

the first time the question was presented to me.

It was not presented last year, presumably they looked at what the Board did the previous year. But whenever we start talking about the definition of a neighborhood group, the things that this Board specifically tried to keep away from were having the large groups that didn't really represent the community.

You heard Mr. Palmer say, between one and a half and 2 percent of Houston is represented by these Super Neighborhood groups, which would make these Super Neighborhood Groups the 39th largest city in the State of Texas.

It's a huge population, some 39,000 people, which I don't think statutorily includes a neighborhood. So you have some issues there.

In addition, I did stop whenever I reached the point where I did not believe that the neighborhood groups would apply, or would get the points.

But you also have three things that they brought up. The QAP specifically excludes non-residential groups in our definition of a neighborhood organization.

MR. BOGANY: What does that mean?

MR. HAMBY: What that means is, it specifically says groups like Kiwanis groups, religious organizations, Boys and Girls Clubs, all of these things that are

included in Super Neighborhood groups are specifically excluded from neighborhood organizations in our QAP.

And in fact, even though it's not going to come into place until September 1 of this year, assuming the Governor signs it, the new definition of a neighborhood organization further limits what goes into a neighborhood organization.

Again, that's this year, so clearly the legislative intent is, neighborhoods. That's what a neighborhood group is.

The other thing that we have in this, whenever we start talking about precedent, the fact that the City of Houston recognizes these groups doesn't meet the statutory requirement either, because it has to be on the record with the State or the county.

Last year, this Board turned down the City of Waco in a loft -- I believe it was in a loft, it was some redevelopment downtown, because the city neighborhood group, which was the neighborhood group that represented only the people that were going to surround that area, were only on record with the city.

They weren't on record with the county or the State, which is what the statute requires. So from almost every way you look at it, this is not a neighborhood organization.

Now, if we want to make the change and put it in, that's a different question. But at this point, it's not what's defined; it's probably unfair to all but 38 of the other cities in the State of Texas, which of course one of those is the City of Houston.

So 37 other cities to include a group this large as a neighborhood organization.

MS. RAY: I have a question.

MR. BOGANY: Sure, sure --

MS. RAY: -- while Kevin is still here, while he's still up at the podium. Madam Chair, may I ask him a question?

MS. ANDERSON: Sure. And then Mr. Conine has a question for somebody too, so.

MS. RAY: Okay. This Super Neighborhood group that we're having the point of contention over I take it has not registered with the county or the State?

MR. HAMBY: I don't believe so. It's recognized with -- well, go ahead. That's actually her question.

MS. RAY: Okay. I just -- thank you.

MS. MEYER: Actually in a qualified allocation plan this year, we put in an additional way to qualify, and if they were on record with the city, we considered them on record with the State.

MS. RAY: I can't hear you.

MS. MEYER: This year, in the QAP for 2007, we did put a clause in there that said if they were on record with the city as of a certain date, then we would consider them on record with TDHCA, and therefore they would be on record with the State.

MS. RAY: Okay, thank you.

MS. MEYER: And this one is on record with the city.

MS. ANDERSON: Mr. Conine. No wait. Who's your question to? Well --

MR. CONINE: My question was for Robbye, but I thought --

MR. BOGANY: No, I got my question answered.

MR. CONINE: Did I understand you to say that we changed the QAP this year to include a second category of super-regional neighborhoods if you will, to get fewer points than what the neighborhood -- what the other quantifiable community participation gets. Is that correct?

MS. MEYER: That's correct. It's --

MR. CONINE: And wasn't that -- didn't that come from an understanding of the fact that Houston had a few of these super-regional neighborhoods?

MS. MEYER: Well, I don't really know what the

discussion was at that time. But I mean, the -- we were allowing smaller areas that didn't have -- that maybe didn't have neighborhood organizations, they could use the broader-based community organizations to count.

MR. CONINE: Okay. Did this project qualify for those points? On the scoring?

MS. MEYER: It could. Because they sent in for QCP, it wasn't evaluated for those points. So it may --

MR. CONINE: So QCP points are 12 points. Is that right? And what's the super neighborhood point?

MS. MEYER: Maximum of 24, and a maximum of seven if they received enough letters. You get two points for each letter that's submitted for the I-16, the community participation.

MR. CONINE: Okay. All right.

MR. HAMBY: Mr. Conine, that would be 12 points of the neutral --

MR. CONINE: Of the neutral position --

MR. HAMBY: -- and then, plus seven. So it would be a total of 19 points that they received the full level of support for the --

MR. CONINE: That's on the QCP.

MR. HAMBY: No --

MR. CONINE: That's on the super-regional --

MR. HAMBY: That's -- both. Well, it's 12

points for a neutral, because there's no neighborhood organization that they have then, that submitted a letter.

Then that's a neutral, because of the way the Attorney General in 208 required us to do it, is to not give negative points.

And so a positive letter from a qualified neighborhood organization gets 24 points, a neutral organization gets 12 points, or no letter at all gets 12 points, and a negative letter gets zero points.

And then because of the questions that we had trying to help people who had community support but did not meet the statutory definition of a neighborhood organization or the QAP definition of a neighborhood organization, we created this new I-16 group, that allows people to show that the community supports them, even if it's not a neighborhood group.

But it had to be below the line, that imaginary line. So it had to be eight points or less, and so we chose seven as the optimum to get up to seven points.

MR. CONINE: Okay. Now, I understood you to say that the membership of the super-regional, you had one negative response, and the rest of them of were positive responses. Correct?

MS. MEYER: That's correct. They came in as exhibits with the Super Neighborhood letter.

MR. CONINE: All right. Is one of the responses you got from one of the sub-groups within the -- is this project located within the boundaries of one of those sub-groups?

MS. MEYER: Well, because they were sent in as an exhibit to this letter, so therefore we don't have the additional I-16 information where we could actually say -- or actually, we don't have the information that can determine that, at this time.

MS. ANDERSON: Let me --

MS. MEYER: Yes, whether it's for -- whether it would qualify as QCP or it would qualify as the I-16 point.

MS. ANDERSON: I mean, I think that's a really important point. Because I'd be interested in, you know, knowing -- also. Is there a neighborhood organization in that more constrained geography that includes -- whose boundaries include the proposed development site, that voted one way or another on this, and the applicant chose to bring the Super Neighborhood vote, but was there -- I mean, did they have the option of a -- you know, more tightly defined neighborhood organization that's a little more congruent with the plain language in the QAP?

Do we know if there's a neighborhood organization whose boundaries include the proposed

development site, that exists in Houston?

MS. MEYER: Staff does not -- Ms. Brown? There is one?

MS. BROWN: The answer is no.

MR. BOGANY: That's a pretty heavy commercial area where this property is, and I don't think there's really any neighborhood surrounding it. And I wasn't exactly sure until Ms. Brown it wasn't, because in that area it's mostly a commercial spot.

So --

MR. FLORES: Now, just to take a little detail further. It's surrounded by the largest cemetery in town on one side and the freeway on the other one, so there is no neighborhood around it.

MS. ANDERSON: So the applicant --

MR. FLORES: The people that are there are dead.

MS. ANDERSON: So the applicant essentially chose to use the Super Neighborhood group to -- in an attempt to qualify for 24 QCP points, rather than taking the approach of taking a neutral score on QCP and trying to go get letters to get seven points from the other -- I mean, that's essentially the effect of what has happened.

MS. MEYER: In essence, yes.

MS. ANDERSON: Okay.

MR. CONINE: But I mean, you can't blame them for looking at what happened in '04 and '05 and doing the same thing either. So -- okay, that answers my question.

MR. FLORES: Could I make a motion at this time?

MS. ANDERSON: Sure, sure.

MR. FLORES: Move to approve the appeal.

MR. CONINE: Second.

MS. ANDERSON: Discussion. Hearing none, I assume --

MR. CONINE: Could we -- go ahead.

MR. BOGANY: You know, I'm all for what Mrs. Brown and them are doing. And I've been to their projects and I know they're first class and the city really needs it, that type of deal.

But I also believe that this project is going to go anyway, because they've scored extremely well already. And they appeal it, and then turn around and then we get another project behind it, that automatically rubber-stamps that project regardless of any concentration issues that that other project may have, I got a problem with it.

And so it's nothing to do with Ms. Brown's project, it's the bigger picture for me. And -- because you got two with the same appeal, and if we appeal --

approve Mrs. Brown's project, it rubber-stamps the second one. Because there's no way that we could do it, and here we're going into a neighborhood that's got almost 13, 14 tax-credit-related projects.

And so I think -- my personal opinion I think Ms. Brown's project's going to make it anyway, because they scored well. It's a great project.

But just -- I just feel like I'm being kowtowed to vote for this, and then turn around and have to -- I can't disagree with the second project, because I've set a precedent on this first one.

So I have to just keep rolling. And I can't support that deal because, I just really can't, in my own opinion.

MS. ANDERSON: All right. Thank you for interjecting, because I --

MR. CONINE: And I come from --

MS. ANDERSON: -- think he -- that was an interesting point.

MR. CONINE: And I come from the other side, in that, and then I believe it's a consistency issue for us, and we -- much as we don't like it maybe, we still need to be as consistent as possible with this peculiar aspect of Houston.

And if there is no sub-regional neighborhood

group that this project's contiguous to, then I have an affinity for the super-regional prospects, and I think that's why we voted that way in '04 and '05, and I see no reason to change now.

MS. ANDERSON: May I -- Robbye, I'd like to ask you one more question. The one letter of opposition in the Super -- in the exhibit that you got, do you have any sense how close or far away from this development it is?

MS. MEYER: We don't have -- I mean, we don't have that information to tell us that. They were just exhibits to the QCP letter. You know?

MS. ANDERSON: Okay. We have a motion on the floor and it's been seconded. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(A chorus of noes.)

MS. ANDERSON: Motion carries, I think.

MR. BOGANY: No here.

MS. ANDERSON: No here. Any other no votes?

(No response.)

MS. ANDERSON: The motion carries.

Okay, thank you. And then the next development is Cypress Creek at Reed Road.

MS. MEYER: This -- the last appeal is 07-291,

Cypress Creek at Reed Road, is also proposed for the City of Houston. This appeal concerns a similar Super Neighborhood issue as the previous appeal, with the exception that we didn't receive letters from member organizations as we did in the previous one.

MS. ANDERSON: Questions.

MR. CONINE: Did we determine that this one isn't contiguous to a sub-neighborhood group too, or do we know?

MR. BOGANY: Right. It isn't contiguous. It's a neighborhood that basically we got 12 to 13 tax-credit-related items in the area. There's vacant land all the way around it. So once that project goes up, there's probably some more vacant land for the next closer neighborhood.

So why they were in the Super Neighborhood I understand that too, because there's no neighborhood around it. There's probably about a mile away, I would think, [indiscernible] but if you pull the map -- this is where we usually go with the project [indiscernible] the area, that's overconcentration.

And so to me this is a very high concentration of bond issues, tax credits on that end.

There's projects with tax -- with elderly that's having a hard time renting now in the area, and I

think it's just a hard concentration.

Because you can go to a regular tax credit with low income and be able to get a nice place in this same general area.

And I get back, as we approved the last one, you got to approve this one. And this is -- I -- we need to change that in the QAP with this elderly being able to slip in under the concentration issue.

MS. ANDERSON: Excuse me. We have public comment and we're sort of already into the debate ahead of the public comment. So -- to be consistent with the way we've done things, Mr. Palmer if you would, then Mr. Hirsch.

Mr. Shaw?

MR. SHAW: Yes.

MS. ANDERSON: Let's come up and get staged, because we've got to move this along, because we're going to lose some Board members.

MR. SHAW: Madam Chair and Board, Stuart Shaw, Bonner Carrington Development, Austin, Texas. And Mr. Hirsch will not be speaking, and I'm going to not take my three minutes.

I have been working with these neighborhood groups for about three years, and some of you know about it.

We have actually -- we were in an area, I certainly respect the comments about other projects in this community, but we were really working with this community. We don't have one but two Super Neighborhood groups that we've gotten consistent support from for three years in a row, and the church, and the city council member and several other city council members and the mayor.

We've been at this for three years. We're not just doing this -- this is a sister community to the senior community. This is actually a family community, Cypress Creek, and it's a sister to Mariposa, which is the senior community.

And what we're doing in conjunction with both of them is, putting in a mile of wastewater line in this area. There's about to be an explosion of development in this specific undeveloped area of Houston.

And this whole face of this area is going to change. We really have been on it for a long time, but we do have the support. And I just want to point out that the -- we didn't go to the Super Neighborhood group to go to the Super Neighborhood group. We got there because that's who you go to -- that's all we know to do in Houston. That's who the council member tells us to go to.

Champ Chamberlain [phonetic], who is a police

officer, his office is a half, maybe quarter mile from our location, is -- he runs this. He's run it for ten or more years, and he signed the -- this is the letter from the year before, but he signed the one this year, which they don't put on letterhead any more so I'll show you this one.

But the nearest neighborhood organization is Sunnyside. That's the first one on there, in their list.

So we really relied on that precedent from the years before. We thought that this was what we were supposed to do and we did it.

And we've got -- I tell you who it's unfair to. It's going to be unfair to Champ Chamberlain and to Bessie Swindell [phonetic], who are the big neighborhood activists in that area.

And I'm happy to discuss with anybody, but -- because we're trying to do a good thing, and the right thing down there. But anyway, we relied on precedent, and it's one of 88 in the City of Houston, this is the way the City of Houston divides it, and we hope that you'll grant our appeal. Thank you very, very much.

MS. ANDERSON: And Mr. Palmer?

MR. PALMER: Barry Palmer, Coats Rose. I really don't have much more to add, other than that this is the same issue as previously decided.

We would like to have some consistency on this point, and if there are objections to the project from other -- Underwriting or other issues, that that be addressed separate from the appeal on the points. Thank you.

MR. BOGANY: I'd just like for -- from my standpoint I'd like for it to be addressed in the QAP, of using senior projects to skew -- the only development that's being done at this particular location are apartments.

And as you can go another two or three miles then you get some residential development that's coming in.

I'm not against senior projects, but when you've got one next door, one down the street, one up the -- you've got some we've approved that have not even come on line in the same general area.

It's just simply because the land is available, that's why it's being done, and you're not getting the development that you want because the development is passing this area up, which is near 610 and 288, and going all the way to Pearland, Beltway. I work that area every day. I could drive there in my sleep. I know the area.

And this is -- you don't get any resistance from any of the residents because they're poor. So you're

not going to get anybody saying anything. And I guarantee you if you run the senior projects around that general area, they're having trouble leasing the units up.

They really are, so to me it -- concentration is not the issue, you wanting this one, Mr. Shaw. Because this is not a -- you're not up about concentration. You're up about the other end.

But I would truly like staff to look at using senior projects to skirt the rules.

MS. ANDERSON: I don't see Mr. Gouris, but I'm sure in the market analysis rules you got that one? And I agree. And I think in the 2008 QAP, I mean -- and I don't know when we got a statute that's being passed.

But we need to rule in or rule out Super Neighborhoods consistent with statute in this State, because this Department follows statute.

So we have a motion?

MR. FLORES: No, but I'd like to say -- ask something number one. Chairman, did John Barineau sign up to speak against this project?

MS. ANDERSON: He spoke early during the public comment period this morning.

MR. FLORES: Because I have two letters from him --

MS. ANDERSON: Yes.

MR. FLORES: -- and I think all of you do. One is dated May 3, one May 31, talking about the -- well, he doesn't quite call it overconcentration, but he's talking about the economics of the project, and he's faulting the O'Connor study as not -- being faulty.

And then cites a different study on here. And I just wonder if Mr. O'Connor or Mr. Boalt [phonetic] is here, the people that they talk about.

MS. ANDERSON: Mr. Gouris, do you have comment on that, since your team reviews market studies?

MR. GOURIS: Yes, ma'am. Tom Gouris, Director of Real Estate Analysis.

We are in the process of exchanging information. Mr. Barineau's letter, and he actually forwarded another letter to me last night, that is being sent to O'Connor for them to comment on, to make sure that we can get all these issues addressed, and hopefully they will all be explained or laid out in our underwriting report, when that is published.

MR. FLORES: But as you can tell by his letters, that his argument has to do with market -- the market not being there, and you know that all you're doing is cannibalizing from one apartment unit to another, is what he's contending.

Which I guess is somewhat in line to what

Mr. Bogany's talking about. Thank you.

MR. GOURIS: Thanks.

MS. RAY: Madam Chairman?

MS. ANDERSON: Yes, ma'am.

MS. RAY: Given the position of the Board members on the adequacy of this -- whether this should be a project, but the question before the Board is on the appeal --

MS. ANDERSON: Yes, ma'am. It is.

MS. RAY: And it has to do with whether the Super Neighborhood points get counted.

MS. ANDERSON: That's right --

MS. RAY: And we just voted in the previous action to count the Super Neighborhood points. And so the issue is, should we strictly deal with the appeal action, Super Neighborhood.

MS. ANDERSON: We should. Yes, ma'am.

MS. RAY: And --

MS. ANDERSON: I think we're -- it's just raising some other issues --

MS. RAY: It is --

MS. ANDERSON: -- that need to be addressed, but you're absolutely right.

MS. RAY: -- but the appeal is on the Super Neighborhoods, counting as scores.

MS. ANDERSON: Do we have a motion?

MR. CONINE: I move we grant the appeal.

MR. FLORES: 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.

(A chorus of noes.)

MS. ANDERSON: Motion carries.

I want to thank the Multifamily Tax Credit staff. This has been a very successful cycle so far. We've had a low number of appeals, and I -- you know, I think that's a credit to the Multifamily staff for working through issues with our applicants.

And your work during the deficiency process to try to work through issues and so forth, so I really appreciate Robbye and Audrey's efforts, and we got three more meetings to go and we assume we'll continue to see that record bear itself out. But thank you very much.

We need to go to Item 6, which is an underwriting appeal, because I'm mindful of Mr. Bogany's need to leave here. So if we can please go to Item Number 6, and then we'll go back to 2(a) to pick that up.

MR. GERBER: Madam Chair, Board members, this item addresses the appeals of underwriting reports for the 2007 competitive housing tax credit cycle, and we have just this one appeal for Woodchase Senior Community in El Paso. And the appeal's with regards to the development's operating expense to income ratio exceeding the Department's 65 percent underwriting limit.

Tom Gouris is going to walk us through the specifics.

MR. GOURIS: Tom Gouris, Director of Real Estate Analysis.

I'd just like to start out by saying that this appeal is going to be probably less controversial than the QCP is. Obviously it's just a simple appeal. That was a joke. And also there's no precedent that we have to deal with on this, so.

This is -- this appeal has to do with the 65 percent expense to income ratio. There's no real discrepancy here. The applicant had submitted an application that had expense to income ratio that's quite a bit higher, and that's where we are also with our expenses.

This is one of the new feasibility requirements that were included in the rules last year to counter those concerns about underwriting deals too tightly.

We spent a lot of time last year coming up with this and presenting some alternatives, and in giving you all information on this, and I can go into that a little bit more in detail if you'd like in a second, but --

I wanted to first tell you that, the expense to income ratios have been increasing over the last several years. And that's reflected in the chart that's in our appeal response.

The reason for that is because expenses have risen, while incomes and therefore rents have remained relatively flat. And that's what's happened in most parts of the State.

The higher the expense to income ratio at the inception of a transaction, the more difficult it is for the development to sustain operating feasibility, during periods where expenses outpace income as we have today.

The rule does not -- does allow mitigating factors such as commitments for ongoing project-based operating support, such as project-based Section 8, or USDA rural rental assistance.

It also would allow potentially TBRA if that was ever to be allocated in a more permanent allocation to the property.

But it allows those operating subsidies to exceed the expense to income ratio, but there are no such

factors in this case. The applicant suggests that our data says that the 65 percent rule is exceeded in five different regions of the State, by our averages that we post on our web, that we collect data for where our operating expenses are.

That's only partly true, and the reason why it's only -- it's not really true is because those averages include properties that have operating subsidies.

And if you take those properties out, you'll see that, and we showed this in the chart, that only two of those regions actually have averages that exceed the 65 percent expense to income ratio.

More importantly, all those regions and in fact all of the regions in the State, had income -- or expense to income ratios that were well below the 65 percent just two years ago, and again that's because as expenses have continued to rise, incomes have remained flat, and that's a problem that should be concerning us all.

The appeal you heard this morning raises several concerns that in some areas the 65 percent rule is going to keep deals from getting done.

That's also a concern, and it's true only to the extent that other sorts of mitigation -- as I mentioned earlier, isn't available. Other types of mitigation or responses are partnering with nonprofits to

obtain a property tax exemption; partnering as this applicant had done with previous transactions that were seniors transactions, with the public housing authority to reduce their operating expenses, to reduce their payroll and their management fees.

Those transactions operate at a higher -- or they operate with less expenses and so their expense to income ratio is less. But their expenses are less, so the deal still is operating.

As you know, the 65 percent is not a piece of information that changes from place to place. It is a calculation; it is a numerical calculation that predicts how long it's going to take for a deal to go south, and that's sort of the whole thing in a nutshell.

I've got copies of the graphs that we used and we shared with you when we created this rule, that show at different levels of expense to income ratio, initial expense to income ratio and at different strategies of when things are going to go south, and I can share those with you again if you'd like.

We did a lot of calculations to get to the point where we felt, you know, 65 percent was the right place to be for preserving the future.

We can't see the future and know how any one development will turn out 30 years from now. But if we

waive this or eliminate this 65 percent rule for some deals today, we'll lose a very valuable tool, in ensuring that the proposals presented are viable for the long term.

And I'll answer any questions you might have.

MR. CONINE: How do you get long term viability and the way it looks like on the -- Year One, on the front end? How do those two mesh?

MR. GOURIS: Because as we showed in the charts when we developed the rule, as the -- as time goes on, if expenses outpace income, the period of time that the deal fails is shorter.

And the more expenses outpace income, the quicker that happens. But also the higher your starting point is, the quicker it happens. And so we ran scenarios with expense to income ratios of, you know, 55 percent, 60 percent, 65 percent, 70 percent, 75 percent just to see what would happen.

And then we used different assumptions of what the starting DCR would be. And we used different income and expense growth rates, to see -- and charted that in charts to see when they would cross, when they would no longer be able to not just cover debt service, but not be able to support their operating expenses.

And you could see from that, that well before the 30 years, if expenses outpace income by more than, you

know, 2 percent, that many transactions that are over 50 percent expense to income ratio are going to fail in ten years or less.

And right now we're in a period where expenses have outstripped income in many places for the last three or four, even five years and so we're concerned about that.

If that were to continue, many of those transactions that had been underwritten even at 45 percent expense to income ratio, five, eight, nine years ago are going to be struggling. And we're seeing that already.

We don't want to set these deals up today to be so tight today that they can't sustain one or two years of -- or three years of expenses outstripping income.

MR. CONINE: Based on your graphing experience, how long can the -- some percentage ratio? Can you get below 65 percent and still meet the debt service coverage ratio required under the debt on these projects.

MR. GOURIS: It depends on where you start with your debt coverage ratio. If you start it at 135, if you --

MR. CONINE: No, no, no. 115.

MR. GOURIS: At -- the trajectory is worse at a 1-15. So it all happens sooner. It depends on what expense to income ratio you're talking about and what kind

of growth rate you're talking about, in income and expenses.

I can show you the graphs and it may help you see that they're a part of the Board summary --

MR. CONINE: No, I think I'm following what you're saying, but I think it also goes against the deep skewing we all would like to be able to do under the tax credit program, and still meet debt service coverage requirements for the lenders out there, because our mission is twofold.

One, to make -- to protect the financial integrity of the debt and the equity, and also to serve low-income -- as low an income Texans as we can.

So I guess my question is, if he can show us how he can meet debt service coverage ratios and be at 63 percent, or whatever it happens to be, then why is the 65 a hard and fast rule, especially if it's anew one this year?

I mean, why do we care?

MR. GOURIS: A typical transaction is going -- a typical healthy transaction is going to be 45 to maybe 50, 55 percent expense to income ratio. A conventional deal is going to be even less than that; it's going to have even more cushion than that in the deal.

We care because, number one, we're required to

ensure that deal is feasible for some period of time.
Hopefully a longer period of time.

We took out last year if you'll recall the requirement that it -- we prove it up for 30 years, and this wasn't exactly a replacement for that, but this helped us with -- deal with that feasibility issue of, Is the deal too tight. And --

MR. CONINE: Yes.

MR. GOURIS: -- we caveated it with mitigation so that when deals are really deep skewing, deep skewed rents are happening where they can happen, that they can get operating subsidy support to do that, and then the 65 percent doesn't matter.

In some markets you can't do 30 percent units and make a deal feasible without any other support. That's just a fact. In some markets you can't -- probably can't do 60 percent deals, because you know --

MR. CONINE: Where do the lines cross on this project?

MR. GOURIS: For this project, this project was submitted at over 70 percent expense to income ratio.

MR. CONINE: Okay. All right.

MR. GOURIS: And so if you assume a 3 and 4 percent increase in income and expenses, so 3 percent --

MR. CONINE: Three on income, four on

expenses --

MR. GOURIS: The line crosses at about 20, 22 years.

MR. CONINE: And I thought we had you convinced last year to go from 30 down to 15 -- as really our concern period.

MR. GOURIS: Well, but that's assuming a 3 and 4 percent increase. If you just adjust that to 1 percent and one and a half percent increase, the line moves. Or if you adjust it to two --

MR. CONINE: You can adjust the numbers until the cows come home. The industry standard today is 3 and 4 as you well know.

MR. GOURIS: Well, no. I beg to differ --

MR. CONINE: Really?

MR. GOURIS: -- I think there are a number of folks that complained to us that two and three is what we really should be looking at. And at that level you'd have an even more aggressive, earlier cross period.

And in fact, for a -- for this transaction at 70 percent, you'd have a cross period right at the 15-year rate.

MR. CONINE: Right at 15?

MR. GOURIS: Yes.

MR. CONINE: Okay. Well, I wanted to grill him

first. Go ahead.

MS. ANDERSON: He's warmed up for you, Mr. Monty. And Maria Espinosa is yielding time to Mr. Monty. So he has six minutes.

MR. MONTY: Good afternoon, Madam Chair and Board members. My name is Ike Monty. I'm here to speak to Woodchase Senior Community, TDHCA Number 07-235.

I'm here to address the Board on an appeal pertaining specifically to an elderly application for low income seniors in El Paso. The reason we are in front of you today is the issue of the new 65 percent rule.

We feel that this rule does not adequately address the feasibility of this transaction. This rule that was enacted last year would for all practical purposes never allow an elderly property to be built in El Paso.

Tom -- or Mr. Gouris suggested that there basically had to be a tax abatement or Section 8 vouchers.

I have letters in a package that we've distributed where basically the city says that there has -- never has been any tax abatements nor do they plan on having any abatements at any time in the future.

This rule is objective; therefore, only the Board can consider its merits for the El Paso region. We respect Tom Gouris and his staff; therefore, they can only

consider information by your interpretation of the impact that this rule has on the El Paso region.

In your packet, five of the 35 properties developed in El Paso have been elderly for a total of 206 units. There is a waiting list of 100 people for these elderly units; there is also attached letters.

The last elderly development that was allocated in El Paso was 2001; prior to that it was 1997. This is a unique situation. We're an experienced developer; we have letters from two syndicators and banks in support -- obviously agreeing to do the transaction. We have letters from all of the public officials in the city.

And we would hope that you would grant our appeal. Ms. Anderson, Cynthia Bast is going to give the more specific direction to the rest of the appeal. Thank you.

MS. ANDERSON: Ms. Bast, and Ms. Von Berg [phonetic] and Ms. Gomez have yielded time to Ms. Bast.

MS. BAST: Cynthia Bast of Locke, Liddell & Sapp representing the applicant for this underwriting appeal.

As stated, this project has been declared financially infeasible in Underwriting because it cannot meet the new 65 percent rule. If this project is declared infeasible, then it cannot move forward in the tax credit

selection and award process.

It's been a long day, so let me summarize the three points that I want you to take away from my presentation:

One, we believe this project is financially feasible; two, we believe that there is additional information about the operating expenses for this proposed property that merit consideration and goes directly to the satisfaction of the test; and three, we started earlier this morning talking about the fact that there are at least some concerns about this 65 percent test, and how it will pan out.

So my point is, let's not throw the baby out with the bath water on the first application that fails to meet the test. The applicant believes that this proposed project is financially feasible based on a variety of considerations.

First of all, it has a debt service coverage ratio that starts at 1.26 in Year One; it goes up to 1.29 and comes down to 1.24 in Year 15. That significantly exceeds the TDHCA minimum of 1.15.

Mr. Gouris did mention that in his calculations, the project would go negative at a certain time. I don't know if he was using the starting debt service coverage of 1.26 that was in the application, or

if he was using the starting debt service coverage of 1.15 which is the standard that he used when he made the graphs to support the rule.

The project has a very minimal developer -- deferred developer fee; only 9 percent of the developer fee is deferred. That provides additional cushion.

The developer has a proven track record, 35 properties in El Paso. As long as they've been in business, I have to believe that they have some sort of good handle on financial feasibility. And they believe, based on their calculations that the cash flow remains positive for 30 years for this property.

One of the unusual things about this application is that there were no administrative deficiencies for underwriting purposes. All of their projections were within TDHCA's thresholds, so there were no inconsistencies found, as a result no deficiencies issued.

Typically when deficiencies are issued then additional information is sometimes provided to prove up expenses and such but, for Woodchase, that opportunity did not present itself in the procedural mechanisms used by the Department.

As I noted in my appeal letter in your Board book, for instance, the El Paso Appraisal District has

recently changed its capitalization rate very significantly. It's increased the capitalization rate for assessing affordable housing.

As a result, the property tax has decreased, and that change in and of itself could make a 3 percentage point difference in the 65 percent test.

We believe that there are other expense items that could legitimately be considered to decrease the percentage of expenses vis-a-vis effective gross income but the applicant doesn't have the ability to submit them without some direction from you.

And finally, the third thing as I mentioned has to do with the rule itself, you've heard plenty about this rule, you've heard some concerns that this rule may be difficult to apply in lower income areas; it may be difficult to apply when there are elderly transactions because you don't have the three-bedroom units that provide more effective gross income.

I think the staff was well-intentioned in its recommendation of this 65 percent test. I believe there are merits to looking at the properties this way. Planning for the future is prudent, especially in an environment where rents have been stagnant, utility allowances have been skyrocketing.

But like any new rule, this one may need some

tweaking as we get into the real world applications. And so I would hate to see the Woodchase application fall victim to this new rule before it can be -- its efficacy can be fully analyzed.

So if this -- as I mentioned if this project is financially infeasible it cannot proceed, so I urge you to waive the 65 percent rule with regard to Woodchase, so -- because there are sufficient indicia to indicate that Woodchase is financially feasible, and to merit its consideration for a tax credit award.

If you have any further questions about the details of numbers then the members of the investment builders' team are here and we're happy to answer any questions.

MS. ANDERSON: Thank you.

Mr. Puhlman, do you wish to testify?

MR. PUHLMAN: I'm here to answer any questions.

MS. ANDERSON: Okay, thank you.

MR. CONINE: And using your debt service, future debt service coverage calculations, what increases in expenses and income did you use?

MS. BAST: I believe we used three and four.
Correct?

MR. PUHLMAN: We used three and four.

MS. BAST: Yes, three and four.

MR. CONINE: Three and four. And I guess that's all the questions I have for you.

I have a question of staff. Maybe Tom --

MS. BAST: Yes, sir. Thank you.

MS. ANDERSON: Thank you, Ms. Bast.

Mr. Gouris?

MR. GOURIS: [indiscernible] staff.

MR. CONINE: You're still staff for right now --

MR. GOURIS: Okay. For now. Thank you, sir.

MR. CONINE: I do recall us getting last year into this issue of when we've gotten late notice of -- or past the deadline notice of like property tax appraisals as they are indicating on this particular project.

And I can't for the life of me recall how we resolved that issue. Did we say we would take that information in, in future rounds of tax credit? Did we write that into the QAP? How did we deal with that issue?

MR. GOURIS: As a matter of practice -- Tom Gouris, Director of Real Estate Analysis again.

As a matter of practice, when we get information, if it's good and we can corroborate it we always will consider it and try to identify it, because we know that you all will consider it and so we want to be prepared for that.

In this instance --

MR. CONINE: Yes.

MR. GOURIS: -- their own appeal letter states that if we assume that those taxes are decreased by the way that they are -- and I would suggest that maybe we wouldn't get as far -- I don't think the savings are quite as good as what they're saying, but even if we did, they'd still be at 68 percent expense to income ratio, well above the 65 percent.

I mean, so there's not really -- I mean, they're saying, Well, we can drive down expenses a little bit, but we still can't get it down to the level that we need to, to ensure that we meet this rule.

MR. CONINE: You -- but the way I understand it, if we were to waive the 65 percent rule, you could still declare this project financially unfeasible, for other reasons, could you not?

MR. GOURIS: There were no other concerns with this transaction. In fact --

MS. ANDERSON: She's got a hard and fast rule --

MR. GOURIS: She's very correct. We had no other issues with this transaction, and -- but we did contact them before we issued a report. We told them what was going on; we gave them an opportunity to help us

understand if there was something else.

We found out about the taxes at that point; we talked about expenses for payroll, and they showed us some expenses they have on other properties.

We talked through that issue, and the reason I think they didn't bring those up, is because that was -- they got lower expenses to payroll on those deals because they have partnerships with the Housing Authority to get those deals done.

And so they're operating those deals at a lower expense -- at lower expenses, period. I don't think that they're claiming today that that partnership exists, nor do I think that they think that they can operate it at that lower expenses -- at that lower expense rate.

I think they're saying, We'll figure out a way, we'll get there and we'll figure out a way. We've got many years of experience, and they do. And I have a lot of respect for the experience that they have, and I certainly think that if they need to pinch -- you know, pinch pennies to make it work, there's probably a way that they're going to be able to do that.

But they're an extraordinarily rare circumstance, I think, and it's a very slippery slope if we create a rule and then before we even get a chance to see how it works in the real world, waive it.

MR. CONINE: Do you think upon further review that the 65 percent rule as it applies to elderly projects, might have some chinks in the armor?

MR. GOURIS: No, sir I don't. Because it's the math that's going to cause the deal to fail, not that it's an elderly or not an elderly deal.

You know, if we assume an elderly deal maybe has less expenses just generally because it's an elderly deal, then the expense to income ratio is going to go down. So it's already accounted for there.

If we assume that the occupancy for an elderly deal is going to be a little bit better, then the income is going to go up. So the expense to income ratio is going to go down, so we're not going to have the problem that we have.

We addressed all of those things. The 65 percent rate, and you know whatever that rate is, doesn't matter where you are or what kind of product you are, because those things are already taken into consideration based on the income that you're getting and the expenses that you're serving.

And we're going to account for those differences because of where they are, what kind of product they are, already.

MS. ANDERSON: Mr. Pulhman, you stood up.

Would you like to -- did you change your mind -- would you like to testify now for a minute?

MR. PUHLMAN: Yes, I would.

MS. ANDERSON: Okay. Come on up. Thank you.

MR. PUHLMAN: Hi, my name is Keith Puhlman and I'm here to answer some questions or comments that Mr. Gouris has just made on the Woodchase Senior Community project.

Number one, the 65 percent rule saying that it's generic across the board when you're comparing multifamily with elderly, elderly only have one and two bedrooms. So they have a much smaller income. But then the multifamily have the benefit of three and four bedrooms.

And there's only 20 percent, the maximum of number of one bedroom units is 20 percent in a multifamily, whereas in an elderly deal it's probably 50-50 or whatever.

So there is -- you know, that -- the 65 percent rule can't be applied equally to both types of projects. Having said that however, the main key that we're ignoring here is the debt coverage ratio.

You cannot put a 65 percent ratio on expenses to income and ignore the debt coverage ratio, because that's what determines the financial feasibility.

In other words, if we get a lower debt service, then our expense -- it balances out. So -- and the debt service remains constant. So, you know, I beg to differ -- there's also a few other issues I guess.

One of the things is that we have since acquired 2006 audits on three of the elderly deals from El Paso, so that we could corroborate lower expenses than what we submitted.

And those expenses were submitted based on a multifamily database, that the TDHCA publishes on its website, which mixes the elderly and the multifamily units.

And I think we all agree that the expenses for elderly units are lower historically than multifamily. There are less bedrooms, less bathrooms, and elderly people are just not as hard on the property.

MS. ANDERSON: Thank you, sir.

MR. PUHLMAN: Okay.

MS. ANDERSON: Other questions?

MR. CONINE: I move we grant the waiver.

MAYOR SALINAS: Second.

MS. ANDERSON: Mr. Hamby, can I ask you a question please?

While I am prepared to support the motion that's on the floor I am very concerned now that any other

underwriting deal in this cycle that is at -- you know, 66, 68 blah blah blah they all come in and they say, This is exactly like Woodchase.

And they won't be exactly like Woodchase. So what kind of -- how could this Board communicate that, you know, that Ms. Bast and Mr. Palmer and all of these people who come represent their clients not come up and say, Well, my deal is exactly like Woodchase.

Because while this Board does not set formal precedent, you know, in this case I think we need to be pretty explicit about that. Because I'm just waiting for that to happen for the next six weeks.

MR. HAMBY: Well, of course the Boards do not create precedential value. They try to create consistency. It's not like a court opinion; there's no place that it ever exists. There's no way to research, other than the fact that you're here.

We have transcripts so people could maybe compare, but -- Boards should be consistent, but they shouldn't follow everything that they've done in the past if some issues change, if there's a difference in the way they review things, if there's any different issues at all.

So it could be that, you know, this Board hasn't said why they would approve or not approve but it

easily, the distinction could be that Mr. Monty is a very-well known developer in this field and understands the field completely.

And so that might be a reason that this Board would treat this deal differently than maybe somebody else's deal who was a new development that just came, or a new developer or a relatively new developer.

There are distinguishing issues that can be found on each individual deal because very few are actually the same. But there is no precedential value created in a board taking a vote.

It's nice to have some consistency, but no one can point to this vote and say, You're bound by that vote, because you've done it in the past, unless this Board lets them.

MS. ANDERSON: Right. Thank you.

MR. BOGANY: I have a question for Mr. Gouris.

Mr. Gouris, a very quick question. Did Mr. Monty and his development team know about the 65 rule when they started this project? How would they have known --

MR. GOURIS: I got to believe that they would.

It's posted as part of the rule --

MR. BOGANY: Okay, okay. So when he ran his numbers, he should have seen that he had 65 percent --

MR. GOURIS: He had 72 percent. Yes, sir.

MR. BOGANY: Okay. And he got it down to --

MR. GOURIS: He -- in their letter, they said they can get it down to 68 percent.

MR. BOGANY: Now, once again I've got a problem. We make rules and then all of a sudden we just act like they don't exist.

And so if I'm a new developer and I come in, I'm going to have a serious problem with this Board if all of a sudden I have a 66 and I think I should be able to get through this, regardless of the 35 projects.

I'm going to turn it back around to the Monty Group. You've got 35 projects, you should have known what the rules were, and you didn't make it.

And so even that experience comes back to haunt you when you should have known that this is what the rule is. And so now we make one, and then we eliminate the rule, why have rules? Okay? I just don't understand it.

I really don't.

And I like Mr. Monty, you're a great guy, you -- but you have a lot of drama. Every month there's something new. But I'm just telling you, you know, I think you do a great job, but to break -- create a rule, then all of a sudden the first deal come up, we crater.

MR. GOURIS: Right.

MR. BOGANY: Come on. I mean, that's -- I'm against -- I'm voting against the rule -- I'm supporting -- I'm against the motion. I just think it's wrong for us to do it this way. I really do.

MAYOR SALINAS: I really think that we should deal with one project at a time. When you go from 65 to 68 or 69, you know, you got to really look at the reputation of the individual, and the area where he's at in El Paso.

And they do not have tax abatements and they do not have any kind of support for these kind of projects, and I think that the reason we are appointed by the Governor on this Board is to make decisions, and this time we have to make a decision on whether we support a project that has a lot of merit in El Paso, or we just go ahead and let the staff take care of this project.

It's on the agenda simply because our personnel think that we have to make that decision, and I always support the staff, and I think they do a beautiful job, but we should not be criticizing too because we want to support a project that is -- it's a good project in El Paso, and the developer has a good reputation in El Paso.

I second the motion and I think this is a good project, and this is why we have a good Board, because we know how to respect each other, and not get upset because

we feel one way and they feel it another way.

We've had a lot of discussions here on Houston and we've had a lot of, quote, good reputation as far as agreeing and disagreeing in the Houston area, and the Valley.

But I do support the motion, and I would like to second it and treat everybody else that comes around the same way, and if they don't meet the 65 percent we also have the right to deny them and support our staff.

This is just one project, and we should not treat the other projects the same. The same thing happened a few minutes ago in Houston when we supported the other project, I mean, why not?

It's Houston, and Houston doesn't have any zoning. I mean, that is not our problem. And we had to deal with it today, and I didn't want to say anything, but he -- we had to do the job for the City of Houston in zoning those two projects.

And again I'll second your motion, Mr. Conine.

MR. BOGANY: Madam Chair --

MS. ANDERSON: Thank you.

Yes sir.

MR. BOGANY: -- I respect the Mayor quite a bit, and the only thing that I am saying is that, if we vote then we need to vote to cancel that doggone rule,

period.

And my thought is that, Mr. Monty, Ike Monty is an experienced developer, I'm going to tell you how it played out. They knew they were over the amount. They thought, We'd come and appeal to the Board, and we would get by.

Okay? And that's the problem that I've got. You -- we're not supporting staff. And staff is looking at it, and saying, We've made a rule, guys. I think if you do this then you need to repeal that rule, period. All the way through the Board, through the new QAP, not only new QAP but the new deals that's coming as Beth said earlier.

They're going to be coming, each one of them. And each one of those attorneys, Ms. Bast is going to come up, Mr. Coats and Rose over there is going to come up, and he's going to sit here and say, It happened last week. It happened last month.

MS. ANDERSON: I think we're telling you, we don't want you to do that. Don't play that game.

MR. BOGANY: Now, I've had enough of it. I personally have had just about enough.

MS. ANDERSON: Okay. Yes.

MR. BOGANY: I feel like I'm being played.

MS. ANDERSON: Yes.

MR. BOGANY: And I don't like it. Mr. Monty knew that he was over the rules, then at that point -- and you couldn't get down to the rules, then you're out of the game.

But then you came and appeared to us, appealing to everybody's emotions. I'm tired of people putting seniors on stuff thinking that's a carte blanche to do whatever you want to do.

And I'm just sick of it. Just because it's called senior. And I'm just tired of it, I really am. And I just cannot support this, and I feel that if we vote to pass this deal, then we need to vote to repeal that rule in this upcoming round all the way across the Board.

MS. ANDERSON: Well, we can't do both of those -- the second one isn't on the agenda today but we can sure direct the staff to --

MR. BOGANY: Yes.

MS. ANDERSON: -- in the real estate analysis rule cycle that's beginning, to give us some alternatives.

MR. CONINE: And I would support that, Madam Chairman, because I think number one it's a new rule, it's an untried, untested methodology in the financial world that I've never heard of, and I was probably asleep at the switch a little myself when it was stuck in the QAP this last year, and I would like to have a chance to study the

issue a little further. I think that's a great idea.

MR. FLORES: Madam Chairman, I want to go on the records saying I'm going to vote for this project but I'm not going to vote for this project for willy-nilly reasons.

This area needs this project real badly. We have a very good developer with a good reputation going forward. I have two letters here in the documents telling me from the two financing agencies that they're going into this with their eyes open, they are well aware of what the income-expense ratio is and all of the other parts of the information that's there.

The QAP may be incorrect on that ratio, and I'll probably ask the staff to review that next time. But for all -- there's more reasons than all this. The other, the main reason is that the Governor and the Legislature gave us the discretion to move on these things.

So for all of those reasons I'm voting for this project.

MS. ANDERSON: Any other discussion?

(No response.)

MR. FLORES: I call for the question --

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.

MR. BOGANY: No.

MS. ANDERSON: The motion carries. Now we will go back to Item 2(a) which are housing tax credit amendments.

Mr. Gerber.

VOICE: Ms. Meyer, why don't you guide us through these.

MR. GERBER: I'll start the -- do you want to start with the Villa del Sol?

VOICE: What number --

MR. GERBER: We're back on Item 2(a) which is the Housing Tax Credit Amendments. We're going to start with Villa del Sol, Number 04036.

MS. MEYER: Robbye Meyer, Director of Multifamily.

The first amendment is for application 04036, Villa del Sol, it's located in Brownsville.

The owner is requesting the Board waive the threshold requirement of including dishwashers and garbage disposals in a rehabilitation of the apartments.

The owner cites that inadequate plumbing and electrical infrastructure in a 36-year-old building is the reason for not installing the required appliances, and the owner is also requesting a waiver of the penalties

associated with the amendment.

Staff recommends the denial of the amendment, requests or amend the request to substitute amenities that were not included in the application to compensate for the omission of the threshold requirements.

MAYOR SALINAS: So he's saying that he does not want to install the washers and the dryers?

MS. MEYER: They were not installed because they're asserting that there was inadequate plumbing and electrical infrastructure in the building.

MAYOR SALINAS: Are you recommending that we deny the request?

MS. MEYER: Either deny their request or amend it to have them have compensating amenities.

MAYOR SALINAS: What was it that you want us to do?

MS. MEYER: Well, that's -- what you want to

do. MAYOR SALINAS: Well, but you want us to --

MS. ANDERSON: And we have public comment on this item.

MAYOR SALINAS: -- you are giving us two options here. One is to deny it --

MS. MEYER: One is to deny the amendment as it is, for not doing it.

MAYOR SALINAS: And the other one is to --

MS. MEYER: Or to require them to have a compensating amenity for those threshold requirements.

MR. GERBER: But to be clear, Ms. Meyer, staff's recommendation is, we are recommending denial of the request. If --

MAYOR SALINAS: Okay, so --

MR. GERBER: -- you were to approve it, here's an option for you, sir.

MAYOR SALINAS: Okay.

MS. ANDERSON: Public comment on this item from Ms. Bast. You bill like sequentially, not concurrently, right?

MS. BAST: This is the last time you get to see me today. Cynthia Bast, Locke, Liddell & Sapp, representing the property owner for this amendment. Villa del Sol is a high-rise building in Brownsville sponsored by the Brownsville Housing Authority.

It was constructed in 1971. It is serving elderly tenants with an average annual income of about \$6,000.

The Housing Authority started some renovation on this property and they did some of the things that they could, but they simply did not have enough money to do a complete renovation.

They -- the property for instance remained

without air conditioning, and some of the other safety and comfort items that you would need for the residents.

So without sufficient funds to complete the rehabilitation on their own, the Housing Authority turned to the Tax Credit program to rehabilitate and modernize Villa del Sol.

The owner obtained a physical needs assessment report which I'm going to call a PNA, in accordance with TDHCA guidelines. The PNA identified a planned scope of rehabilitation. The PNA indicated that some of the kitchens in the property had already been rehabilitated by the Housing Authority.

Therefore, only 92 out of the 200 kitchens were scheduled for renovation using the Tax Credit Award.

The PNA showed that these 92 kitchens would be brought up to the same standard as the 108 kitchens that were already renovated.

The rehabilitation of Villa del Sol is complete. The residents are thrilled. But we do have these two items that have been identified as excluded.

The first is garbage disposals, which are a threshold item under the 2004 QAP. None of these units had garbage disposals before the rehabilitation.

The omission was not an effort to save development costs, but the project engineer advised that

the plumbing system was likely insufficient to support these garbage disposals on this high-rise building.

The plumbing and electrical systems weren't replaced as part of the rehabilitation because that wasn't part of the PNA.

So the owner had some legitimate concerns about the placement of the garbage disposals, but nonetheless, in an effort to satisfy TDHCA requirements, the owner has done some further investigation and has gone back to the professionals that performed the PNA.

The people who performed the PNA believe that the property could accommodate the installation of garbage disposals in the kitchens. Therefore, the owner is willing to revise its amendment request and install garbage disposals in the renovated kitchens if the Board believes that that is what should be done.

The second issue is a little bit harder. That issue is dishwashers, which is a threshold item under the 2004 QAP. Again, none of the units had dishwashers prior to the renovation; and as originally constructed, these kitchens are not large enough to support dishwashers.

You will -- you can see this -- this is a cinder block wall, here's your refrigerator, here's your sink plumbing, here's your stove. Here's another wall. This is ten feet long, that's all. That's it, that's all

we had to work with. There's no place to put a dishwasher here.

And in fact, the owner indicated several times in the tax credit application that dishwashers would not be provided. Exhibit 3, Part A, "Amenities" they didn't check the box for dishwasher.

Exhibit 3, Part D, the rehabilitation cost schedule. On the line item for dishwashers, the owner put "N/A."

The PNA specifically indicated no dishwashers would be provided. I believe -- did you yield your time? -- okay. The pictures in the PNA were these pictures here that showed that the anticipated renovation, which did not picture dishwashers.

Even the underwriting report from staff omitted dishwashers in the list of appliances that were being provided.

So when this tax credit application was reviewed in 2004, apparently there was not an identification that -- there was an inconsistency between these representations that the owner was making with regard to the dishwashers, and the threshold criteria, because no deficiency notice was issued for this correction.

So the applicant thought that the tax credit

application was clear, and obviously it was not. But as you can see, the dishwasher situation in this kind of rehabilitation is not feasible.

But it is worthwhile to note, Ms. Meyer indicates substitutions and there are several things to note here.

First of all, even with the absence of dishwashers, Villa del Sol is an amenity rich property for the residents. In the selection criteria related to amenities, this application scored 48 points for the amenities being provided.

Only 24 were necessary to achieve the maximum scoring, so they achieved twice the number of points that would have been necessary for amenities.

Moreover, there were several items in the PNA that were not identified as necessary, but when the rehabilitation started, they were determined to be faulty and therefore additional funds were expended to fix them.

For instance, all of the water supply lines were replaced; that was not supposed to be part of the scope of work.

So we respectfully request that you approve the amendment request for -- which would have the installation of the garbage disposals, the omission of the dishwashers, and finally I have to address the adherence to obligations

penalty.

As you know, we've been wrestling with this for several months now and talking about how it would apply, and when. And of course it's within your discretion on how it applies in each instance, and I do believe that this is an instance where it is not warranted.

We've agreed to install the disposals, even though the engineer indicated that it was not recommended.

With regard to the dishwashers, the owner did indicate in several places in the tax credit application that dishwashers were not anticipated.

So this is not a case of trying to cut costs, this is not a case of a developer acting negligently. In fact as I mentioned, the developer put in more amenities and additional features that were not required by the PNA.

So we believe that the Brownsville Housing Authority and the other affiliates of this owner should not be charged with the severe adherence-to-obligations penalty, particularly if this amendment request is approved by the Board. Thank you.

MS. ANDERSON: Questions?

MR. FLORES: I have a question for the staff, not for Cynthia Bast.

MS. MEYER: Yes.

MR. FLORES: Robbye, who came up with that

\$30,00 estimate?

MS. MEYER: That was actually listed in their PNA report.

MR. FLORES: But who came up with the estimate? The staff, or the developer.

MS. MEYER: The -- it was -- actually in the application materials --

MR. FLORES: So they gave an allowance of \$30,000. How many apartments are involved? How many units?

MS. MEYER: I do believe it was 92, wasn't it?

MS. BAST: Mr. Flores, there are 200 units in the property. Ninety-two of the kitchens were renovated with the tax credit financing.

MR. FLORES: Wait a minute. How many -- are you saying, some of them got dishwashers and some of them got --

MS. MEYER: No. Out of all 200 units, none of the units have dishwashers.

MR. FLORES: Two hundred units, if the allowance is \$30,000? Boy, that's a cheap date there. That's not very much money per unit.

MS. MEYER: That was the only number that was listed in the --

MR. FLORES: I know, but that's a dishwasher

installed, and that's --

MS. MEYER: That doesn't include dishwashers. That was the number that we had for the disposals.

MR. FLORES: And only disposals.

MS. MEYER: Only the disposals is correct.

MR. FLORES: Only the disposals, okay.

MS. MEYER: We don't have a number for what the cost of installing all of the dishwashers. That was not included in their application.

MR. FLORES: Okay. Are we ready to vote, Madam Chairman? Or do we have some more testimony --

MS. ANDERSON: We don't have any more testimony. We don't have a motion.

MS. RAY: Madam --

MS. ANDERSON: Yes, ma'am.

MS. RAY: -- I'm sorry. Are you finished, Ms. -- Mr. Flores?

MR. FLORES: Gloria, you have discussion that's fine. I was going to make a motion to approve plus, \$30,000 on the kitty. But go ahead. You do it first.

MS. RAY: Well, my only concern is, on the staff's write-up, it says the dishwashers were not indicated in the application as an amenity, and were not addressed by the Department in the presentation to the Board.

MS. ANDERSON: Because they're threshold items.
And have been --

MS. MEYER: It was not addressed by staff.
That is correct. And -- but it was a threshold item for
dishwashers and disposals in the QAP for 2004.

MS. RAY: I see.

MS. ANDERSON: And if you don't meet threshold,
then the application doesn't even move forward --

MS. RAY: I understand --

MS. ANDERSON: -- you know, on to scores and
stuff.

MR. FLORES: Can I make a motion now?

MAYOR SALINAS: I'll second the motion.

MR. FLORES: Okay. Well, the motion -- what's
the motion?

MS. ANDERSON: Mr. Flores?

MR. FLORES: You know, we have a great ESP
relationship here --

MAYOR SALINAS: It's really dangerous.

MR. FLORES: I move to approve the appeal, but
with a \$30,000 -- but with the developer to allow a
\$30,000 development for whatever amenities would be
appropriate for the investment. Does that make sense? I
want \$30,000 --

MS. BAST: I'm sorry. I don't know that I

understand -- I do understand. I want to make sure that with regard to the disposals --

MR. FLORES: No, no. 30,000 --

MS. BAST: -- we have agreed to install those --

MR. FLORES: -- in equivalent value --

MS. BAST: -- at \$30,000.

MS. ANDERSON: Ms. Bast, why don't we let the Board have its discussion now --

MS. BAST: Okay --

MS. ANDERSON: -- rather than you debating --

MS. BAST: -- well, I'm sorry. I'm just trying to understand the motion to make sure I can advise my client what they need to do.

MR. FLORES: Well, the motion would be on the record, I can assure you, Cynthia. The -- I move that -- to approve the appeal, and I'm trying to read the same thing the staff put down here.

But substitute an equivalent dollar value to the disposals is stated, \$30,000, the substitute to be agreed upon between the staff and the developer.

MAYOR SALINAS: Ms. Robbye --

MS. ANDERSON: We have a motion on the floor.

MAYOR SALINAS: But the motion is not -- what I seconded was, you have -- to approve, to deny the appeal,

or --

MS. MEYER: If the Board granted the amendment,
then --

MAYOR SALINAS: What would be the motion?

MS. MEYER: Well, where we have it is to have a
compensating amenity for the --

MR. FLORES: Compensating substitute for --

MR. CONINE: And I don't know what that would
be.

MR. FLORES: What would that be? I mean, this
is where I --

MR. CONINE: That's where he was having a hard
time. I know I --

MS. ANDERSON: We don't have second to the
motion of Mr. Flores at this point. So --

MR. FLORES: So it --

MS. ANDERSON: So it's died for lack of a
second.

Now, we can continue the Board discussion.

MAYOR SALINAS: Well, I'll move that we go
ahead and approve the appeal, period.

MS. ANDERSON: Well, that was --

MR. BOGANY: I'm not seconding that.

MAYOR SALINAS: Oh, man.

MR. CONINE: And I'm going to amend the motion

that -- to say that the appeal consists of, the installation of the balance of the disposals, in all the remaining units at a value it looks like around 30,000 bucks, give or take a few pennies.

And then subject to another amenity, even though this project is amenity rich, I bet somebody can think of something that would compensate for the dishwashers that aren't there, at some equivalent value.

Granted, this is a three-year-old project, it's already up and running, but I bet if some creative heads get together between the developer and staff, they'll come up with something that will satisfy both parties.

Second --

MS. MEYER: So you're waiving the requirement for dishwashers.

MR. CONINE: Yes.

MAYOR SALINAS: I'll accept the omission.

MR. CONINE: I mean, I --

MS. BAST: Also, part of --

MS. ANDERSON: That's his motion.

MR. CONINE: That's my amendment.

MS. ANDERSON: Or amendment.

MR. CONINE: And I'm also wiping out any future penalties based upon a violation of the threshold or QAP or anything else, because it's three years old, and just

now coming to everybody's attention.

MS. ANDERSON: Okay.

MR. CONINE: That's my amendment.

MAYOR SALINAS: I'll second it.

MR. FLORES: The Mayor seconded it, so that's fine. I --

(Pause.)

MR. FLORES: Yes, I accept the amendment.

MS. ANDERSON: Is there discussion? I have the sense that, you know, I'm going to be on the losing side of this vote.

But I really think it is very unfortunate when we have a day when we completely capitulate to developers just always knowing they can come and beg for forgiveness later, if we have now waived on a failure to meet a threshold item, the proposal is to waive penalty points, then I don't know when we'd ever put penalty points in place.

And I -- so I will oppose the motion based on that. Is there any other 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.

The Chair votes no. The motion carries.

Pineywoods [phonetic].

MS. MEYER: The second amendment is for 060148, actually the next two amendments were applications that were approved in the Hurricane Rita ground.

Pineywoods Orange Development, it's to be located in the City of Orange. The owner is requesting a change in the site plan and the building plan for the development.

In addition they have also requested an increase in credits, because the development can't be constructed as it was originally -- or actually even with the amendment it can't be constructed for the amount that they've been allocated.

And they are actually asking -- requesting an increase in those credits; however, an increase in credits is not an amendment, and it's not an eligible amendment, so therefore the staff recommendation is to approve the change in the site plan and the building plans, but not for the increase in the credit amount.

MS. ANDERSON: There is public comment on this item from Mr. Doug Dowler.

MR. DOWLER: Madam Chairman, Board members, thank you. My name is Doug Dowler, I'm executive director

of the Pineywoods Home Team. We are the developer of these two projects that are listed here.

As you probably will remember, we've been before you the last few Board meetings talking about this particular problem that we've had in the gap in funding for these two projects here.

I'd like to say I appreciate the staff's efforts in working with them over the past few months here to try to resolve this funding gap.

I regret that we were not aware of the fact that we could not request additional credits in our contract amendment process here.

Had we been aware of that, we would have brought this to the attention of the Board three months ago instead of waiting until now.

We think we can go forward with these projects. We have developed a way that we can at least salvage one of the projects. We are working diligently to do that at this point in time.

As you can see from the staff recommendations, the contract amendments that we've proposed to you are cost-saving measures on our part. We ask that you go ahead and approve those amendments, and within a relatively short period of time, as I've already discussed with staff, we will be making decisions on how we go

forward with those two projects.

MS. ANDERSON: Questions for Mr. Dowler.

MS. RAY: Are we having public comment?

MS. ANDERSON: There is no other public comment.

MS. RAY: Madam Chairman, I move the staff recommendation.

MR. BOGANY: Second.

MS. ANDERSON: Discussion? 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.

The next item is Women's Shelter of East Texas.

MR. CONINE: Move staff recommendation.

MS. ANDERSON: The -- wow. Mr. Dowler do you have any --

MR. DOWLER: The same comments.

MS. ANDERSON: -- can we just, we'll just re-run his words the same thing. Thank you, sir. We have a motion to -- on staff recommendation, is there --

MR. FLORES: Second.

MS. ANDERSON: Mr. Flores seconds. Any

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: The motion carries. Agenda Item Number 3 is, Home Division Items. Mr. Gerber?

MR. GERBER: Madam Chair, Board members. This agenda item addresses appeals to termination for three applications received for the 2007 Home Preservation and Rental Development Competitive Application Cycle, and CHDO Housing Development NOFAs.

Let's go ahead and take each of these individually, the first being Constitution Court in Copperas Cove. This applicant originally request 79 points. One of the items for which they requested points was a ten-point item, that indicated the points were available only if no other department fund or development was located in the proposed city or place

Upon staff review of this item, it was determined that an affordable rental development that received funding from the Department is located in

Copperas Cove, the proposed location for this application.

Because the requirement was not met, no points were awarded for this ten-point scoring item, and this resulted in the total score of 69 for this application.

However, the threshold score requirement for these funds is 70 points in order to be considered for an award. A total of 156 points were available based on the scoring criteria. Staff is recommending that the Board deny the appeal.

MS. ANDERSON: Questions? Oh, yes. Mr. Glockzin. Thank you.

MR. GLOCKZIN: Madam Chair, members of the Board, I'm Emmanuel Glockzin, developer, Constitution Court, Copperas Cove, Texas.

We feel that this was done wrong to us because of the process of the -- a list was furnished to us, as far as the location of developments. These are other home developments in the area, and this says the applicant should review the Department's property inventory list.

And also the applicant is referred to the 2007 housing credit site demographics. And we've done all of that. In the third place is the applicant should use all sources available.

Well, we called the staff and asked them really what that meant, and asked them for other sources that we

can go to, and they referred us back to the list.

And so after we appealed to the staff, and we were denied, we understand that it could be located at the vacancy clearinghouse on the Department's website, which wasn't part of the list.

If we had known, we wouldn't have claimed the ten points. And also, we had checked all of the telephone books in the Copperas Cove area, and this development called Mountain View Apartments doesn't -- it's not even listed in the telephone books in the general area for us to reference to.

So it was really confusing, unknowing to us. If we would have had access to the website for the list, I mean, we wouldn't have claimed the ten points.

Any questions?

MS. ANDERSON: Any questions, Board members?

Thank you for your testimony.

MR. CONINE: I move we accept the staff recommendation to deny the appeal.

MR. FLORES: 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: The motion carries.

MR. GERBER: The second appeal is for Copper Creek Homes. This applicant admittedly failed to have met the threshold -- having met the threshold requirements regarding public notifications, as required by both the QAP and the State HOME Rules.

The application is for the development of eight single-family rental units in Region 5. The QAP which is applied to the HOME program for many requirements including this one, requires that a public notification sign be installed on each development site, for scattered site developments.

The applicant only installed one sign on one of the single lots.

The development also received unfavorable comments regarding the proposed development, at the April 25, 2007, public hearing in Lufkin, and from a local resident through the Department's consumer complaint system, which stated that the one notification sign was posted at the end of a dead-end street, with the back of the sign facing the rest of the subdivision.

Staff is recommending that the Board deny the

appeal.

MS. ANDERSON: Mr. Dowler.

MR. DOWLER: Doug Dowler, Executive Director, Pineywoods Home Team.

Having heard the comments this morning about the HOME program, this is probably a pretty good example as to why CHDO nonprofits have not been making HOME applications.

You know, it's difficult for an eight-unit project to compete in a tax credit world of QAPs and regulations and things like that.

We did post a sign. We did post it in the required amount of time. It did face the street. It did face the neighborhood. We own the rest of the lots in the whole subdivision out there.

This particular resident is not a resident of the neighborhood, that complained about it. He was the man that sold us the lots some three years ago.

He's now wanting to develop some additional property adjacent to this, and is trying to keep affordable housing out of his neighborhood.

As far as notifications to the public officials, we did not make the decision until late February to even make an application in this round, as a result of my serving on the HOME Task Force, I decided to

test the system and see how it works.

It worked about like it always has. You know, it's difficult to do, especially in rural communities. We sent out notices to the public officials. We sent them out ten days prior to the application date instead of 14 days.

You know, we missed it four days, but we couldn't do anything -- we couldn't go back. We had already made the decision to submit the application.

So the two deficiencies are threshold requirements we've met. They were just a little bit late, and we didn't put eight signs in a one-block area that were four foot by eight foot in size, next to one another.

So we didn't. But that's why we're here today.

MS. ANDERSON: Questions for Mr. Dowler?

(No response.)

MS. ANDERSON: Thank you for your testimony.

MR. CONINE: Another item for the list. I move to accept the staff recommendation to deny the appeal.

MR. FLORES: 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: The motion carries.

MR. GERBER: Madam Chair, Board members. The third appeal is for Parkwood Apartments. This application was terminated for failing to resolve administrative deficiencies by the required deadline. The deficiency notice for this application was issued on May 10, 2007, and included several items.

During the deficiency period, the applicant contacted staff with additional questions regarding the specific requirements for previous participation forms, which are outlined in the QAP.

The applicant provided the deficient information for Dixie Hoover Farmer to staff on May 23, 2007, well after the deadline had passed.

Staff is recommending that the Board deny the appeal.

MS. ANDERSON: Mr. Hoover.

MR. HOOVER: Madam Chair, members of the Board, and Mr. Gerber, my name is Dennis Hoover.

And the one owner information there is, this application was -- the owner is a limited partnership. Applicant is a 25-year-old USDA property asking for HOME

funds only for preservation funds.

There were three partners in the limited partnership, one of which was a corporation. And we provided the information on the corporation and the stockholders of the corporation.

I think it was determined later that since there were two trusts that were stockholders, that we needed to also provide information on the beneficiaries of the trust, and I think that was the conversation that was ongoing during the deficiency period, should it be the trustee of the trust, that had control of it, or the beneficiaries since the beneficiaries do not have control of it.

And the answer came back, Provide the information for the beneficiaries, some of which TDHCA staff already had, and the confusion about which owner information forms and previous participation they had, and which ones they didn't have, that was all an oral conversation between my staff and the TDHCA staff.

And so my staff provided what they thought TDHCA asked for, and my staff thought the one for Dixie Hoover Farmer had already been submitted, it wasn't, and we sent it at 10:00 the next morning when we saw the email.

But it was -- if we had known that that was --

that one was needed we would have sent it. And at that time, it was all oral conversations and oral instructions, and the confusion ensued about -- because some of the beneficiaries of the trust, myself included, TDHCA already had, and so it didn't have to send that one, since they already had it.

And Dixie Hoover Farmer got included in that group, and ones -- the ones that we thought that they already had, and in fact in oral conversation I think that the staff thought that they already had it.

Because they already had it on another application. But not on this one. And if we had known we were supposed to send that we'd sent -- there was nine that we sent. That just would have -- if we had known that one would have been required, we would have sent it in; we did send it the next morning, I think in your letter you thought that it did not but we ultimately discovered that it had been sent.

So I think this -- the preservation fund is underfunded, and this little project certainly needs it. It was an unintended thing.

MS. ANDERSON: Questions?

(No response.)

MS. ANDERSON: Thank you for your testimony.

MR. HOOVER: All right. Thank you.

MR. CONINE: I'd like to ask Kevin why we felt like the beneficiary needed to be included, of the trust as opposed to just the trust, and the trustee?

MR. HAMBY: We actually have in the QAP and in most of our rules have established and down the stream, listing of all of the people who benefit from the trust. This is a beneficiary of the trust, because we were trying to make sure we know who is involved in any of these projects, because of the 1.2 -- I'm sorry, the absolute cap that's statutory in the QAP.

And so the QAP sometimes relies on -- or the HOME rules also rely on QAP and so we have delved into many people who don't believe we should allow -- we should have nonprofit boards of directors give their information.

But as you probably know, trusts can be revocable, they can be -- the trust document is something that's -- highly legally malleable unless it's an absolute un-revocable trust, and so they can be entered into and taken out. So we've asked for information on everybody who's a beneficiary of the trust.

MR. CONINE: And he got you the information once the staff made up their mind --

MR. HAMBY: I didn't actually -- I don't know. That's a program staff question.

MS. ANDERSON: I think we ought to ask Jeannie,

because Jeannie handled the application --

MR. CONINE: Oh, okay. All right, that would be great.

MS. ARELLANO: Jeannie Arellano, Director of the HOME Division. The threshold criteria review for the previous participation forms was done by staff in the Multifamily Division.

And my understanding of -- in copies of emails that went back and forth between the applicant and the staffperson were that it was specified. I'm not privy obviously to the conversations that took place, but it was specified, who the outstanding form was for.

There was a question about it on the Monday before the deadline, the 21st, and the email went out after 6:00 p.m., or after 5:00 p.m. that evening.

And apparently there was further discussion about it the following day on Tuesday. The form did not come in until Wednesday morning.

MR. CONINE: But we didn't let him know until Tuesday a definitive position. That's -- to me seems a little unfair.

MS. ARELLANO: We let him know in an email -- a definitive position on Monday.

MR. CONINE: And when was the deadline.

MS. ARELLANO: Monday.

MS. ANDERSON: No, Tuesday at 5:00.

MS. ARELLANO: Well, since the email didn't go out until after 5:00 p.m. on Monday, we allowed till 5:00 p.m. on Tuesday.

MAYOR SALINAS: [indiscernible] on Wednesday?

MS. ARELLANO: It was submitted on Wednesday morning.

MAYOR SALINAS: Could you all have shown him just a little bit of consideration on that issue? I mean --

(Discussion off the record.)

MR. CONINE: Yes. I'm going to move we grant the appeal. Set --

MS. ANDERSON: Do we have any discussion?

MR. CONINE: Unbelievable.

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.

Okay, Agenda -- there are no other appeals. Agenda Item Number 4 is concerning the FEMA Alternative Housing Pilot.

MR. GERBER: Madam Chair and Board members,

this item on your agenda is the presentation, discussion and possible approval of our Department's participation in the FEMA Affordable Housing Pilot Program.

On December 22, 2006, FEMA announced the Department was pre-selected to receive an award of \$16.4 million, for the Affordable Housing Pilot Program.

The purpose of the AHPP is to demonstrate an alternative housing solution to the FEMA trailer which was so widely used during Hurricanes Katrina and Rita, and in particular in the 22 counties affected by these storms in 2005.

The intent is to use them for a time period of 24 months. The Heston Group was selected to pilot a pre-fabricated panelized solution which can be deployed quickly and built to accommodate a diverse population.

This was the choice of FEMA, to use this technology. The State of Texas actually submitted six different technologies, for a total of \$70 million. FEMA chose this one, and if we are to participate in this program, this is the only technology that we are able to test.

In summary, staff is proposing that to test this technology, that the Department grant an estimated 30 of these units to the Harris County Housing Authority, which we've been working closely with.

Harris County is a subrecipient of the funds, we'll provide management and oversight and we'll be responsible for reporting to TDHCA. TDHCA will monitor Harris County as a subrecipient and will report to FEMA.

This portion would expend an estimated \$2.3 million of the total award.

Pursuant to the objectives of the pilot program, the Harris County units will be considered temporary housing units, and must be moved or re-deployed during the two-year period of performance.

It should be noted that staff is recommending that the units must be built on land owned by Harris County, unless otherwise approved by the Board eligible costs do not include land acquisition or cost for land lease.

Staff is proposing that all remaining funds not awarded to Harris County, minus necessary TDHCA administrative funds be granted to the estimated 130 to 170 individual households currently living in FEMA trailers whose homes were 100 percent destroyed by Hurricane Rita.

The value of these units is an estimated \$12.5 million. The units will be granted to households who own their own land and are not in a flood zone, and priority will be given to the lowest income households.

The action item in your Board book reflects staff's proposed strategy for program implementation for the Board's consideration. Once approved, staff will submit the required information to FEMA based on the approved plan.

Once approved by FEMA, staff and the Hasden Group will work closely with Harris County and FEMA to implement the plan.

There's one change from the writeup in your Board book, and you see a letter that's been submitted to the Board, which by Congresswoman Sheila Jackson Lee for your review.

We have also been working closely with Harris County over the last 24 hours, and they have indicated an ability to use up to as many as 30 of the units in Harris County, and so we're going to ask for the Board's consideration of that.

Staff is recommending that the Board approve FEMA Affordable Housing Pilot Program as identified in the Board book, with that one opportunity for an amendment to the motion of approval.

MS. RAY: I move the staff recommendation.

MAYOR SALINAS: Second.

MR. FLORES: Madam Chairman, before you vote --

MS. ANDERSON: Yes, sir.

MR. FLORES: -- I might ask a question of staff.

Mike, who owns the building -- and who has title to the building when it's all over and done with.

MR. GERBER: The State of Texas will, except for those units that are in Harris County, and those will be if I'm not mistaken the ownership of them will be granted to Harris County, and they will take ownership.

And when they are dismantled, which they must ultimately be, they will remain their property.

MS. JOYCE: Correct. And -- should we be awarded these funds, finally the intent is also for the homeowners whose homes have been 100 percent destroyed that at least before the period of performance ends, that we will grant those units to them, and then the transfer of ownership will go from TDHCA and to those households, those individual households.

MR. FLORES: Who owns the real estate under these where we set them down?

MS. JOYCE: For the individual households that will be awarded the units as proposed they have to own their own land in order to receive a unit, and their current homes -- they have to be living in a FEMA trailer and their current homes have been 100 percent destroyed.

So they will own the land that the units will

occupy, and eventually own the unit as well. Harris County, one of the requirements in the proposal before you is that they place the units on land that they own, and if they have to buy land that the fees for that land are not eligible to be paid by these FEMA funds.

MR. FLORES: I'm trying to make sure we have no responsibility for these things after it's over and done with --

MS. JOYCE: Right.

MR. FLORES: -- and it appears then we shed responsibility of it when we grant them either to the individuals or to the Harris County Housing Authority?

MS. JOYCE: Yes, sir. Part of the purpose of this summary before you is so that after our -- we've met all of our requirements during the period of performance with FEMA, that TDHCA no longer has oversight responsibilities.

MR. FLORES: Thank you.

MS. JOYCE: And Mr. Hamby is asking for clarification that the amendment to the item before you includes 40 units, he was saying that Mr. Gerber accidentally said, 30.

MR. GERBER: Oh, I'm sorry, 40 for Harris, 40 for Harris County. And I just note to the Board, this is going to be -- this has been a very challenging program

with frankly very little money compared to the other disaster priorities and programs that we operate.

We've struggled to work with FEMA because of the technology that they've chosen. It's essentially a house in a box; it comes, it's pre-fabricated overseas; it's shipped to the United States, it's then -- appears to be a manufactured home.

To prove out the technology it has to actually be collapsed. So -- and FEMA is insisting on that. It has a heavy physical inspection regimen associated with it.

All of that said, we are very grateful for the partnership with Harris County because ultimately when these houses have to go back into -- to prove the technology, they have to go back into the box, so to speak, it's going to --

We don't want to do that in East Texas where these folks have really suffered enough. It's -- Harris County's partnership is really key to the success so that we don't have unintended consequences for people who have already suffered heavily from Rita and Katrina.

MS. ANDERSON: Now, is the motion on the floor to do 30 units in Harris County --

MR. GERBER: Forty, for Harris County.

MS. ANDERSON: Forty, okay.

MR. GERBER: Up to 40 --

MR. HAMBY: It was 30. That's why I just have to make sure that Ms. Ray accepted the 40, since she had made the -- and the Mayor had accepted that as well, as the second.

MS. ANDERSON: Okay, good. Other 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.

We're going to lose Mr. Conine all too soon.

Agenda Item Number 5, which is HOME Amendments.

MR. GERBER: The first one, Madam Chair is the City of La Feria, contract number 542061. This request, the city was previously allowed a nine-month extension as a result of delays in contract administration.

The first amendment also reduced the number of required households from 20 to ten, resulting in deobligated funds of \$104,000. The MATCH requirement was also reduced pro rata from \$3,984 to \$2,490.

The city is requesting a second amendment to further extend the end date of their contract for two

additional months, from June 30, 2006, to August 31, 2006.

Assistance was provided to two households after the current contract end date. Department procedures do not allow for the reimbursement of these expense without an extension to the contract, and the city also is requesting that the Department allow funds to be reimbursed for two additional households that were assisted within the contract period, but reimbursement was requested past the 60 days allowed for draw reimbursement.

In addition, the Department has identified a match shortfall on this contract. The contract requires a match of \$2,490 and currently only \$444 has been reported.

The Department re-scored the original application based on the reported match amount; a review of the awards for 2003 indicate that the application would still have been funded with the reduced match points.

The city has not been able to identify a replacement source of match. Because this is the city's second extension request and because the second requested match reduction exceeds 25 percent, staff has denied the request.

If the Board chooses to approve the amendment, the contract end date would be extended for two additional months to August 31, 2006, and the required match amount would be decreased to \$444.

MR. CONINE: Move to approve.

MR. FLORES: Second.

MS. ANDERSON: The amendment request.

MR. CONINE: Correct.

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: The motion carries.

MR. GERBER: The second is the City of Cotulla, contract number 1000 -- Oh, I'm sorry. That one's --

MS. ANDERSON: Oh, it has.

MR. GERBER: The City of Lewisville. The third request -- this request from the City of Lewisville at the November 2006 Board meeting the city was permitted a nine-month extension as the result of construction delays.

The first amendment reduced the required households from eight to six, resulting in deobligated funds of \$97,881. The match requirement was also reduced pro rata from \$52,000 to \$40,246.

The city is now requesting a second amendment to further extend the end date of their contract for three

additional months, from June 30, 2007, to September 30, 2007. The city states that during rainy weather, the construction phase for one remaining home got behind schedule, demolition was completed as of April 2007, however the soil was too wet to complete soil testing, and the construction phase was delayed.

The builder states that the construction will be completed by August 31, 2007. Because this is the city's second extension request staff does not recommend the approval. At the time of the first extension for nine months, the city assured the Department and the Board that the contract would be completed by the amended contract end date.

If the Board chooses to amend the -- approve the amendment, contract end date would be extended the three months to September 30, 2007.

MR. CONINE: Move approval, of the monsoon.

MS. ANDERSON: Mr. Kirby, waive your right to testify?

(No response.)

MS. ANDERSON: Perfect answer, thank you. Any discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume -- do we have a motion?

MS. RAY: Second.

MS. ANDERSON: Thank you, Ms. Ray. 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: The motion carries.

MR. GERBER: This last request is from the City of Splendor. The city is requesting a modification to the income requirements in their contract as noted on the table in your Board book.

They are reducing the number of families being served at 30 percent of AMFI by four, and proposing that those four households be permitted to be qualified at 50 percent of AMFI.

The city states that they have not been able to identify households to qualify for the program at the 30 percent level. The city states that the increase would allow assistance to the other households who are in much need of adequate housing, but whose income is slightly above the 30 percent income limit.

The application has been re-scored, and the city would have been funded with the increased income

limit requirements. Staff does not recommend the approval of the amendment. If the Board were to choose the approval of the requested amendment, the contract income requirements would be increased as noted in the table of your Board book.

The Board could alternatively choose to maintain the current income requirements, and if the city is successful in locating households at the original 30 percent income limit prior to the current contract end date, the city would be allowed a nine-month extension to complete assistance to these households.

Approval of this extension would require the city to comply with provisions of the 2006 HOME program rules that are also listed in your Board book.

MR. CONINE: Move staff recommendation to deny.

MR. FLORES: Second.

MR. CONINE: The reason I'm doing that, if anybody wants to know, is there's 30 percent AMFI households around the State that can use that money.

MS. ANDERSON: Well, do you have a witness affirmation form for this --

Are you Mr. Chiaverria [phonetic]?

MR. VALDEZ: No.

MS. ANDERSON: Okay. Did you still complete an --

MR. VALDEZ: The Mayor put it in --

MS. ANDERSON: Did you complete a witness affirmation form?

MR. VALDEZ: No, ma'am.

MS. ANDERSON: Okay. You need to do that after you speak. You have three minutes.

MR. VALDEZ: I'm sorry.

Representing the City of Splendor as a consultant, thank you for the opportunity for coming before the Board and presenting this petition for the HOME Program Number one million, 501.

The City of Splendor has done everything to try to get applicants for the HOME program. The city has advertised in the newspaper informing the community of the dates when intake applications were going to be accepted.

Applications were taken February 21, 2006, only two applicants were received. And February 28, 2006, no applications were taken. Then on March 22, 23, 28 and 30, 2006, applications were taken. Only six applications were taken yet, only two qualified and the ones living in mobile homes did not want to participate on the HOME Buyer Assistance once they find out it was going to be a forgivable loan.

In 2007, the city mailed fliers with the water bill information to these residents in the programs, and

dates when the applications were going to be taken at the city hall. Intake applications were taken February 12, March 9, 2007, only two applications qualified under the income criteria, and five were able to 30 percent maximum family income levels.

The median income for the area -- the city is asking for the MMI to be increased to 50 percent so the applicants that are just over the 30 percent MMI can be assisted.

Most of these applicants are on Social Security benefits and/or Supplemental Social Security income.

Please see the pictures of the standard condition that these people live in. Thank you for the time, and having you again me present this to the Board.

VOICE: [indiscernible]

MR. VALDEZ: Rick Valdez. And we appreciate your favorable consideration amending this contract.

MS. ANDERSON: Thank you, sir. I have questions for staff.

Thank you for your testimony.

MR. GERBER: Ms. Trevino?

MS. ANDERSON: I'm just looking for a little historical frame of reference, my recollection is, we don't waive income limit change -- that we don't -- that we haven't waived this kind of thing in the past. Is that

accurate?

MS. TREVINO: We've allowed some. Lucy Trevino, Manager, MPMC. We have allowed -- the Board has approved some changes to the income limits in prior requests. But not --

MS. ANDERSON: I'm getting this secondhand from other people. Would you come up and address that question.

MR. GERBER: Mr. Hamby, would you come up and clarify, please. Or --

MS. ANDERSON: Yes. Let's get --

MR. HAMBY: Kevin Hamby, general counsel. The Board has actually approved it in some occasions and not approved it in others, and so the Board is consistent in that it goes both ways.

MS. ANDERSON: Perfect, thank you. That's great.

MS. RAY: Madam Chairman, I would like to ask staff, I see here in the printout that the City of Splendora has always drawn \$33,400? If we deny this request, will they have to give us that money --

MS. TREVINO: No, they will not. They have set up and have started drawing for four households at the 30 percent income level. They're asking -- but all eight currently are required at 30; they're asking that the

remaining four be amended from 30 percent limit to 50.

MS. RAY: Because before they've only drawn money on -- they have been taken care of --

MS. TREVINO: They're at the 30 --

MS. RAY: -- is going to be harmed if we deny them --

MS. TREVINO: That's correct.

MAYOR SALINAS: The only ones we're denying are the four that do not qualify.

MS. TREVINO: I'm sorry, I didn't --

MAYOR SALINAS: The only ones we're denying are the four that do not qualify.

MS. TREVINO: Right, they have not been -- promised any assistance, they have not been set up.

MS. ANDERSON: Only ones that are under way are the 30 percent ones. Right?

MR. CONINE: Can I amend my motion to -- this is a procedural question -- to require that the deobligation of the money coming back goes back to 30 percent AMFI people, based upon the waiting list, because I may have misstated earlier if it goes back -- if when they deobligate it, it goes into the pool, and gets --

MR. HAMBY: It goes into the pool. And you would have to file a deobligation policy of -- this Board has passed, and so it would not automatically go to a 30

percent unit --

MR. CONINE: But can I attach that amendment to it?

MR. HAMBY: No. Because then we'd have to -- yes, you can --

MR. CONINE: Does the deobligation policy allow Board to --

MR. HAMBY: Well, you'd have to justify --

MR. CONINE: -- direct the --

MR. HAMBY: -- why you were doing that, and that would be the special cause exception that you would have to direct it to some organization that's already doing it at 30 percent.

And that would be your special cause, is that you were seeking to have these four 30 percent go somewhere else, and you'd probably be directing staff to actually look and see if there's somebody else who has 30 percent units that need to be funded.

MR. CONINE: Well, I know there is out there. It's just a question of, can we direct --

MR. HAMBY: It's whether or not they currently have a contract --

MR. CONINE: Right.

MR. HAMBY: -- and whether or not there's a need for those 30 percent units on some other contract.

MS. ANDERSON: Are you suggesting like, take the next one down that didn't get funded, in the last cycle, that had 30 percent units on it?

MR. CONINE: Yes.

MR. HAMBY: We would have to check and tell you if that was there. I mean, in this case, the motion -- or the issue before you is whether or not to extend. If you don't extend, then this particular group still gets to attempt the 30 percent, unless they decide --

MR. CONINE: Okay. I'm going to leave my motion on the floor as it is, but I would also respectfully ask staff to come back with that information at the next Board meeting.

MR. HAMBY: Well, but understand that, the denial of this -- they still have the opportunity during the time of their contract unless they choose to deobligate, to go --

MR. CONINE: Yes, okay. So we still got time, we got time.

MR. HAMBY: Yes, right.

MR. CONINE: Okay, good.

MS. ANDERSON: Okay. So do we understand what the motion is on the floor?

MR. CONINE: Uh-huh.

MS. ANDERSON: Okay, good. Any further

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: The motion carries. Okay. That completes the official business. So we have several items in the -- several report items.

Mr. Gerber?

(Pause.)

MR. GERBER: Just to make this quick, there are several report items at the back of the agenda for your -- at the back of your Board books for your reading pleasure, including our outreach activities, our monthly report on HOME amendments that have been granted.

One item that I do want to commend to your attention is the Legislative update, and Kevin will talk at some length that --

MS. ANDERSON: At 4:20 in the afternoon?

MR. GERBER: He will not talk at length.

Suffice to say it was a good legislative session for affordable housing, a lot of our partners in

this room on all sides of this issue, from those who represent tenants to those who represent the development community, the disabled and others, really worked in earnest to try to pass very effective legislation in the form of Senate Bill 1908, which is on its way to Governor Perry's -- hopefully on Governor Perry's desk and will soon be signed.

And there will be more detailed information provided to you about that legislation, but we're pleased to have worked with our partners in that regard.

Beyond that I will defer to any other -- will defer to the next Board meeting for any other items.

MS. ANDERSON: There is material in your report section, and I think Mr. Algier [phonetic] is gone, it looks like.

Which the Board had asked for information about how the developer had reached out to the applicant on Old Denton Road. And there's information here, Mr. Algier had been here today to answer questions if we had questions about that. So I urge the Board to take a look at that, because they were very careful to respond to our request there.

Is that it?

MR. GERBER: That's it, ma'am.

MS. ANDERSON: That -- there is no other formal

business to come before the Board at this meeting.

Do we have a motion?

MR. FLORES: Motion to adjourn.

MAYOR SALINAS: Second.

MS. ANDERSON: We stand adjourned. Thank you
all very much.

(Whereupon, at 4:21 p.m. the meeting was
adjourned.)

C E R T I F I C A T E

IN RE: Board Meeting

LOCATION: Austin, Texas

DATE: June 14, 2007

I do hereby certify that the foregoing pages, numbers 1 through 277, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Leslie Berridge before the Texas Department of Housing and Community Affairs.

(Transcriber) 6/21/2007
(Date)

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