

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

VIA TELEPHONE AND WEB LINK

May 21, 2020  
9:10 a.m.

MEMBERS:

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

BOBBY WILKINSON, Executive Director

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Chapter 7, Subchapter A, General Policies and Procedures, and Subchapter B, Homeless Housing and Services Program; 10 TAC §7.31, §7.34, §7.36, §§7.41-44, Emergency Solutions Grants; and 10 TAC §7.62 and §7.65, Ending Homelessness Fund, and directing their submission to the *Texas Register* for adoption

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P R O C E E D I N G S

1  
2 MS. BINGHAM: Good morning. Welcome to the May  
3 21st meeting of the Governing Board of the Texas Department  
4 of Housing and Community Affairs. We'll call this meeting  
5 to order, and I see our Board members, but let me do a roll  
6 call just for everybody else that's on the phone.

7 Mr. Braden?

8 MR. BRADEN: Here.

9 MS. BINGHAM: Hello. Good morning.

10 Ms. Thomason?

11 MS. THOMASON: Here.

12 MS. BINGHAM: And Mr. Vasquez.

13 MR. VASQUEZ: Present.

14 MS. BINGHAM: Good morning. We have quorum to  
15 do business today.

16 Bobby, would you lead us in the pledge?

17 MR. WILKINSON: Yes, ma'am. Members, please  
18 remain seated.

19 (The Pledge of Allegiance and the Texas  
20 Allegiance were recited.)

21 MS. BINGHAM: Thank you.

22 So June is Homeownership Month, and I think we  
23 have a resolution to read.

24 MS. CANTU: Yes. We're finding Michael Lyttle.  
25 He will be reading that.

1 MR. LYTTLE: Can you hear me now?

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

3 MR. LYTTLE: Okay. Awesome.

4 Well, good morning, everyone. Good morning,  
5 Madam Chair, Mr. Wilkinson, Board members. Michael Lyttle,  
6 TDHCA staff, reading a resolution.

7 "Whereas, June 2020 is Homeownership Month in  
8 Texas;

9 "Whereas, the goal of the Texas Department of  
10 Housing and Community Affairs (Department) is that all  
11 Texans have access to safe and decent affordable housing;

12 "Whereas, it is the policy of the Department to  
13 support equal housing opportunities in the administration  
14 of its homebuyer and homeownership programs and services;

15 "Whereas, since 1981, the Department has served  
16 as the State's housing finance agency, providing a choice  
17 of mortgage products and services to meet the needs of low,  
18 very low, and moderate-income homebuyers throughout the  
19 State;

20 "Whereas, the Department offers a free online  
21 homebuyer education tool, Texas Homebuyer U, and  
22 administers funds to support the Texas Statewide Homebuyer  
23 Education program to inform and prepare buyers for  
24 successful homeownership;

25 "Whereas, the Department applauds all those who



1 work to achieve and maintain affordable, responsible  
2 homeownership and recognizes those who provide services and  
3 resources to all homebuyers regardless of race, color,  
4 national origin, religion, sex, disability, or familial  
5 status; and

6 "Whereas, the Department encourages Texans to  
7 explore the numerous affordable home buyer resources  
8 available during Homeownership Month and throughout the  
9 year;

10 "Now, therefore, it is hereby resolved, that in  
11 the pursuit of the goal of affordable homeownership  
12 opportunities for all, the Governing Board of the Texas  
13 Department of Housing and Community Affairs, does hereby  
14 celebrate June 2020 as Homeownership Month in Texas and  
15 encourages all Texas individuals and organizations, public  
16 and private, to join and work together in this observance  
17 of Homeownership Month.

18 "Signed this Twenty-First Day of May 2020."

19 MS. BINGHAM: Thank you, Michael.

20 Do we need to take action to recognize the  
21 resolution?

22 MR. ECCLES: Generally that is what's done.

23 MS. BINGHAM: Okay. We'll entertain a motion to  
24 so resolve.

25 MR. BRADEN: So moved.

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

3 MS. THOMASON: Second.

4 MS. BINGHAM: Ms. Thomason seconds.

5 If there's no further discussion, all those in  
6 favor aye.

7 (A chorus of ayes.)

8 MS. BINGHAM: Opposed?

9 (No response.)

10 MS. BINGHAM: Great. Motion carries.

11 Thank you, Michael.

12 So we'll move on to the consent agenda. So if  
13 there are any items that anyone on the Board or anyone  
14 wishes to move, table or move to an action item, that would  
15 include any items for which there are public comments, let  
16 us know. Otherwise, we will entertain a motion for the  
17 consent agenda.

18 Are there any items that anyone wishes to have  
19 moved to the action section of the agenda?

20 MS. CANTU: Vice Chairwoman Bingham. This is  
21 Naomi Cantu. I do show that people would like to comment  
22 on agenda item 1(e), 1(f), as in Frank, 1(g), as in go, and  
23 1(k), as in Kelly.

24 MS. BINGHAM: Okay. So it sounds like we have  
25 public comment then on item 1(e), 1(f), 1(g) and 1(k).

1 MS. CANTU: Yes, that is people who registered  
2 and that is also what we're getting in the questions box.

3 MS. BINGHAM: Great. Okay. Then we'll  
4 entertain a motion to approve the consent agenda with the  
5 exception of items (e), (f), (g) and (k) that we'll move to  
6 the action agenda items.

7 Is there a motion to approve the consent agenda?

8 MS. THOMASON: Motion to approve.

9 MS. BINGHAM: Ms. Thomason makes a motion to  
10 approve the consent agenda, removing those four items to  
11 the action agenda. Is there a second?

12 MR. VASQUEZ: Second.

13 MS. BINGHAM: Mr. Vasquez seconds.

14 Any further discussion?

15 (No response.)

16 MS. BINGHAM: All those in favor aye.

17 (A chorus of ayes.)

18 MS. BINGHAM: Opposed same sign.

19 (No response.)

20 MS. BINGHAM: Great. Motion carries on those.

21 Let's go ahead and take those items in order. We  
22 would first be ready for item 1(e). That's presentation,  
23 discussion and possible action regarding the adoption of an  
24 agreed final order concerning Coppertree Village, Housing  
25 Tax Credit 70131.

1 MS. CANTU: Yes. We are looking for Mr. Pender  
2 who I believe is doing a presentation on that. We will go  
3 ahead to look for him to unmute him.

4 And Jeff, you are unmuted.

5 MR. PENDER: Yes, right. Do you want the  
6 presentation now or when?

7 MS. BINGHAM: So Jeff. I think yes, the  
8 presentation would be great, Jeff.

9 MR. PENDER: Okay. This is item 1(e), it's  
10 presentation, discussion and possible action regarding the  
11 adoption of an agreed final order concerning Coppertree  
12 Village. It's an agreed final order between the Department  
13 and the owners of Coppertree Village.

14 The property is managed by Preservation  
15 Management, Inc. It's a 322-unit development in Harris  
16 County. An informal conference with the Enforcement  
17 Committee was held on April 28, 2020.

18 The history of noncompliance of this property is  
19 fairly simple. There's two inspections that are discussed  
20 in the text of the agreed final order. The first one was  
21 in 2017, it was a UPCS inspection. All the violations have  
22 been resolved after an informal conference notice was sent,  
23 except for one that was described as extreme deterioration  
24 of the exterior of the community center.

25 At the conference the owner produced a contract

1 for the repairs to the Enforcement Committee. The  
2 committee wanted to make sure that this didn't fall off the  
3 radar, but they tabled the item with the idea give them an  
4 opportunity to get some of this work done and we'll see in  
5 the near future how far they're getting along. However, in  
6 subsequent talks with the owners, they indicated that they  
7 were running into serious delays, they had gas and plumbing  
8 leaks, there was a partial roof collapse and other items to  
9 delay the progress. So the committee just set an informal  
10 conference for December 18.

11 In the meantime, another UPCS inspection had  
12 been done on August 16, so that was included in the call of  
13 this December 18 meeting. At the conference the owner's  
14 representatives had brought out the fact that despite these  
15 problems the owner had been able to put on new roofs, do  
16 exterior painting, they put in new flooring and repairs to  
17 water and fire damaged units, they made corrections that  
18 were necessary to pass a HUD REAC inspection, and the  
19 property had faulty electrical transformers which they  
20 managed to get fixed. And these transformers, by the way,  
21 were a real source of complaints, obviously. I'm sure the  
22 tenants were not happy that they were having problems with  
23 their electricity. And finally, they were able to make  
24 some security improvements to the property.

25 As a result of that informal conference, an

1 agreed final order in the amount of \$10,000 was  
2 recommended, \$5,000 payable upon signing of the agreed  
3 final order and another \$5,000 was deferred if the  
4 corrections were received by April 17, 2019. The owner  
5 paid the initial \$5,000 and at that time the former  
6 management company was replaced with the one currently on  
7 the property, Preservation Management, Inc. This happened  
8 just before the corrective action due date. Consequently,  
9 Preservation was not able to timely complete the corrective  
10 action until October 4, 2019. As a consequence, the owner  
11 paid the remaining \$5,000. It was also represented to the  
12 committee that Preservation's regional operations are now  
13 headquartered out of this property.

14 Then June 20, 2019 is the second inspection that  
15 I'll discuss and it's the inspection that resulted in this  
16 agreed final order. Real quickly, all the violations have  
17 been resolved, and again, not timely. The committee did  
18 find that Preservation was much more responsive to  
19 compliance and to the committee than the prior management  
20 company. Accordingly, this committee is recommending a  
21 \$7,000 penalty.

22 MS. BINGHAM: Great. Thank you, Jeff.

23 MR. PENDER: Sure.

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

1 MR. VASQUEZ: I have a question. So the current  
2 status is that they're compliant -- they've cured all  
3 violations?

4 MR. PENDER: That's correct.

5 MS. BINGHAM: Any other questions from the Board  
6 members?

7 (No response.)

8 MS. BINGHAM: Before we hear comment, we'll  
9 entertain a motion on item 1(e)

10 MS. CANTU: We do have comments on item 1(e).

11 MS. BINGHAM: Naomi, we're going to call for a  
12 motion first and then we'll hear public comment prior to  
13 taking action.

14 MS. CANTU: Thank you. We will wait.

15 MR. BRADEN: I'll move to approve staff's  
16 recommendation.

17 MS. BINGHAM: I have a motion from Mr. Braden to  
18 approve staff recommendation. Is there a second?

19 MR. VASQUEZ: I'll second, and look forward to  
20 public comment.

21 MS. BINGHAM: Very good. I have a second from  
22 Mr. Vasquez.

23 We're ready for comment on item 1(e), Naomi.

24 MS. CANTU: Thank you. We have Elizabeth Roehm  
25 and she would like to speak.

1 Elizabeth, we're going to unmute you.

2 MS. ROEHM: Hi there. Thank you for the  
3 opportunity to speak today. My name is Elizabeth Roehm.  
4 I'm a staff attorney at Texas Housers, speaking on agenda  
5 item 1(e). While I'm for the item, I do want to talk about  
6 what is going on at the property because I think there's a  
7 lot outside of this that needs to be addressed in some way.

8 The Board today is likely to approve a \$7,000  
9 fine for these past violations, as staff described, so I  
10 won't go into that. I do want to bring up that the purpose  
11 of the LIHTC program is to create high quality affordable  
12 housing and the current state of disrepair at this  
13 property, which was not addressed, should be an  
14 embarrassment to the whole affordable housing community

15 The tenants are currently experiencing severe  
16 mold, walls wet with condensation, some water leaks,  
17 ceiling bulges, dishwashers infested with bugs. You'll be  
18 hearing from some tenants themselves in a moment. I know  
19 that staff mention3ed that the property did pass a REAC  
20 score recently, but even HUD has recognized that those  
21 scores do not really indicate the safety and habitability  
22 of a building, so these conditions are really untenable for  
23 people.

24 TDHCA is, of course, not responsible for the  
25 conditions at Coppertree Village but TDHCA does have the



1 power to influence these LIHTC property owners through  
2 various enforcement measures. And the tenants who are  
3 actually living through these conditions day in and day  
4 out, who personally experience the harm when the owner  
5 delays beyond TDHCA's own deadlines to remedy these  
6 violations, they want to experience relief and to  
7 experience their homes as healthy and safe places to be.

8 The owner of Coppertree Village should not be  
9 given the benefit of the doubt as the order today will be  
10 fining them only \$7,000 of the possible \$11,000 fine. I  
11 don't think that that would make a meaningful difference,  
12 but I do want to note that they aren't even being held to  
13 account to that small sum that they could. For example, in  
14 the Board materials today, even after TDHCA's June 2019  
15 inspection found extensive violations and gave the owner  
16 three months to resolve them, the following are some  
17 examples of things still not fixed after TDHCA's deadline:  
18 ceilings bulging, stoves with three or four burners not  
19 work, non-functioning dishwashers, damaged walls, corroded  
20 faucets, et cetera.

21 So imagine all these violations in uninspected  
22 apartments or that have arisen in the meantime that are not  
23 being resolved. We're sort of through this process  
24 trusting an owner to resolve just these things that were  
25 found in the inspected apartments and knowing that that

1 person is not even -- or that owner as an entity is not  
2 even resolving all those noted violations, imagine all the  
3 things that were popping up in the meantime or the things  
4 that were not noted and whether that owner could be trusted  
5 to address those as well.

6 So beyond today's agreed final order issuing a  
7 small fine, I really hope to see TDHCA Board and staff  
8 bring concerted discussion and effort to use whatever  
9 authority it has to hold owners property managers  
10 accountable for ongoing poor conditions, so meaningful  
11 enforcement could look like strengthening debarment rules  
12 for habitability issues, or finding ways to force rapid  
13 amelioration of tenants' complaints who don't have another  
14 remedy.

15 So just to close, people are suffering in these  
16 poor conditions. A small fine to the owner does not come  
17 close to remedying what these people experiencing, and a  
18 more robust system would be in place to ensure that all the  
19 tenants in LIHTC properties have safe and healthy living  
20 conditions.

21 Thank you so much.

22 MS. BINGHAM: Thank you, Elizabeth.

23 Do any of the Board members have any questions  
24 for Elizabeth?

25 (No response.)

1 MS. BINGHAM: Naomi, are there additional public  
2 comments on item 1(e)?

3 MS. CANTU: 1(e), I don't see anything in the  
4 questions box, so if you would like to talk about 1(e),  
5 please indicate if you will. We do have people pre-  
6 registered. Jamie Wazaki, we're looking for this person.  
7 We do not see that person has logged in. And we also have  
8 Mary McDonald, she registered to speak and we're seeing if  
9 they are there. Otherwise, please indicate that you would  
10 like to speak. So Elizabeth Roehm is letting us know who  
11 would like to speak. If you could actually let us know  
12 yourself if you would like to speak in the questions box,  
13 that will help us call on people who are aware that they're  
14 going to be called on. We have Gabrielle Bradford. We do  
15 not see Gabrielle Bradford logged in. Ericka Bowman.

16 So, Elizabeth, if they only called in, we are  
17 not going to be able to unmute them. They need to have had  
18 registered for the Board meeting online. We also have  
19 Ericka Bowman, Terry Nintu, Brittany Houston, and Laurissa  
20 Palmer. Ericka Bowman is available?

21 Okay. Ms. Bowman, we're going to go ahead and  
22 unmute you and you can speak on this topic.

23 MS. BOWMAN: Are you able to hear me?

24 MS. CANTU: We can hear you.

25 MS. BOWMAN: Okay. Thank you so much. I was

1 going back and forth with some of the tenants who are  
2 saying they're trying to get on because they're on but  
3 they're not showing for some reason.

4 Thank you. My name is Ericka Bowman. I am a  
5 community organizer for Texas Housers. I have been working  
6 with the tenants over at Coppertree apartment complex over  
7 a year and a half now.

8 I wanted to speak on the conditions that they're  
9 facing at this moment and have been facing for a while now.

10 It baffles me to hear that it's being told that these  
11 conditions have been fixed and repaired when I have seen  
12 firsthand and have video and pictures of the conditions  
13 that a lot of these families are living in at the current  
14 moment. It's really hard to even express. You actually  
15 would have to be able to see some of the conditions.

16 Some of these families with children at home are  
17 living with molded walls. A lot of them, most of them are  
18 on some type of air respirators helping them to breathe,  
19 most of them are affected in some kind of way, and they  
20 have asthma. The water conditions there are completely  
21 horrible. Tenants have to boil their water in order to  
22 even use it to cook there. There is a constant sewage  
23 spill that happens often. It's been reported to  
24 management. The city has also been notified multiple  
25 times. So I'm unaware of how they're able to wiggle

1 themselves out of so many situations that have been called  
2 to the attention of people in positions of power to be able  
3 to do something about it. It's really frustrating for me,  
4 but you can only imagine the frustration for these families  
5 that face these conditions.

6 On top of the mold and the infestation, the  
7 sewage buildup, the ceiling actually coming in in a lot of  
8 these apartment complexes, you see a lot of band-aiding  
9 that happens. A lot of tenants have called Southwest  
10 Housing. Southwest Housing immediately gets on the  
11 management to come in and do something about it. They come  
12 and they end up putting cardboard in some instances --  
13 which we have videos and pictures -- and tape over it and  
14 then paint over it and consider that to be remedied. They  
15 come into properties and when mold is present and has come  
16 through paint multiple times after it has been painted over  
17 so many times, they come and they just paint over it again.

18 I'm here today -- I don't have enough time to  
19 really go into complete detail, but I'm asking the Board to  
20 please take into consideration these voices that are  
21 speaking to you today and asking you for help. And me  
22 being there firsthand and seeing what management is not  
23 doing and is constantly saying that they're doing. Through  
24 multiple inspections through Southwest Housing, also  
25 through HUD, the conditions remain to be the same and

1 nothing is being done to remedy it and put these families  
2 in safe livable conditions.

3 Thank you.

4 MS. BINGHAM: Thank you, Ericka. Thank you for  
5 sharing that information with us.

6 Do any of the Board members have any questions  
7 for Ericka?

8 (No response.)

9 MS. BINGHAM: Naomi, is anybody else on the line  
10 or teed up to comment on this item?

11 MS. CANTU: I do not see anyone else who wishes  
12 to speak on this item in the questions box.

13 As a reminder, if you wish to speak on the item,  
14 please indicate so in the questions box so that we can make  
15 sure you are there. And please, also, do not volunteer  
16 other people to speak. We need to make sure that the  
17 people that wish to speak indicate so themselves.

18 MS. BINGHAM: Great. In the meantime, can Jeff  
19 Pender get back on the line?

20 MR. PENDER: Yes, I'm here.

21 MS. BINGHAM: Hey, Jeff, so just a question. So  
22 Elizabeth and Ericka did a great job speaking on behalf of  
23 it sounds like some other folks that want to speak on this  
24 item that may actually be residents. What would our  
25 options be in terms of -- I know we have a very active

1 monitoring department, and I'm assuming that since this is  
2 the second final agreed order that this development stays  
3 on our radar. Are there any other options that we have?  
4 I'm assuming that one option would be to recommend a higher  
5 amount in the agreed final order, all the way up to the  
6 \$11,000. Anything else that the Board could instruct the  
7 Department to do to continue to watch this development  
8 closely?

9 MR. PENDER: Well, yeah, actually there is, and  
10 I believe staff is already implementing this. It's unusual  
11 for Compliance to do this but they have now upped the UPCS  
12 inspection schedule from, I believe it's once every three  
13 years -- I'm not really certain about that -- but now I  
14 know they're doing them twice a year for this particular  
15 property.

16 And I just want to mention I assure you that  
17 staff shares the same frustration that was expressed by  
18 Elizabeth and Ericka. It's difficult to go out to these  
19 properties and realizing that all they can do is inspect a  
20 small sample of the problems out there and that's all we  
21 can do with this. The UPCS inspection standards are set at  
22 a certain level to detect certain problems, and  
23 unfortunately, that's all we can do. Everybody needs to  
24 understand that inspecting these isn't going to guarantee a  
25 perfect physical condition out there. It more or less

1 tracks the physical condition of the sample and hopefully,  
2 you know, that the property will continue to make repairs  
3 necessary to pass UPCS inspections, but again, it's just a  
4 sampling. I didn't want it to get lost there.

5 MS. BINGHAM: Does anybody have any questions  
6 for Jeff?

7 MR. VASQUEZ: I have a question. So what kind of  
8 coordination is going on with city inspectors and just  
9 other groups, the fire marshal, and what-have-you? We're  
10 not the only one that carries a stick in the enforcement  
11 here. Has staff reached out to some of these other  
12 organizations to make sure they are staying on top of this?

13 MR. PENDER: I don't have an answer to that  
14 question. I don't know if Compliance has. I know the  
15 Enforcement Committee has not done that. I don't know if  
16 the two speakers, previous speakers, their organizations  
17 have reached out. Apparently they have and not gotten much  
18 of a response from them. But I do know that the  
19 Enforcement Committee, it's not part of their charge;  
20 they're pretty much not permitted to do that. So the  
21 answer to your question is no, not to my knowledge.

22 MR. VASQUEZ: Well, it seems like something  
23 should be done about that, and it sounds like they did make  
24 some progress, but it also sounds like they have a long way  
25 to go.



1 MR. PENDER: Yeah, and what the commenters said  
2 is true, but you have to keep in mind, like I said earlier,  
3 we do a sample of these properties when we go out there and  
4 there may be other units on the property that have much  
5 worse conditions that we're identifying, there may be units  
6 out there that are perfectly fine. Again, we're just  
7 looking at a sample.

8 MR. WILKINSON: Patricia, can you get on and  
9 speak about the compliance issues? Patricia Murphy?

10 MS. BINGHAM: Sorry, Bobby, what did you say?

11 MR. WILKINSON: I'm asking for Patricia Murphy  
12 to speak to compliance.

13 MS. CANTU: So Patricia is online. Let me see  
14 if we can make sure. There she is.

15 MS. MURPHY: Good morning. Can you hear me  
16 okay?

17 MR. WILKINSON: Yes.

18 MS. MURPHY: Hi. Good morning. Yes, I'm happy  
19 to discuss this property and that this is a very, very  
20 difficult property in our portfolio. As Jeff mentioned, we  
21 have accelerated the inspection schedule from once every  
22 three years to once every six months.

23 I have spoken with the Texas Housers about this  
24 property and the Board did grant us a healthy contract for  
25 outsourced inspections so we have the ability to either do

1 100 percent of these units or if there are particular items  
2 to be inspected in every unit -- like for example, if we  
3 should look at the air conditioning in every unit, we could  
4 do that. Also this is a problem right now because of the  
5 Corona virus and we have halted inspections at this time  
6 because of safety concerns for both the staff and the  
7 residents.

8 While this particular property is certainly a  
9 successful one for the Housing Tax Credit program, I would  
10 like to note that this was funded in 1990 and at this time  
11 the Department should be proud of the work that we've done  
12 to make sure that there is an adequate rehab being done on  
13 the property. We didn't used to have minimum thresholds  
14 for the dollar per unit that was being done and so while we  
15 all agree this is not a great situation, it is extremely  
16 unlikely that anything that we are funding now will be in  
17 this condition in year 28 of its compliance period because  
18 we have more thorough rehab that's being done, because we  
19 have construction inspections and we have much better  
20 oversight than we did at the beginning of this program.

21  
22 In response to Mr. Vasquez's question about  
23 local inspection agencies, the reality is that many cities  
24 do not inspect TDHCA-monitored properties because they also  
25 have limited resources and they know that we go out and

1 inspect. So that's been my experience with a lot of local  
2 agencies that they actually defer inspection of that to us.

3 There is another player in this property and  
4 that is the U.S. Department of Housing and Urban  
5 Development. There is a Section 8 contract on this  
6 property which is why it is being inspected again in a REAC  
7 inspection as well, and HUD does have a much bigger hammer  
8 than we do for this particular development. This  
9 development's affordability period ends December 31, 2022,  
10 and we will continue to monitor it as closely as we can  
11 until that time.

12 Any other questions for me?

13 MR. VASQUEZ: Patricia, I understand that  
14 smaller jurisdictions don't necessarily have the resources  
15 to go inspect properties, so they rely on us, but this is  
16 City of Houston we're talking about. Right?

17 MS. MURPHY: Correct.

18 MR. VASQUEZ: They have departments, they have  
19 the resources. Have we contacted the city council member  
20 in charge of this area? I'm sure that person would help  
21 bring resources to bear on getting this straightened out.

22 MS. MURPHY: We have not.

23 MR. VASQUEZ: This thing needs more than just  
24 our inspection once every six months and a little slap on  
25 the hand here with a fine.

1 MS. MURPHY: We kind of stay in our arena and do  
2 our thing, and if you would like for us to reach out to the  
3 City of Houston, we're happy to do so, Mr. Vasquez.

4 MR. VASQUEZ: Please do.

5 And then to Bobby and just the team, you all  
6 should feel comfortable that you don't have to wait for the  
7 Board to give you directives to go a little bit above and  
8 beyond in pulling in other agencies around the state and  
9 local. It shouldn't have gotten to the Board before we  
10 start hearing all this and have to really give you a little  
11 urge to move forward.

12 MS. BINGHAM: Patricia, did I hear you say that  
13 the Department has been -- I know you didn't say generous,  
14 but that the Department basically gave you a budget that  
15 allows you to step up monitoring on this development?

16 MS. MURPHY: Yes. We have an outsourced  
17 contract to perform UPCS inspections so at this time we are  
18 able to form accelerated inspections. You might recall  
19 that the IRS and Treasury Department are planning on  
20 expanding the number of units and files that must be  
21 inspected and monitored. A lot of state agencies have kind  
22 of pushed back on that and we're hoping that they will  
23 rethink the implementation of those monitoring  
24 requirements. But at this time we do have available  
25 resources to do this type of monitoring, to go every six

1 months instead of every three years. If the IRS and the  
2 Treasury Department implement these broader monitoring  
3 requirements, obviously we'll have to meet all of our  
4 federal requirements before we will be able to go above and  
5 beyond and do these type of inspections at Coppertree  
6 Village. At this point we have plenty of resources to do  
7 that kind of work which is why we are.

8 MS. BINGHAM: Great. I guess my thought was,  
9 wow, so as an agency that has to be stewards of our  
10 resources, now we're having to devote additional resources  
11 to a property that's not -- at least by the comments that  
12 we've heard today, it isn't really maintaining its  
13 commitment to its residents in terms of living conditions.

14 So that's making me wonder a little bit about why we  
15 haven't gone ahead and gone the full deal on the final  
16 agreed order, the \$11,000, or whatever the max was. Not  
17 that it needs to be a tit for tat, but my guess is we're  
18 expending considerable resources having to bird dog this  
19 property, so just a thought there.

20 So what I heard was that Mr. Vasquez is strongly  
21 encouraging the staff to take an active approach and maybe  
22 in collaboration or in support of Texas Housers, or whoever  
23 is advocating for the residents in addition to us, to make  
24 sure that the City of Houston is aware also that there are  
25 compliance issues.

1           Are there any other suggestions from the board  
2 members? We have a motion and a second on the table to  
3 approve staff's recommendation for the final agreed order.

4           (No response.)

5           MS. BINGHAM: Hearing none, so, Paul, we'll just  
6 tack on Leo's recommendation to your motion. Is that  
7 acceptable to you?

8           MR. BRADEN: Yes, but I don't really want it to  
9 be part of -- I don't know if we need it for the motion.  
10 Right? I think it's sort of a beneficial kind of  
11 cooperation and I would think that Texas Housers is already  
12 probably doing that or would be the easiest entity to do  
13 that, to reach out, as opposed to us doing it. I don't  
14 mind us coordinating with them or talking to them as well,  
15 but I'm not sure I wouldn't even really make it part of my  
16 motion.

17           MS. BINGHAM: Understood. Very good.

18           Any further discussion?

19           (No response.)

20           MS. CANTU: Madam Chairwoman?

21           MS. BINGHAM: Yes, Naomi.

22           MS. CANTU: We do have people wanting to speak  
23 on this and I am seeing chatter in the questions box on  
24 another agenda item because we have the city council  
25 members and mayor who want to speak on another agenda item.

1 I believe Beau has a suggestion about this.

2 Beau, do you want to step in here?

3 MR. ECCLES: Absolutely. We have three elected  
4 officials who would like to speak, or at least two, on a  
5 7(e) item. They were told that they could make their  
6 presentation. They have a city council meeting that  
7 actually starts in about ten minutes, so if we could  
8 suspend this item and maybe allow for the hearing of that  
9 testimony on the appeal of 20040 and 20041, Espero Austin,  
10 I think that would at least allow the elected officials to  
11 meet their next meeting, and then perhaps we could come  
12 back to 1(e) with that motion pending.

13 MS. BINGHAM: Thank you, Beau.

14 So we will suspend final vote on item 1(e), and  
15 are honored to have the mayor and the council members on  
16 the call and we'll hear public comment from them as elected  
17 officials. We'll just take the public comment now for item  
18 7(e), the mayor and the city council members that are in  
19 the queue to speak.

20 MS. CANTU: Thank you Vice Chairwoman.

21 This is Naomi Cantu, moderator. We're going to  
22 go to Mayor Adler first, and Mayor Adler, if you could,  
23 please let us know, of course, what city and what item on  
24 7(e) you're speaking about. You are unmuted.

25 MAYOR ADLER: Okay. Great. Thank you.

1           Madam Chair and the Board, thank you so much for  
2 the consideration to be called up before we join our other  
3 colleagues on the dais here in the City of Austin. I am  
4 here to speak today to try to convey strong support of the  
5 appeal of Espero Austin at Rutland and Espero Austin at W.  
6 24th Street. They're in item number 5. These are being  
7 proposed by Caritas of Austin.

8           Homelessness is the highest priority, before we  
9 entered into a virus world, in the City of Austin, and  
10 addressing it is our top priority. The most effective way,  
11 as you know, to address it is permanent supportive housing.

12         The data proves this in our city. Our point in time count  
13 that just came back showed an 11 percent increase in our  
14 raw numbers year to year, in part, I think, because we  
15 increased by 50 percent the number of volunteers that were  
16 participating in the point in time count. But importantly,  
17 as a percentage of our population the number remained  
18 constant which means that we are needing now to provide  
19 actual housing to help people move off the streets.

20           Between 2017 and 2019, 2,171 people were  
21 connected to housing in our city through partners like  
22 Caritas. During that period of time, more people  
23 experiencing homelessness were moved into housing than in  
24 all previous years, reflecting the priority we've given it  
25 in the city, but we need more capacity. Austin needs more



1 organizations that are developing supportive housing, so I  
2 really want to appreciate the work that this commission has  
3 done to reflect that priority in how you do your scoring  
4 processing and selection.

5 These two properties are a strategic and  
6 intentional moment to increase our supportive housing  
7 capacity in our city. We're stalled as a community until  
8 we can begin to develop high quality permanent supportive  
9 housing for people that are facing long-term homelessness.

10 These two projects represent the way forward for us.

11 I want you to know that Caritas has a really,  
12 really strong reputation in our community. It was  
13 constantly building well-being by providing layers of  
14 support to allow people experiencing homelessness to reach  
15 their full potential to achieve full integration into our  
16 community. I would let you know that they have a 98  
17 percent success rate with the people that they've been able  
18 to take off the street and put into housing with the  
19 services that they provide.

20 Their appeal is based on an interpretation of  
21 language regarding the commitment for an operating subsidy,  
22 and I know that you changed the language in order to better  
23 enable supportive housing to take place. Caritas is a  
24 leading nonprofit homeless housing and service provider,  
25 it's a recipient of multiple city and federally funded

1 contracts providing subsidies now to over 500 units of  
2 supportive housing annually in our city. I assure you that  
3 Caritas is well supported by both the government and  
4 philanthropic sources that provide necessary subsidies for  
5 both of these developments.

6 I understand that you've changed the rules to  
7 better provide for supportive housing, but in doing so you  
8 wanted to make sure that there would be certain controls to  
9 ensure and to guarantee that approved supportive housing  
10 would be, in fact, operating and sustainable over a long  
11 period of time without financial issues or concerns. There  
12 is no better guarantor in our state of that sustainability  
13 than Caritas's board, widespread respect and support that  
14 this organization has throughout our city. They've entered  
15 into, Caritas, a legally binding contract to provide the  
16 ongoing operating subsidy. Please know Caritas is a solid  
17 organization with longstanding funding from multiple  
18 sources, including significant from the City of Austin.

19 I ask you to please enable our city to further  
20 this evidence-based solution. We're proud to support this  
21 strong and experienced nonprofit. Please help us seek to  
22 end homelessness in our city. Please reinstate these two  
23 projects and help them deliver what our city needs most  
24 right now: homes for people that have none.

25 And again, thank you for calling us up out of

1 order, greatly appreciate it. Thank you for the work that  
2 you do in this state, it is invaluable.

3 MS. BINGHAM: Thanks, Mayor Adler. Thank you.

4 Does the Board have any questions for Mr. Mayor?

5 (No response.)

6 MS. BINGHAM: Thank you, Mayor Adler.

7 MAYOR ADLER: Thank you.

8 MS. CANTU: Great. Next we have up Council  
9 Member Casar. We're going to go ahead and unmute.

10 MR. CASAR: Hi, Board members, Chair. Thank you  
11 so much for having me and my colleagues, and thanks so much  
12 for continuing this work in this really hard environment,  
13 but it's really important, and you know especially that  
14 folks living on the streets right now are at really, really  
15 high risk, and that's why we're moving really fast to try  
16 to house as many people experiencing homelessness as we  
17 can.

18 The Espero on Rutland project is in my district.  
19 Rutland is really near a lot of our most frequent transit  
20 access. We actually are near places where there's  
21 recreation and a major grocery store, and so it is an  
22 important place for us to be able to house folks, and  
23 there, frankly, are people experiencing homelessness that  
24 live on the streets nearby already and it would be so much  
25 better to bring them into safe housing. And so I really

1 echo the mayor's comments about doing whatever it is you  
2 can to reinstate these projects. These projects scored  
3 very high, and I'm also really supportive of that project  
4 on W. 24th as well.

5 I also support, frankly, the language that has  
6 been put in to make sure that permanent supportive housing  
7 is actually really supportive, it does have the dollar  
8 behind it so that we invest in capital that we know that  
9 there is actually the social services there, and so I think  
10 that that language is important. But I think in this case  
11 it has sort of unintentionally resulted in one of the most  
12 solid nonprofits, who I'm least worried about continuing  
13 their operations at scale, potentially getting cut out.  
14 Because Caritas is, frankly, one of the biggest  
15 institutional and most supported from both the government  
16 side and the philanthropic side nonprofits, so I really  
17 have no concern about them in this process.

18 So I just wanted to raise that because I think  
19 part of the point of these hearings is on a case-by-case  
20 basis for y'all to look at cases where the rules need to  
21 have good structure but where potentially the scoring  
22 systems and process don't exactly result in the outcomes  
23 that we envision.

24 So thank y'all for your service and for hearing  
25 this appeal. I hope that you're able to reinstate these

1 two really important projects which will help hundreds,  
2 between the two projects, families come off the street in  
3 our city.

4 Thank you. Thank you, Councilman.

5 Any questions for the Councilman?

6 (No response.)

7 MS. BINGHAM: Thank you very much.

8 MR. CASAR: Thank you.

9 MS. CANTU: Thank you. This is Naomi Cantu,  
10 moderator. Next we have Councilwoman Tovo, and that is the  
11 last one on this agenda item for now.

12 Councilwoman Tovo, you are unmuted.

13 MS. TOVO: Thank you very much. Thank you,  
14 Chair. Thank you, members of the Board, really, first of  
15 all, for your service to the people of Texas. The work  
16 that you do is so critical and it's never been more  
17 critical than right now, so thank you so very much for your  
18 ongoing commitment to providing safe and stable housing for  
19 Texans no matter where they live throughout the state. And  
20 again, I echo my colleagues' thanks for the courtesy of  
21 allowing us to speak.

22 I represent City Council District 9. Again, my  
23 name is Kathie Tovo. That is the central Austin, downtown,  
24 and the areas north and south of the river, but primarily  
25 central, and as the District 9 representative on the city

1 council, I have the honor of being, hopefully, the future  
2 home of Espero Austin at W. 24th Street development. And I  
3 wanted to express my strong support both for that  
4 development, as well as for the development at Rutland, and  
5 I request, along with my colleagues, that you please  
6 consider -- respectfully request that you consider  
7 reinstating Caritas of Austin's application for both of  
8 these projects.

9 The portion of my district where Espero Austin  
10 at W. 24th is sited is very dense, it is transit rich, it  
11 is amenity rich, it is a high opportunity neighborhood, and  
12 I strongly believe that it would support the residents of  
13 this housing property well. And of course, while it's my  
14 responsibility to speak to the needs of my district, again,  
15 I also want to express my support for Espero Austin at  
16 Rutland.

17 Supportive housing, as you've heard from the  
18 mayor and my colleague, is desperately needed in Austin to  
19 address homelessness, it's a top city priority. We are,  
20 along with our partner organizations, such as Caritas,  
21 fiercely committed to ending homelessness in the City of  
22 Austin, and we really need both of these developments to  
23 help us advance along those goals. Austin needs more  
24 organizational capacity for developing supportive housing  
25 in particular, to providing those not just safe and stable

1 places for people to stay but also the support that enables  
2 them to be successful in that housing and to thrive. These  
3 projects both represent a significant leap forward to  
4 increase our capacity to do that in Austin.

5 Ninety-eight percent of Caritas's residents are  
6 able to remain stable in their housing in part because of  
7 the wonderful care that they do provide to their residents.

8 Caritas is a trusted partner in the City of Austin and  
9 it's been really my honor over the last years of my service  
10 on council to work with them and to get to know better the  
11 really stable resources they provide to so many of my  
12 neighbors. Caritas of Austin is well equipped to deliver  
13 the proposed 222 units to Austin neighborhoods who  
14 desperately need this critical and supportive housing.

15 And then really lastly, I just want to emphasize  
16 that Caritas, as you've heard, has not just the support of  
17 the elected leaders who have testified before you here but  
18 it enjoys significant and strong and deep philanthropic  
19 support from many in our community and will have support as  
20 it moves forward with these two projects.

21 I respectfully ask for your reinstatement of  
22 these applicants, thank you in advance for your  
23 consideration, and if I can be of any assistance or provide  
24 any additional information or answer any questions, I am  
25 pleased to do so either today or in the future. Thank you

1 very much, again, for your work and for your time this  
2 morning.

3 MS. BINGHAM: Thank you, Council Member Tovo.

4 Do the Board members have any questions for  
5 Council Member Tovo?

6 (No response.)

7 MS. BINGHAM: Thank you very much.

8 MS. TOVO: Thank you all.

9 MS. BINGHAM: Naomi, we're going to return to  
10 item 1(e). We were just in the process of taking action on  
11 a motion and a second. I understand now that there are some  
12 folks in the queue that want to speak to item 1(e).

13 MS. CANTU: Yes. Elizabeth Roehm would like to  
14 speak again. She apparently has people who would like to  
15 speak and they're having some trouble connecting and she  
16 would like to speak again regarding that issue.

17 MS. BINGHAM: Okay.

18 MS. CANTU: So we're going to go ahead and find  
19 Elizabeth. And we did unmute you. You can go ahead and  
20 unmute yourself and speak.

21 And anyone else wanting to speak on 1(e) please  
22 let us know in the questions box.

23 MS. ROEHM: Thank you so much, Naomi, and I  
24 won't take much additional time, but I just wanted to state  
25 that I do believe, hopefully, that some of these tenants --



1 we have three tenants that were trying to get on the line  
2 to speak today -- hopefully that they are able to get  
3 through at this point. And I just wanted to point out,  
4 too, that they are stepping out of work, sitting in their  
5 cars trying to get through, so if it doesn't work, I  
6 apologize but I just want you to know that people are  
7 really trying to do that.

8 I just want to address a couple of things that  
9 have come up. One was the idea that Housers could  
10 communicate with City of Houston. I think that's a  
11 wonderful idea. I also want to point out with Housers  
12 communicating with City of Houston is completely different  
13 from TDHCA staff reaching out to City of Houston, or any  
14 kind of action coming from TDHCA, I believe, potentially  
15 could be taken a lot more seriously. So I just want to  
16 point that out.

17 Really appreciate y'all taking us very  
18 seriously. I want to point out, too, that the last couple  
19 of years of the LURA are still in the affordability period,  
20 are still essential. Imagine living in these conditions  
21 for two years with your children. I don't think the fact  
22 that it's towards the end of the LURA is any reason to let  
23 any of this slide or take it less seriously.

24 And I think considering the UPCS of all units if  
25 there's something for that, even up to charging the

1 property owner for that is reasonable. I also believe that  
2 Texas Housers would be happy to work with tenants to come  
3 up with a list of any particular items that they think  
4 should, you know, one or two things that should be checked  
5 in every unit that are really essential for health. We'd  
6 be willing to assist on that.

7 So again, thank you so much.

8 MS. BINGHAM: Thank you, Elizabeth.

9 Any questions for Elizabeth?

10 (No response.)

11 MS. BINGHAM: Naomi?

12 MS. CANTU: I'm not seeing any other new  
13 comments in the questions box saying that they would like  
14 to speak. We had a few people saying that they had wanted  
15 to speak earlier but they are not on. I do not see who  
16 keeps getting volunteered. As a reminder, if you would  
17 like to speak, you need to indicate yourself. Please do  
18 not volunteer other people as they may not wish to speak.  
19 Ericka Bowman has asked to speak again as well. Would you  
20 like Ericka Bowman again?

21 MS. BINGHAM: Yes.

22 MS. CANTU: We'll go ahead and unmute Ericka.  
23 And Ericka, you had indicated that Gabrielle is on and we  
24 do not see her on our side, but Ericka, you're unmuted.

25 MS. BOWMAN: Okay. Thank you for allowing me to

1 speak again. I just wanted to speak on behalf of some of  
2 the tenants who weren't able to get on today.

3 Gabrielle, who is a mother of one and now a  
4 second one on the way, wanted to express and talk about her  
5 story as far as her health goes. I worked with her in the  
6 very beginning, and she was keeping her child away from  
7 home as much as possible because every time he came home,  
8 his asthma would flare up.

9 But in regards to recently, she lost her baby  
10 and she said in the beginnings of the pregnancy she was  
11 three months along, but every time she came home, because  
12 of the conditions of the home and the mold and the air  
13 quality that she would constantly get sick and end up  
14 having to leave.

15 So she found herself going to sleep on friends'  
16 couches multiple times, which her health began to get  
17 better whenever she would leave the property. She said  
18 that by doing this so many times she understands and she  
19 knows without -- you know, without a doubt that the  
20 conditions is the reason that she was sick and she really  
21 believes that was the reason that she lost her last child.

22 This last pregnancy that she's on now, she's on  
23 her eighth month, she has been staying away from home,  
24 unfortunately, having to sleep on floors and on couches of  
25 friends' households because she cannot stay in her own

1 apartment because of the conditions of her home.

2 Another tenant that was on the line has said  
3 multiple times that she has asked management to come in and  
4 fix her dishwasher -- which that has been one of the main  
5 problems too, there's something going on with the plumbing  
6 over at Coppertree. Residents are seeing maggots  
7 constantly in their dishwashers and a foul smell that's  
8 constantly coming up their sinks. She wanted to point that  
9 out as well.

10 I just wanted to just kind of -- I know during  
11 this time we're all going through some very hard times.  
12 You can only imagine during COVID being stuck in your home.

13 Some of these families have lost their jobs and now  
14 they're stuck in these homes more time than usual with  
15 their children and are forced to breathe this air and live  
16 in these conditions on a daily basis and their health is  
17 deteriorating.

18 And it's bad, guys. I mean, I wish I could  
19 share the videos, the pictures, the images. It's  
20 unbelievable how this inspection process is not working for  
21 these tenants. There's been too many opportunities for  
22 management to be able to explain and wiggle their way out  
23 of being held responsible for providing a safe environment  
24 for these families, and we need and they depend on people  
25 in positions such as TDHCA and other positions to be able

1 to say, okay, enough is enough.

2 How many times is this landlord going to say we  
3 fixed the issue, and how many times are we going to allow  
4 this landlord to continue to say they're fixing it, and the  
5 proof is in the pudding, the proof is there, the proof is  
6 in the videos, the proof is in the audio, the proof is in  
7 the stories of the tenants.

8 And I know I'm over my time but I'm just asking  
9 that please do whatever you possibly can to get the true  
10 stories of what's happening behind these walls at  
11 Coppertree apartment complex.

12 MS. BINGHAM: Thank you. Thank you, Ericka.

13 Any questions from the Board members?

14 (No response.)

15 MS. BINGHAM: Thank you.

16 Naomi, anybody else?

17 MS. CANTU: We are looking to see if anyone else  
18 is. Please give us one minute. We have Gabrielle Bradford  
19 trying to log on. It looks like she's having connectivity  
20 issues.

21 We will try to unmute you, Gabrielle. Is she  
22 unmuted? Okay, Gabrielle, let's see if we can get you on.  
23 Ericka says she's muted, yes, because we're working on  
24 Gabrielle Bradford. On our end you are unmuted and we  
25 don't see any chatter from you in the questions box.

1 Please let us know if you would still like to speak via the  
2 questions box and we will work with you on that item. I do  
3 not see anyone else signed up to speak on this agenda item  
4 currently online.

5 I do see Gabrielle is saying that she would like  
6 to speak. Gabrielle, you are unmuted. If you would like  
7 to type a comment in the questions box.

8 Vice Chairwoman Bingham, please give us one  
9 minute here.

10 (Pause.)

11 MS. CANTU: Vice Chairwoman Bingham,  
12 unfortunately we are not able to get Gabrielle on the line,  
13 and she is not typing anything other than technical support  
14 questions into the questions box.

15 MS. BINGHAM: Okay. Naomi, thank you so much,  
16 and I feel bad that Gabrielle and the others have tried so  
17 hard to get on and haven't been able to connect with us,  
18 but the Board does very much appreciate the comments that  
19 Elizabeth and Ericka shared on their behalf.

20 Board members, we have a motion and a second to  
21 accept staff's recommendation regarding the agreed final  
22 order for Coppertree Village. If there's no further  
23 discussion, I'll call for a vote.

24 MS. CANTU: I do want to say, Madam Vice Chair,  
25 I do apologize -- this is Naomi Cantu, moderator -- I did

1 get a very long text from Gabrielle Bradford to let us know  
2 what to do with it. So I do apologize for the delay; we're  
3 having some technical issues on our end. So I believe Beau  
4 is reviewing it to see what we should do with this comment,  
5 and we are doing some reading on our end, so we apologize  
6 for the delay.

7 MS. BINGHAM: No worries. We can wait.

8 MS. CANTU: Beau, you are unmuted if you want to  
9 let us know if you are looking at this. Beau.

10 MR. ECCLES: Yes, I'm here. It is a long-  
11 written piece of testimony which is just -- it's not part  
12 of our public comment regimen to just send up a set of  
13 testimony or to type something in. You're either going to  
14 speak or you register for or against in writing.

15 I will say that the substance of it is virtually  
16 what Ericka just testified essentially on her behalf, so  
17 the facts are essentially before the Board.

18 MS. BINGHAM: Great. Thank you, Beau.

19 And thank you, Gabrielle, if you're on the line.  
20 We're so sorry that we cannot connect with you. And  
21 Ericka, I think, sounds like did a great job representing  
22 your primary concerns and testimony.

23 So motion by Mr. Braden, second by Mr. Vasquez  
24 to approve staff's recommendation on the agreed final order  
25 regarding Coppertree Village. All those in favor aye.

1 (A chorus of ayes.)

2 MS. BINGHAM: Opposed same sign.

3 (No response.)

4 MS. BINGHAM: Motion carries on item 1(e).

5 Thank you all for your patience.

6 So I have item 1(f) also has some folks, I  
7 think, registered for comments. This is presentation,  
8 discussion and possible action regarding issues of issuance  
9 of determination notices for some 4 percent housing tax  
10 credit applications. So Teresa would be the one that would  
11 present this item. Is Teresa Morales available?

12 MS. MORALES: Teresa is here. Can you hear me  
13 okay?

14 MS. BINGHAM: Hey, Teresa. Do we know which  
15 applications we have public comment, or is there some way  
16 for us to find that out from Naomi?

17 MS. MORALES: I believe Naomi may know the  
18 answer to that.

19 MS. CANTU: Yes, I do. We're on 1(f) and we do  
20 have comment on 20413, Residences at Merritt Hill.

21 MS. BINGHAM: Excellent. Thank you very much.  
22 Teresa, do you want to present that one?

23 MS. MORALES: Sure. Teresa Morales, director of  
24 Multifamily Bonds.

25 Item 1(f) involves the issuance of 4 percent



1 housing tax credits for six different applications that  
2 have bonds issued by a local issuer. In general, all of  
3 these properties are located across the state and the 4  
4 percent credit amount that's being recommended is listed in  
5 your materials for each of those items.

6 As it relates to 20413, Residences at Merritt  
7 Hill, this is a new construction development proposed in  
8 Rowlett, and all of the 260 units in the development will  
9 be rent and income restricted at 60 percent of the area  
10 median income. The development will serve the general  
11 population and the Rowlett Housing Finance Corporation is  
12 serving as the bond issuer. TDHCA is recommending that a  
13 determination notice in the amount of \$1,888,671 be  
14 approved.

15 MS. BINGHAM: Okay. Naomi, before you tee  
16 anybody up, let me think this through. So you don't have  
17 comments on any of the others?

18 MS. CANTU: Is anyone commenting on any of the  
19 others? No. I only see 1(f) so far on Residences at  
20 Merritt Hill.

21 Remember, if you do have comments please enter  
22 that in the questions box and we will put you in the queue.

23 MS. BINGHAM: Great. I have a question for  
24 Beau.

25 MR. ECCLES: Yes, ma'am.

1 MS. BINGHAM: Beau, so there are six properties  
2 under this agenda item. Would you recommend we entertain a  
3 motion on the remaining five and then go back to  
4 Residences, or should we hear comments and then try to take  
5 care of all of them in one action.

6 MR. ECCLES: I think probably since it's under  
7 one item, I think probably trying to separate the item  
8 would make the record a little bit more unclear.

9 MS. BINGHAM: Okay, very good. Then we'll hear  
10 comment on the application 20413, Residences at Merritt  
11 Hill. Naomi.

12 MS. CANTU: I'm sorry. That was Gary Lacey is  
13 trying to speak on 1(f). Do we have him queued up? We're  
14 looking for him. He says, No comment needed.

15 MS. BINGHAM: Oh, awesome. Okay. Great. Thank  
16 you very much. He might have just made himself available  
17 just in case we had questions.

18 So we'll entertain a motion on item 1(f),  
19 presentation, discussion and possible action on  
20 determination notices for the 4 percent Housing Tax Credit  
21 applications, as presented in the agenda. We'll entertain  
22 a motion.

23 MR. BRADEN: Move to approve.

24 MS. BINGHAM: Mr. Braden moves to approve.

25 MS. THOMASON: Second.

1 MS. BINGHAM: Ms. Thomason seconds.

2 If there's no further discussion, all those in  
3 favor aye.

4 (A chorus of ayes.)

5 MS. BINGHAM: Opposed same sign?

6 (No response.)

7 MS. BINGHAM: And the motion carries.

8 Thank you, Teresa. Teresa, are you on item 1(g)  
9 also?

10 MS. MORALES: Yes, ma'am.

11 MS. BINGHAM: Great. Okay. So, Naomi, do we  
12 have comment on item 1(g)?

13 MS. CANTU: We do. We have two commenters, but  
14 they are only there if there are questions from the Board  
15 or staff that.

16 MS. BINGHAM: Great.

17 MS. CANTU: Those that are pre-registered.

18 Anyone who wants to speak otherwise, please indicate so in  
19 the questions box.

20 MS. BINGHAM: So Board members, this is the item  
21 on discussion and possible action on the waiver related to  
22 site requirements and restrictions for Palladium Port  
23 Arkansas. Do Board members have any questions or need  
24 Teresa to present the item?

25 (No response.)

1 MS. BINGHAM: We'll entertain a motion.

2 MR. BRADEN: Move to approve.

3 MS. BINGHAM: Mr. Braden moves.

4 MS. THOMASON: Second.

5 MS. BINGHAM: Ms. Thomason seconds.

6 If there is no discussion, all those in favor  
7 aye.

8 (A chorus of ayes.)

9 MS. BINGHAM: Opposed same sign.

10 (No response.)

11 MS. BINGHAM: Motion carries on item 1(g).

12 Then the only other consent agenda item that has  
13 been pulled off of consent was item (k) which is the  
14 inducement resolution on housing revenue bonds regarding  
15 Terrace at Southern Oaks, application 201610, and Riverside  
16 Senior Living, 20613.

17 Naomi, do you have comments, or are those  
18 commenters just available if needed?

19 MS. CANTU: They are available if needed.

20 MS. BINGHAM: Excellent.

21 We'll entertain a motion.

22 MR. BRADEN: I make a motion to approve.

23 MS. BINGHAM: Mr. Braden moves. Is there a  
24 second?

25 MR. VASQUEZ: Second.

1 MS. BINGHAM: Mr. Vasquez seconds.

2 Any other discussion?

3 (No response.)

4 MS. BINGHAM: All those in favor aye.

5 (A chorus of ayes.)

6 MS. BINGHAM: Opposed?

7 (No response.)

8 MS. BINGHAM: Motion carries.

9 Okay. Thank you, Teresa.

10 MS. MORALES: You're welcome.

11 MS. BINGHAM: So that takes us to action items.

12 We're under item 3, presentation, discussion, possible  
13 action on the agency's strategic plan for fiscal years 2021  
14 through 2025, and this is Michael Lyttle's item.

15 MR. LYTTLE: Thank you, Madam Chair. Can y'all  
16 hear me all right?

17 MS. BINGHAM: Yes.

18 MR. VASQUEZ: Yes.

19 MR. LYTTLE: Captain Tweety was just finishing  
20 typing a tweet on the last item here, so I'm ready now.

21 Again good morning. On item 3(a) TDHCA staff is  
22 seeking your approval for the Department's strategic plan  
23 for fiscal years 2021 through '25.

24 The strategic plan is a statutorily required  
25 document and it's due to the Office of the Governor and the

1 Legislative Budget Board no later than June 1, 2020. We  
2 submit our strategic plan biennially and roughly it's  
3 usually it's about six months prior to the start of the  
4 next regular session of the legislature. Through this  
5 document we communicate our goals, our direction, and  
6 projected outcomes for the governor and the legislature,  
7 constituency groups and the general public. It's sort of  
8 been our standard operating procedure for many years now.

9           What is a little unusual, though, that I want to  
10 point out in this document this time around is that there  
11 is a brief discussion of the impact of COVID-19 on our  
12 program, as well as the populations served by these  
13 programs.

14           Our submitted plan also includes a required  
15 identified list of state laws and regulations which we  
16 believe are redundant or maybe serve as an impediment to  
17 our ability to carry out our responsibilities.  
18 Additionally, the plan includes most of the redundancies  
19 and impediments that were listed in the previous session's  
20 strategic plan that we submitted in 2018, along with,  
21 again, additional ones that we have identified in the last  
22 year or two.

23           Also included in the plan we have various  
24 supplemental schedules. These include the agency's budget  
25 structure and performance measure definitions for the 2022-

1 23 biennium, as well as historically underutilized business  
2 plan, our workforce plan, and report on customer service.

3 One thing to highlight deals with our  
4 performance measures. TDHCA requested changes to the  
5 performance measure definitions for the coming biennium  
6 from the Governor's Office and the LBB, the Legislative  
7 Budget Board. We're still waiting for approval from these  
8 offices so that item is pending, so the schedules that I  
9 provided in this Board item that are related to the budget  
10 structure and performance measures reflect those that are  
11 already in place for the current fiscal years that we're  
12 in.

13 Last but not least, the last supplemental  
14 schedule included in the plan is the agency's customer  
15 service plan. This report, which is based on a survey that  
16 ended on May 1st -- we had not finalized that at the time  
17 of the Board posting -- and in addition, that will be  
18 included along with a supplemental schedule in the  
19 strategic plan that we get here in the next month.

20 So I think that covers it and I'm happy to try  
21 and answer any questions you might have.

22 MS. BINGHAM: Thanks, Michael.

23 Do the Board members have any questions for  
24 Michael about the strategic plan?

25 (No response.)

1 MS. BINGHAM: Naomi, we're going to call for a  
2 motion while you're looking just to see if there's any teed  
3 up to comment.

4 We'll entertain a motion to approve the agency's  
5 strategic plan.

6 MS. THOMASON: Move to approve.

7 MS. BINGHAM: Ms. Thomason moves. Is there a  
8 second?

9 MR. VASQUEZ: Second.

10 MS. BINGHAM: Mr. Vasquez seconds.

11 Naomi, is there anybody in the queue for  
12 commenting on item 3(a)?

13 MS. CANTU: There is no one in the queue for  
14 commenting on 3(a) and we have no one pre-registered.

15 As a reminder, please indicate in the questions  
16 box if you would like to speak on an item.

17 MS. BINGHAM: Great. Thank you.

18 Any further discussion from the Board?

19 (No response.)

20 MS. BINGHAM: All those in favor aye.

21 (A chorus of ayes.)

22 MS. BINGHAM: Opposed?

23 (No response.)

24 MS. BINGHAM: Motion carries. Great.

25 MR. LYTTLE: Thank you.



1 MS. BINGHAM: Thank you, Michael.

2 We're moving now to Patricia Murphy, item 4(a)  
3 under Compliance, presentation, discussion and action on  
4 dispute of the Compliance Division's assessment of the  
5 applicant's compliance history to be reported to the EARAC,  
6 and we have applications 20604, The Walzem, 20611, 333  
7 Holly, and 201612, The Pines in the Woodlands.

8 Good morning. Hi again.

9 MS. MURPHY: Good morning again. Patricia  
10 Murphy, director of Compliance. You just stated what this  
11 agenda item is.

12 There are three applications in this agenda item  
13 from two different applicant groups. Staff is recommending  
14 that the Board approve the applicant dispute for The  
15 Walzem, application 20604. Although this application is a  
16 Category 3, if they applied again today and were evaluated  
17 under the new rule that the Board adopted last month, they  
18 would be considered a Category 2. So for The Walzem, staff  
19 is recommending that you go ahead and approve that  
20 applicant dispute and find that their compliance history  
21 should not preclude a positive recommendation from EARAC.  
22 And I can answer any questions you might have about the  
23 details, but we recommend you go ahead and approve that  
24 one.

25 MS. BINGHAM: Thank you.

1                   Do the Board members have any questions on the  
2 Walzem, San Antonio, 20604? Staff is recommending  
3 approval.

4                   (No response.)

5                   MS. BINGHAM: Naomi, before you tell us if  
6 they're any commenters for The Walzem, we'll entertain a  
7 motion from the Board.

8                   MR. BRADEN: I'll make a motion to accept  
9 staff's recommendation.

10                  MS. BINGHAM: Okay. Mr. Braden moves to accept  
11 staff's recommendation. Is there a second?

12                  MS. THOMASON: Second.

13                  MS. BINGHAM: Okay. Ms. Thomason seconds.

14                  Naomi, are there any public comments on item  
15 4(a) for The Walzem?

16                  MS. CANTU: We do, we have a number of  
17 commenters. The first is Cynthia Bast and she would like  
18 to use her camera. And then we have next Flynnann Janisse  
19 is next.

20                  MS. BINGHAM: Great. Thank you.

21                  MS. MURPHY: They might want to comment on the  
22 next application.

23                  MS. CANTU: Oh, on the next application?

24                  MS. MURPHY: I'm guessing, the other two, The  
25 Pines and the Holly.

1 MS. CANTU: We do have Pines and Holly. Hold  
2 on. The Pines and Holly, that's Justin Walker. Cynthia  
3 Bast did not indicate if it was Pines and Holly or not.  
4 Cynthia, if you could let us know.

5 I'm sorry, did you say something?

6 MS. BINGHAM: No. I think it looks like Cynthia  
7 probably wants to speak on Holly and The Pines also.

8 MS. CANTU: Okay. All right. We will wait  
9 until Pines and Holly. Let us know via the questions box,  
10 but we will wait.

11 MS. BINGHAM: Good.

12 Is there any further discussion from the Board  
13 on The Walzem?

14 (No response.)

15 MS. BINGHAM: So we have a motion from Mr.  
16 Braden and a second from Ms. Thomason. All those in favor  
17 aye.

18 (A chorus of ayes.)

19 MS. BINGHAM: Opposed?

20 (No response.)

21 MS. BINGHAM: So staff's recommendation on The  
22 Walzem is approved. That motion carries.

23 So now we have, Patricia, the Holly and The  
24 Pines.

25 MS. MURPHY: Yes. So the other two

1 applications are the 333 Holly, application number 20611,  
2 and The Pines, number 20612.

3 Staff is not recommending approval of this  
4 applicant's compliance history, however, should the Board  
5 find that this applicant's compliance history is  
6 acceptable, these applications are a later agenda item for  
7 you today.

8 Both of these applications are sponsored by  
9 Rainbow Housing Texas, and unlike The Walzem, under both  
10 the old rule and the new rule these applications are a  
11 Category 3, and there's a number of different events of  
12 noncompliance and issues here, but the big issue is a  
13 foreclosure.

14 So there was a foreclosure that took place in  
15 2016 on a TDHCA issued bond property, and foreclosure is  
16 pretty much the most egregious event of noncompliance as a  
17 foreclosure wipes out the regulatory agreement on the  
18 property and it results in a total loss of affordability on  
19 the property.

20 So as you know, the Board has the discretion to  
21 approve these applications despite this noncompliance and  
22 staff and the applicant representatives looked at a number  
23 of different angles to find a basis for the Board to use  
24 discretion, and although the applicant finds there is  
25 justification, staff does not agree that there is basis for

1 the Board to use discretion in this circumstance.

2 And as we know, Cynthia Bast and another  
3 representative from Rainbow Housing Texas are available to  
4 speak and perhaps the Board will be swayed by their  
5 remarks, but based on the dispute that was submitted and is  
6 in your Board materials, staff recommends denial of this  
7 appeal.

8 If you have any questions about the angles we  
9 looked at or any of the issues, I'll be happy to answer any  
10 questions you have.

11 MS. BINGHAM: Okay. Thank you.

12 What questions do the Board members have of  
13 Patricia?

14 (No response.)

15 MS. BINGHAM: So, Patricia, it was the 2016  
16 foreclosure on the property. So is that generally  
17 nonnegotiable. I understand what you're saying, it is  
18 probably the most serious of all findings, but is that in  
19 and of itself make the position?

20 MS. MURPHY: So a foreclosure results in a  
21 Category 3 designation under both the old rule and the new  
22 rule. One of the things that you may hear from Cynthia is  
23 this is a deed in lieu of foreclosure, which the applicant  
24 has represented that there is some meaningful distinction,  
25 but from staff's perspective, the result is the same.

1 Whether it's a foreclosure or deed in lieu of foreclosure,  
2 we lose the affordability on the property. So I wasn't  
3 able to say, oh, this one was a deed in lieu of foreclosure  
4 so, you know, let's recommend approval, but you may be  
5 swayed by that.

6 MS. BINGHAM: Okay. So we definitely have  
7 public comment in the queue. Is there a motion from the  
8 Board? And I'm assuming we would take -- since it's the  
9 same, we would take 333 Holly and The Pines together as an  
10 action item. Is there a motion from the Board on 333 Holly  
11 and The Pines, staff's recommendation?

12 MR. BRADEN: I'll move to accept staff's  
13 recommendation.

14 MS. BINGHAM: All right. I have a motion from  
15 Mr. Braden to approve staff's recommendation. Is there a  
16 second?

17 MR. VASQUEZ: Second.

18 MS. BINGHAM: Mr. Vasquez seconds that.

19 Naomi, we have public comment?

20 MS. CANTU: We do. We're going to start with  
21 Cynthia Bast.

22 Cynthia, you should be able to share your video.  
23 There we see you.

24 MS. BAST: Thank you. Good morning. Cynthia  
25 Bast of Locke Lord. I am representing Rainbow Housing

1 Texas for this request.

2 My client is working with Related Affordable to  
3 acquire 484 units in 333 Holly and The Pines. This is what  
4 we called a combined portfolio under the previous  
5 participation rules. That means that we're looking at the  
6 records of both Rainbow and Related collectively.

7 For your information, there are 30 total  
8 properties on the report; only three of those properties  
9 are affiliated with Rainbow. Two were owned by Rainbow  
10 Housing Texas and are not owned by them anymore. One is  
11 owned by Rainbow Housing Assistance Corporation, which is  
12 an affiliate, with ongoing ownership and no compliance  
13 issues.

14 Of the three Rainbow affiliated properties, only  
15 one is causing a problem really for this transaction to  
16 move forward, as you heard from Patricia, so that's one out  
17 of 30 if you look at the combined portfolio, and it's  
18 important to address scope when we're talking about these  
19 things.

20 This one property had a deed in lieu of  
21 foreclosure, and it's called Bristol at Buckingham, and I'd  
22 like to tell you a little bit about the background because  
23 I think it does provide mitigation in this instance.  
24 Bristol was not a tax credit deal; it was a 501(c)(3) bond  
25 deal where TDHCA was the issuer and a completely

1 unaffiliated nonprofit was the developer. The bonds were  
2 issued in 2000. At the time the borrower was a nonprofit  
3 called Placet.

4 Now, the thing about a 501(c)(3) bond deal is  
5 that it doesn't have equity like a housing tax credit deal,  
6 so as a result, most 501(c)(3) bond deals are mixed income  
7 properties, relying upon market rate units to generate  
8 sufficient revenues to pay the debt, and that didn't happen  
9 in this case when Placet developed this deal. First, it  
10 was widely reported in the newspapers that there was  
11 concern about the principals of Placet and their dealings  
12 with the nonprofit. Secondly, because of the mixed income  
13 nature of this property, the owner was never able to  
14 achieve the full market rents of comparable properties  
15 nearby that didn't have an affordable component, so Bristol  
16 struggled and it couldn't pay its debt service.

17 The lender, Centerline, had serious concerns  
18 about the nonprofit, so in 2008, when the bonds were  
19 already in default, Centerline asked principals of Rainbow  
20 to take over the Placet nonprofit, and they did. Soon  
21 after, Centerline could no longer hold those defaulted  
22 bonds and they sold them to a third party. That bond  
23 purchaser worked with Rainbow for eight years to try to  
24 enhance services and implement improvements that would  
25 allow them to gain traction on those market rate rents, but



1 the accrual of debt that had occurred was just too much to  
2 overcome. So ultimately, the bondholders could no longer  
3 hold the defaulted bonds and requested a deed in lieu of  
4 foreclosure.

5 I think that's a compelling story that Rainbow  
6 came in and tried to help preserve this housing that was  
7 already in default when the Rainbow principals came in, and  
8 upon hearing all the speakers, I believe you will hear that  
9 this one circumstance is not reflective of Rainbow's  
10 competence or capacity and it should not impede its ability  
11 to go forward with these two transactions.

12 If possible, I would like our next speaker to  
13 please be Flynnann Janisse from Rainbow Housing. Thank you.

14 MS. BINGHAM: Thank you, Cynthia.

15 Naomi is going to get Flynnann. Do the Board  
16 members have any questions of Cynthia before we have the  
17 next public comment?

18 (No response.)

19 MS. BINGHAM: Okay. Thank you, Cynthia.

20 MS. BAST: Thank you.

21 MS. BINGHAM: Naomi.

22 MS. CANTU: Yes. We have Flynnann Janisse  
23 available, and then after Flynnann we have Wes Larmore.

24 MS. BINGHAM: Great.

25 MS. JANISSE: Thank you, Madam Chair,

1 distinguished Board of Directors, and Ms. Murphy. We value  
2 your consideration of our testimony.

3 I am Flynnann Janisse, the president of Rainbow  
4 Housing Texas and executive director for Rainbow Housing  
5 Assistance Corporation, personally serving the affordable  
6 housing industry for over 34 years.

7 Rainbow Housing is a nationally recognized not  
8 for profit committed to the preservation of affordable  
9 housing. Our mission is to serve low income tenants across  
10 the country with our most significant footprint in Texas.  
11 We are recognized for robust programs and services, such as  
12 education, financial literacy, scholarship programs and  
13 workforce development, stabilizing the tenant base and  
14 financial performance of an asset. We operate as a general  
15 partner and resident service provider across the country in  
16 12 states, serving 111 communities and over 16,000 units.  
17 Rainbow operates other affiliated entities, one of which is  
18 Rainbow Housing Texas.

19 As an affiliate, the integrity of our work is  
20 evident in the stabilization of tenant populations and  
21 asset performance. As a general partner, our assets  
22 perform well with industry low turnover percentages and  
23 above satisfactory ratings for compliance audits, reviews  
24 and physical inspections. Material participation is  
25 evident in our organizational structure, qualified staffing

1 and advanced compliance monitoring.

2           Rainbow Housing Texas, formerly Placet  
3 Development Corporation, was acquired in 2008 as a failing  
4 not for profit under the direction of the nonperforming  
5 executive director. Under our ownership the asset  
6 benefitted from necessary capital improvements, tenant-  
7 based services and professional onsite management, with  
8 owner-directed inspections, reporting and asset oversight  
9 to include monthly financial reviews, market studies and  
10 strategic marketing efforts to increase the operating cash  
11 flow. As shared in 2016, it was determined the property  
12 was unable to service the debt and cure the existing  
13 default under the loan documents. At that time the deed  
14 was accepted by the lender and subsequently the bonds were  
15 paid off and retired in good standing.

16           Rainbow has advanced our compliance monitoring  
17 with tracking systems and additional staffing to provide  
18 oversight of general partnership interests. Our staffing  
19 tenure averages 23 years in the industry. And asset  
20 managers strengthen our capacity to acquire, develop, own  
21 and operate affordable housing as a qualified not for  
22 profit and certified community housing development  
23 organization. We retain a compliance and training  
24 director, as well as an executive systems and relations  
25 director who manages general partnership reporting.

1 TDHCA noted areas of concern: foreclosure. The  
2 foreclosure did not occur. A deed in place of foreclosure  
3 resulted in the bonds being paid off, and again, retired in  
4 good standing.

5 Our compliance history. Under our ownership  
6 term, all administrative findings have been cured.  
7 Improved reporting and new board of directors was not  
8 sufficient to avoid the deed in lieu of foreclosure. We  
9 reiterate the following: the acquisition allowed us to  
10 preserve affordable housing without foreclosure by  
11 Centerline in 2008, thus formally retaining the compliance  
12 period for eight more years. Through strategic efforts,  
13 Rainbow Housing Texas acquired and preserved housing of an  
14 over-leveraged asset and the affordable period for an  
15 additional eight years beyond the likely foreclosure by  
16 Centerline in 2008.

17 We are confident that we have the capacity to  
18 take on these two projects and to keep them in compliance.

19 We hope that you will agree. If necessary, we are willing  
20 to accept conditions to our participation imposed by the  
21 Board.

22 Thank you.

23 MS. BINGHAM: Does the Board have any questions  
24 for the commenter?

25 (No response.)

1 MS. BINGHAM: Thank you very much.

2 Naomi, is there another comment?

3 MS. CANTU: We're going to try with Wes Larmore,  
4 who indicated before, so we're going to give it a shot to  
5 see if he is still on and wants to speak. Les, you are  
6 unmuted. And I don't believe he's available at the time.  
7 Let's go ahead and go to Justin Walker, while we see if Wes  
8 wants to get back on. Justin Walker.

9 Les, if you would like to still speak, please  
10 let us know in the questions box.

11 Justin, you are unmuted.

12 MR. WALKER: Good morning. Thank you, Madam  
13 Chair, members of the Board. As mentioned, my name is  
14 Justin Walker and I am the national director of business  
15 development and media for Rainbow Housing Assistance  
16 Corporation. I've asked today to speak to a certification  
17 that just last year the agency bestowed upon Rainbow  
18 Housing Texas.

19 Consistent with our mission to create and  
20 preserve quality affordable housing, in 2018 several of our  
21 Texas-based board members recommended seeking CHDO  
22 certification for the repurposed organization to aid in  
23 community preservation, particularly as it relates to the  
24 agency's efforts around those assets with right of first  
25 refusal language included in their regulatory agreement.

1           The process was a lengthy one as Rainbow  
2 thoughtfully worked through the application with guidance  
3 from our legal counsel. Initial approval was granted by  
4 TDHCA just over a year ago on April 16th of 2019. This was  
5 the culmination of a six-month review by the agency and as  
6 many months of internal preparation prior to submission.  
7 Careful consideration was given to each step of the  
8 process, including selecting a service area that was  
9 consistent with TDHCA norms as well as structuring a  
10 staffing solution that allows the organization to bring to  
11 bear expertise to development areas. Overall, the purpose  
12 of submitting the certification packet was to have TDHCA  
13 recognize the organization, qualifying it to acquire tax  
14 credit properties with a right of first refusal prioritized  
15 sale to a CHDO.

16           The letter from TDHCA closes with this request,  
17 "Please include this letter with any future ownership  
18 transfer requests where Rainbow Housing Texas, Inc. is  
19 seeking approval to acquire tax credit properties that  
20 include a CHDO ROFR requirement."

21           Rainbow understands this previous participation,  
22 due to its evolving nature, has no direct bearing on CHDO  
23 status, however, through this certification the use case of  
24 purchasing assets by Rainbow Housing Texas was clear to all  
25 parties involved. Having achieved CHDO status with TDHCA

1 within the last year, we are struggling to understand now  
2 how we could be deemed unfit as an owner, this especially  
3 in the context of Rainbow carefully selecting a  
4 preservation opportunity with a well-respected developer.  
5 Rainbow does not expect this certification to serve as a  
6 blanket approval, just as conversely, a rule-bound  
7 automatic recommendation for denial is untenable.

8 In closing, I ask the Board to consider Rainbow  
9 Housing Texas's current status in the context of these  
10 deals. Let me be clear that the motivation behind  
11 partnering with Related is to preserve quality, affordable  
12 housing for the 930 Texans that call these communities  
13 home. We look forward to having them join nearly 40,000  
14 residents across the nation that Rainbow serves on a daily  
15 basis.

16 Thank you.

17 MS. BINGHAM: Thank you, Justin.

18 Do the Board members have any questions for Mr.  
19 Walker?

20 (No response.)

21 MS. BINGHAM: Naomi, is there anyone else in the  
22 queue for comments?

23 MS. CANTU: Last one, Wes Larmore. Wes.

24 MR. LARMORE: Hopefully you can hear me now.

25 MS. BINGHAM: Yes.

1 MR. LARMORE: I think my five-year-old did  
2 something to my microphone

3 My name is Wes Larmore with Related Affordable,  
4 developer of these properties. Related, we focus solely on  
5 improving and preserving existing affordable housing around  
6 the country. We have about 300 properties nationwide,  
7 including 27 in Texas, total about 2,700 units. We are  
8 long-term owners/managers and pretty much everything we do  
9 we've done with that in mind. From how we underwrite the  
10 deals to the amount of renovation we do, it's all focused  
11 on preservation of the property, and of course, the  
12 affordability as well, which in this case is particularly  
13 important considering that both of these are at risk of  
14 losing their affordability within the next six to nine  
15 months, and we are working to ensure that does not happen.

16 Part of that effort includes working with  
17 Rainbow. Related initially engaged with Rainbow to perform  
18 social services at one of our recent acquisitions where  
19 they have placed a social service coordinator, and along  
20 with everything else they bring to the table on the  
21 services side, they've done a great job and so we've been  
22 looking to get them more involved in our portfolio, and  
23 we're very excited about the possibility of having these  
24 two family sites, which as Justin said, there's a thousand  
25 people there and they could really benefit from combined



1 Rainbow and Related's ownership and supportive services.

2 In terms of previous participation, as Cynthia  
3 mentioned, there are 30 properties under review and 27 of  
4 those are ours. Among those properties, Related only had  
5 two events, both of which were corrected and both submitted  
6 documentation during the corrective action period. That  
7 record is primarily due to our management company which  
8 does a tremendous amount of compliance training with the  
9 community managers, and we have a compliance management  
10 division that oversees everything.

11 Grew really quickly here in Texas, and most of  
12 those 2,700 units were purchased in the last three years or  
13 so and most were, honestly, in quite tough shape when we  
14 bought them, and our management company, along with our  
15 asset management group on the ownership side, have done a  
16 great job at keeping all of our properties in compliance  
17 and in good financial health for the long term. And we  
18 want to do more here in Texas so we better keep our record  
19 clean.

20 So thank you, and happy to answer any questions  
21 that you may have.

22 MS. BINGHAM: Do Board members have any  
23 questions of Wes?

24 (No response.)

25 MS. BINGHAM: Okay. Thank you, Mr. Larmore

1 Can we have Patricia back?

2 MS. CANTU: We're working on getting her up.  
3 Patricia.

4 MS. MURPHY: Yes.

5 MS. BINGHAM: Hey, Patricia, so we have a motion  
6 and a second to approve the staff's recommendation where  
7 basically it looks like the way it was worded was the staff  
8 just could not find where there was rationale for the  
9 Board's discretion to not have this as a compliance  
10 finding. So the outcome of this would be that neither of  
11 these applications would move forward. Correct?

12 MS. MURPHY: That is correct.

13 MS. BINGHAM: And they're rehabs? Are they both  
14 rehabs?

15 MS. MURPHY: Yes.

16 MS. BINGHAM: And Mr. Larmore said that both are  
17 at risk to lose affordability. Is that like a subjective  
18 or an objective position?

19 MS. MURPHY: I don't have the answer to that  
20 question. You'd have to ask Mr. Larmore. We're not  
21 currently monitoring those properties.

22 MS. BINGHAM: Understood. And so Ms. Bast  
23 reported that 30 in the portfolio that were reviewed, three  
24 of those are Rainbow properties, two of them -- okay, and  
25 the third is Buckingham.

1 MS. MURPHY: Correct.

2 MR. BRADEN: Leslie.

3 MS. BINGHAM: Yes.

4 MR. BRADEN: It's Paul. I have a question of  
5 Patricia.

6 MS. MURPHY: Yes.

7 MR. BRADEN: Patricia, were you aware of the  
8 factual background the testimony that we just received with  
9 respect to the ownership of the property when you made your  
10 recommendation?

11 MS. MURPHY: Yes. The only new argument that I  
12 heard that I had not -- that wasn't in the printed material  
13 was the concept that Rainbow stepped in and provided  
14 another eight years of affordability on a property that  
15 would have foreclosed. That's probably true and that's an  
16 interesting perspective. The speaker who talked about  
17 their CHDO certification, they certainly went through the  
18 process and they understood it's not a blanket approval,  
19 but it is some sort of an indication from the Department  
20 that they are an acceptable participant. So those were two  
21 kind of -- the number of foreclosures in our portfolio is  
22 extremely small so as far as talking about scope, I mean,  
23 it is -- so anyway, those are the only two different  
24 perspectives or something that I heard.

25 MR. BRADEN: And in light of that additional

1 information, would you have changed your recommendation?

2 MS. MURPHY: I -- no. But you have the  
3 discretion to do that if you choose to do so.

4 MR. BRADEN: I'm sorry. My computer glitched a  
5 little. Did you say you would not have or you would have?

6 MS. MURPHY: I'm sorry, Mr. Braden. No, I would  
7 not. You have the discretion to do that. I mean, the  
8 point of these previous participation reviews is to avoid a  
9 thing like a Coppertree Village, and I'm not saying that  
10 they could be a Coppertree Village, it's just from the  
11 director of Compliance standpoint, I could not find a basis  
12 for recommending that we move forward.

13 Rainbow Housing Texas is a well-known nonprofit,  
14 they're a social service provider, and they do wonderful  
15 social services. And if the Board is able to find a basis  
16 for moving forward, I wish them the best, and the  
17 Compliance staff is available to help them succeed. But as  
18 far as a documented reason like saying, well, in this case  
19 based on this we recommend you move forward, I'm not able  
20 to do that, so you're going to have to find justification.

21 You don't have to agree with me, for that matter, too.  
22 Right? You could say I think it's good enough and move  
23 forward that way.

24 But if you're asking for staff to provide you  
25 with a justification, I'm sorry, I'm not able to do that.

1                   MR. BRADEN: You answered my question. Thank  
2 you.

3                   MR. VASQUEZ: I have several questions. When  
4 they executed the deed in lieu of foreclosure -- which one  
5 of our major problems is that terminated the affordability  
6 period -- did they then go and raise all the rents and kick  
7 out all the affordable tenants, or did they basically  
8 maintain affordability, substantially maintain  
9 affordability on the property, or not?

10                   MS. MURPHY: I don't have that information. If  
11 the foreclosure had been through the Housing Tax Credit  
12 program, there is a three-year period where we continue to  
13 monitor it and provide protection for low income tenants  
14 that were living on the property the day of the  
15 foreclosure, but as Cynthia mentioned, this did not have an  
16 allocation of housing tax credits, it was just a bond  
17 regulatory agreement, and so our authority to monitor the  
18 property for that kind of activity is foregone, we don't  
19 have any rights to ask for their rent records or anything  
20 else.

21                   MR. VASQUEZ: Okay. I mean, again, just part of  
22 that is important for me in the thought on whether they --  
23 just because officially there was no more affordability  
24 period, if they essentially kept it affordable to the  
25 extent that they could --

1 MS. MURPHY: I don't have that information nor  
2 access to it.

3 MR. VASQUEZ: Another thing, do we know --  
4 again, when they executed the deed in lieu of foreclosure,  
5 did they just refinance the note on the property?

6 MS. MURPHY: Again, I have no information. Once  
7 it goes through a foreclosure, we don't have access to  
8 that.

9 MR. VASQUEZ: The property is still operating.  
10 Correct?

11 MS. MURPHY: I believe so. And I think that  
12 Cynthia might have some information. I know she mentioned  
13 that she looked at the property online and that it looks  
14 good, and I don't know if she has any other information  
15 about the property today.

16 MS. THOMASON: Patricia, this is Naomi Cantu.  
17 We do have Cynthia and also Flynnann Janisse wanting to  
18 speak on these issues.

19 Would Vice Chairwoman Bingham entertain that?

20 MS. BINGHAM: Yes. Can we have Cynthia?

21 MS. CANTU: All right. Cynthia, go ahead.

22 MS. BAST: Yes. Thank you.

23 I can confirm from looking at the regulatory  
24 agreement that the affordability would have ended in 2018,  
25 the deed in lieu of foreclosure occurred in 2016. We also

1 checked with the current owner that did refinance the debt  
2 and my understanding is that there is affordability  
3 remaining on this property.

4           Flyn, I'm going to rely on you because I think  
5 you have those exact numbers, but I believe that the  
6 property originally required 20 percent at 50 percent AMI,  
7 and I believe that more than 20 percent of the residents  
8 today are low income, so it remains a mixed income  
9 property, as I understand it. I did look at it online. Of  
10 course, you know, you've got a limited amount of pictures  
11 but it appears that the property is well maintained and  
12 continuing to serve, and then I'll let Flyn provide what  
13 she knows.

14           Thank you.

15           MS. BINGHAM: Thanks, Cynthia.

16           MS. CANTU: We also have Ms. Flynann wanting to  
17 speak and we can go ahead and unmute her.

18           MS. JANISSE: Thank you, members of the Board.

19           To answer your question, Mr. Vasquez, in part of  
20 our participation in Texas many times we will refer  
21 residents from one community to another. Bristol remains a  
22 community that's focused on senior population, it's a  
23 quality asset, it's well maintained, so we do offer  
24 reference to that for residents who need to be relocated.  
25 In that, I am familiar that low income qualified tenants do

1 still reside in the community. This is four years post the  
2 2016 transition of the site, and they now maintain about 40  
3 percent of the tenant population qualified as low income.  
4 That is in excess of the 20 percent based on the LURA  
5 regulatory agreement at the time that we owned and operated  
6 the asset.

7 MR. VASQUEZ: Okay, great. Well, that's, I  
8 think, an important factor to understand. It does not  
9 sound like the deed in lieu of foreclosure was simply to  
10 avoid affordability, it was more of a finance issue.

11 MS. BINGHAM: Great. So Patricia is still  
12 available if anybody has any questions. Board members, do  
13 you have any other questions of Patricia?

14 MR. VASQUEZ: Patricia, I guess my last question  
15 is the characterization that eight years that they were in  
16 control before the deed in lieu of foreclosure, and I've  
17 heard two things. One is that they had eight years to get  
18 their act together and still couldn't do it, and then I  
19 also heard someone mention they were able to extend the  
20 life for eight years despite the previous mismanagement so  
21 they were able to keep it up.

22 Patricia, I don't know what your  
23 characterization or feeling is on did they make a go of it  
24 for another eight years or did they waste their eight years  
25 and ended up having to fall out.



1 MS. MURPHY: There were -- it's not like things  
2 were going swimmingly and then one day there was a  
3 foreclosure. This was a fairly noncompliant property for  
4 those eight years and then there was a foreclosure.

5 MR. VASQUEZ: And I guess maybe so if we do not  
6 find them compliant -- I guess staff is recommending that  
7 we deny the applicant's appeal -- if we deny it as you  
8 recommend, what's the outcome, then they lose their ability  
9 to compete in this round?

10 MS. MURPHY: This is a 4 percent application so  
11 if you deny that their compliance history is acceptable,  
12 then the next agenda item would not move forward and I'm  
13 not sure if -- I really don't know if the deal could be  
14 restructured with a different nonprofit, I really don't  
15 know. But if you -- I'm sorry, my landscapers have  
16 arrived -- if you find there is justification for approving  
17 their compliance history, then the next agenda item you  
18 would also be looking at approving their award. If you are  
19 not able to find justification that this applicant's  
20 compliance history is acceptable, then the next agenda item  
21 you would not be able to approve the awards, I believe.  
22 Does that answer your question?

23 And as far as what would happen, you know, if it  
24 would go to some new deals or something, I don't know.

25 MR. VASQUEZ: Okay. That does answer my

1 question.

2 Then I guess a general question, are these  
3 awards that they are applying for, are they over-subscribed  
4 or is there a limit on this type of 4 percent application.

5 MS. MURPHY: This is a 4 percent application but  
6 not the competitive kind.

7 MR. VASQUEZ: Okay. So approving them does not  
8 push out somebody else.

9 MS. MURPHY: I believe that is correct.

10 Bobby, I think that's right.

11 MR. WILKINSON: It's possible that someone next  
12 in line could use their bond cap and the bond cap is  
13 limited, right, 4 percent tax credits are not. I don't  
14 know who would benefit, but possibly if they lost, the bond  
15 cap could go to someone else. I don't believe we know the  
16 issuer on this. So yeah, Teresa could probably answer what  
17 we would do if that bond cap if we kill these deals.

18 But yeah, if you voted to approve staff's  
19 recommendation you would be killing these deals as  
20 currently structured for the time-being. So I have this on  
21 here twice so that you can say no, kill them, or approve  
22 and it goes forward on the same agenda, because there's a  
23 timing issue if we would have waited for these awards next  
24 month with the bond cap participation.

25 And I'd say Compliance and other staff often

1 bring recommendations and there's a strong fidelity to the  
2 rules and wanting to hold the line, and discretion is most  
3 probably in the province of the Board.

4 MR. BRADEN: I have another question. How long  
5 does this foreclosure stay on their record? I mean, do  
6 they have a black mark on their record forever, or is there  
7 some window?

8 MS. MURPHY: That's a great question. So the  
9 compliance rules state that a Category 3 -- a foreclosure  
10 will create a Category 3 designation, however, if you  
11 approve this and they don't have any new events of  
12 noncompliance, then they're deemed approved. So if you  
13 guys -- if the Board decides we're going to move forward  
14 with this, then it's off their record. So it stays on  
15 their record, in other words, for as long as the Board  
16 finds that it should be on their record. Does that make  
17 sense?

18 (Mr. Braden and Mr. Vasquez spoke at the same  
19 time and unable to understand either one.)

20 MR. VASQUEZ: Madam Chair, so is there a motion?

21 MS. BINGHAM: Yes. Sorry about that. So let me  
22 just remind everybody where we are. So we actually have a  
23 motion from Mr. Braden, a second from Mr. Vasquez to  
24 approve staff's recommendation to deny the dispute.

25 MR. VASQUEZ: I'd like to withdraw my second.

1 MR. BRADEN: And I'll withdraw my motion.

2 MS. BINGHAM: Okay. He beat you.

3 (General laughter.)

4 MS. BINGHAM: Okay. So we have a withdrawal of  
5 the motion and second. We'll entertain a motion on the 333  
6 Holly and The Pines.

7 MR. VASQUEZ: I guess Mr. Braden is thinking the  
8 same thing. I'd like to make a motion --

9 MR. BRADEN: I was going to make a motion, but  
10 go ahead, Leo.

11 MR. VASQUEZ: No, no, go ahead. I'll second  
12 you.

13 MR. BRADEN: Go ahead.

14 MS. BINGHAM: Okay, Mr. Vasquez.

15 MR. VASQUEZ: Okay. Then in that case I would  
16 move to -- make sure I'm wording this right -- to approve  
17 applicant's compliance history finding it satisfactory.

18 MS. BINGHAM: Okay. All right. So the motion  
19 is to approve the applicant's compliance history, or could  
20 we say to approve the applicant's dispute of the compliance  
21 assessment? Are you comfortable with that motion?

22 MR. VASQUEZ: I motion the opposite of what was  
23 resolved in the Board packet.

24 MS. BINGHAM: Very good. Mr. Vasquez moves to  
25 approve the applicant's dispute of the Compliance

1 Division's assessment of the applicant's compliance  
2 history. Is there a second?

3 MR. BRADEN: I'll second.

4 MS. BINGHAM: Thank you. Mr. Braden seconds.  
5 Is there any further discussion?

6 (No response.)

7 MS. BINGHAM: All those in favor aye.

8 (A chorus of ayes.)

9 MS. BINGHAM: Opposed?

10 (No response.)

11 MS. BINGHAM: Motion carries. Thank you very  
12 much, Patricia.

13 MR. VASQUEZ: Thanks, Patricia.

14 MS. MURPHY: We'll do anything we can to help  
15 them succeed.

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

17 So let's move forward then with -- that takes  
18 care of item 4(a), we'll move to item 5, Bond Finance, with  
19 Teresa Morales, starting with item 5(a).

20 MS. MORALES: Good morning. Teresa Morales,  
21 director of Multifamily Bonds.

22 Item 5(a) involves the issuance of multifamily  
23 housing revenue notes by the Department for the new  
24 construction of 123 units in Houston, serving an elderly  
25 population. The applicant intends to implement income

1 averaging and proposes units that will serve 30 percent, 50  
2 percent, 60 percent and 80 percent of the area median  
3 income. There will also be units at market rate with no  
4 rent or income restrictions.

5 This transaction involves the issuance of  
6 tax-exempt fixed rate multifamily notes in an amount not to  
7 exceed \$18 million that will be initially publicly offered.

8 Amegy Bank will provide a taxable loan to fund the  
9 construction phase of the project. As bond proceeds are  
10 drawn and spent on project costs, equal deposits from the  
11 construction loan will be made to the collateral fund to  
12 keep the account balance such that the notes are cash  
13 collateralized during construction.

14 Freddie Mac, through JLL Capital Markets, will  
15 purchase the notes upon conversion to the permanent phase.

16 The proceeds from this purchase will be used to pay the  
17 purchase price of the notes tendered on the conversion  
18 date. JLL will continue to act as servicer of the loan for  
19 Freddie Mac, who will serve as the permanent lender and  
20 bondholder. The purchase of the notes by Freddie Mac will  
21 be exercised during a mandatory tender provision  
22 contemplated in the bond documents and will effectively  
23 convert to a tax-exempt loan under the Freddie Mac  
24 platform. This will most likely result in a re-issuance  
25 under state law. As such, the substantially final

1 documents being approved today include the form of  
2 documents required at the time of conversion and those  
3 associated with a re-issuance, which if it occurs will  
4 require Board consideration.

5 This application also includes an award from the  
6 City of Houston of CDBG disaster recovery funds of  
7 approximately \$15 million. These funds are expected to be  
8 in place at closing which is currently scheduled for June  
9 17th.

10 Staff recommends approval of Bond Resolution No.  
11 20-019 in an amount not to exceed \$18 million and a  
12 determination notice of 4 percent housing tax credits in  
13 the amount of \$711,964.

14 MS. BINGHAM: Thank you, Teresa.

15 Do the Board members have any questions for  
16 Teresa?

17 (No response.)

18 MS. BINGHAM: Naomi, if you'll look to see if  
19 anybody is in the queue, I'm going to entertain a motion  
20 and then we'll come back if there's any comments.

21 Entertain a motion.

22 MR. VASQUEZ: Madam Chair, I'd like to move to  
23 approve staff's recommendation.

24 MS. BINGHAM: Mr. Vasquez moves to approve  
25 staff's recommendation. Is there a second?

1 MS. THOMASON: Second.

2 MS. BINGHAM: Ms. Thomason seconds.

3 Naomi, are there any comments in the queue for  
4 item 5(a)?

5 MS. CANTU: There are no comments in the queue  
6 but we do have some people pre-registered but only if  
7 there's questions.

8 MS. BINGHAM: Great. Very good.

9 Any further discussion?

10 (No response.)

11 MS. BINGHAM: We have a motion and a second to  
12 approve staff's recommendation. All those in favor aye.

13 (A chorus of ayes.)

14 MS. BINGHAM: Opposed?

15 (No response.)

16 MS. BINGHAM: Great. Motion carries. Thank  
17 you.

18 5(b).

19 MS. MORALES: Teresa Morales, director of  
20 Multifamily Bonds.

21 Having just approved the compliance history for  
22 this development under item 4, item 5(b) proposes action  
23 relating to the issuance of tax-exempt bonds by the  
24 Department for the acquisition and rehabilitation of 332  
25 units in The Woodlands serving the general population, with



1 units restricted at 30 percent, 50 percent and 60 percent  
2 of the area median income.

3           Something to keep in mind during this  
4 presentation is whether the Board would like to impose any  
5 conditions as it relates to the proposed general partner  
6 given the compliance history that was discussed under item  
7 4. Those conditions could be part of the Board's motion  
8 with respect to this award.

9           This transaction utilizes a financing structure  
10 that is similar to Oaks on Clark, which the Board approved  
11 last month, and coincidentally is closing today. It  
12 involves a Fannie Mae multifamily pass-through mortgage-  
13 backed security. Wells Fargo Multifamily Capital, who is  
14 the Fannie Mae lender, will deposit the loan proceeds into  
15 a collateral account with a trustee to secure the bonds  
16 with cash until the loan is acquired and assigned to Fannie  
17 Mae and the MBS delivered to the trustee. The trustee will  
18 use the loan proceeds from Wells Fargo in the collateral  
19 account to purchase the MBS which will be used to secure  
20 the bonds from that point forward. Payments on the bonds  
21 will be guaranteed by Fannie Mae.

22           In addition to the \$36.8 in tax-exempt proceeds,  
23 the transaction also involves an \$8.2 million taxable  
24 conventional debt. Although the transaction was originally  
25 contemplated to have all project costs funded with tax-

1 exempt bonds, limitations on available volume cap required  
2 the use of taxable debt. It's important to note that that  
3 taxable debt is not being issued by TDHCA.

4 In light of COVID-19 and the inability for an  
5 in-person TEFRA hearing to be held, staff proceeded to  
6 conduct a telephonic public hearing which was held on April  
7 30th. Given that it was via telephone and would ordinarily  
8 be difficult to discern how many individuals participated  
9 in that hearing, there is an option on the call line to  
10 obtain a participant count. For this hearing there were  
11 only two attendees which represented staff conducting the  
12 hearing. A copy of that hearing transcript is included in  
13 your package.

14 The Department has received no letters of  
15 support or opposition for this particular property, and  
16 worth noting is that, thankfully, the IRS subsequently  
17 published guidance that conducting a TEFRA hearing via  
18 telephone is acceptable in light of COVID-19.

19 A clarification does need to be made on the  
20 first page of the Board write-up. The first resolved  
21 clause incorrectly states approval of \$38.6 million. That  
22 amount should actually be an amount not to exceed \$36.8  
23 million, of which staff recommends approval, as further  
24 confirmed in Bond Resolution No. 20-020. Staff also  
25 recommends issuance of a determination notice of 4 percent

1 housing tax credits in the amount of \$2,484,301.

2 Last, should there be any conditions that the  
3 Board would like to impose as it relates to the compliance  
4 history of the proposed general partner in this  
5 transaction, this would be the place to do so and it would  
6 need to be factored into any motion that you would make.

7 MS. BINGHAM: Thank you, Teresa.

8 Do Board members have any questions of Teresa?

9 (No response.)

10 MS. BINGHAM: Naomi, if you'll look and see if  
11 there's anybody for item 5(b) in the queue, and we'll  
12 entertain a motion from the Board regarding staff's  
13 recommendation with that one change on the first resolved  
14 that instead of it being \$38.6 million, it's \$36.8 million.

15

16 We'll entertain a motion.

17 MR. BRADEN: I'll move to approve staff's  
18 recommendation, and I didn't have any additional conditions  
19 that I wanted to impose.

20 MS. BINGHAM: Okay. Thank you. I have a motion  
21 to approve staff's recommendation without additional  
22 conditions.

23 MS. THOMASON: Second.

24 MS. BINGHAM: Ms. Thomason seconds Mr. Braden's  
25 motion to approve staff's recommendation.

1 Naomi, is there anyone that wants to speak on  
2 the agenda item?

3 MS. CANTU: There's no one in the queue wishing  
4 to speak. We do have one person pre-registered but only if  
5 there's questions from the Board.

6 MS. BINGHAM: Thank you.

7 Any other discussion?

8 (No response.)

9 MS. BINGHAM: All those in favor aye.

10 (A chorus of ayes.)

11 MS. BINGHAM: Opposed?

12 (No response.)

13 MS. BINGHAM: Motion carries.

14 Item 5(c), Teresa.

15 MS. MORALES: Having just approved, again, the  
16 compliance history for this development under item 4, item  
17 5(c) proposes action relating to the issuance of  
18 multifamily tax-exempt bonds by the Department for the  
19 acquisition and rehabilitation of 152 units in The  
20 Woodlands serving the general population with all units  
21 restricted at 60 percent of the area median income. This  
22 transaction is considered a sister property to 333 Holly  
23 and utilizes the same financing structure.

24 In addition to the \$22 million in tax-exempt  
25 bond proceeds, this transaction also includes \$4.5 million

1 in taxable conventional debt, and as was the case with the  
2 prior transaction, it was originally contemplated to have  
3 all project costs funded with tax-exempt bonds. There were  
4 limitations on volume cap that required the use of this  
5 taxable debt, however, that taxable debt is not being  
6 issued by TDHCA.

7 The TEFRA hearing for The Pines was held on the  
8 same day and in the same format as 333 Holly. For this  
9 particular deal there were only two attendees which, again,  
10 represents staff conducting the hearing, and that hearing  
11 transcript is included in your package. The Department has  
12 received no letters of support or opposition for this  
13 particular property.

14 Staff recommends approval of Bond Resolution No.  
15 20-021 in an amount not to exceed \$22 million, along with  
16 the issuance of a determination notice of 4 percent housing  
17 tax credits in the amount of \$1,469,273.

18 And again, as was the case on the prior  
19 transaction, if you do wish to make conditions related to  
20 the compliance history related to this property, you may do  
21 so as part of your motion.

22 MS. BINGHAM: Thank you, Teresa.

23 Any questions for Teresa?

24 (No response.)

25 MS. BINGHAM: We'll entertain a motion from the

1 Board regarding staff's recommendation.

2 MR. VASQUEZ: I'll move to approve staff's  
3 recommendation with no further restrictions.

4 MS. BINGHAM: Mr. Vasquez moves to approve  
5 staff's recommendation with not further conditions. Is  
6 there a second?

7 MR. BRADEN: Second.

8 MS. BINGHAM: Mr. Braden seconds.

9 Naomi, is there anyone in the queue for 5(c)?

10 MS. CANTU: We do not have anyone in the queue  
11 and only one person pre-registered if there are any  
12 questions from the Board.

13 MS. BINGHAM: Great. Then we'll take a vote on  
14 the motion and the second to approve staff's recommendation  
15 on item 5(c). All those in favor aye.

16 (A chorus of ayes.)

17 MS. BINGHAM: Opposed?

18 (No response.)

19 MS. BINGHAM: Great. Motion carries.

20 And 5(d).

21 MS. MORALES: Having, again, approved the  
22 compliance history for this development under item 4, item  
23 5(d) proposes action relating to the issuance of unrated  
24 multifamily tax-exempt bonds by the Department for the new  
25 construction of 200 units in San Antonio serving the

1 general population, with all units restricted at 60 percent  
2 of the area median income.

3 This application may sound familiar because it  
4 was previously before you in December of 2019 for an award  
5 of 4 percent housing tax credits and direct loan funds  
6 which was approved. Subsequent to that Board meeting, the  
7 applicant switched issuers from Bexar County Housing  
8 Finance Corporation to TDHCA and you approved the  
9 inducement resolution in February of this year.

10 Under the proposed structure, the Department  
11 will issue unrated tax-exempt multifamily bonds in the  
12 amount of \$20 million that will be initially purchased by  
13 JPMorgan Chase. Bank of America will provide a taxable  
14 construction loan that will be used the cash collateralize  
15 the bonds purchased by JPMorgan. Bank of America will also  
16 provide approximately \$7.4 million as an equity bridge  
17 loan. At conversion Cedar Rapids Bank & Trust will  
18 purchase the bonds from JPMorgan and will serve as the  
19 permanent lender for the remainder of the term. The cash  
20 collateral will be released to repay the Bank of America  
21 taxable construction loan. There will be a forward  
22 starting swap in place at closing of the bonds that will  
23 commence at conversion and will terminate 16 years later in  
24 July of 2039.

25 While the Department, like multifamily

1 transactions, is not a party to the swap agreement, the  
2 swap payments will flow through the indenture to the  
3 trustee. The bonds will have a variable interest rate  
4 equal to 79 percent of one month LIBOR plus 2 percent,  
5 which will match the amount paid by Cedar Rapids Bank &  
6 Trust to the swap counterparty.

7 As previously noted, the award of TCAP direct  
8 loan funds that the Board approved in December of \$4  
9 million remains in place, so that is not part of your  
10 action today, but that loan has been reevaluated as part of  
11 the proposal for the bonds and the new determination of 4  
12 percent credits. The current underwriting report reflects  
13 a slightly reduced amount of \$3,875,000, however, because  
14 the NOFA in which these bonds were awarded is closed and  
15 there are no commitment or expenditure deadlines associated  
16 with these bonds, staff is not recommending that this loan  
17 be reduced by today's Board action. This leaves an  
18 opportunity for that amount to increase back to the \$4  
19 million should the 2020 HOME rents be published and/or  
20 there be a decrease in the first lien loan interest rate  
21 prior to closing.

22 As with Pines and Holly, staff held a telephonic  
23 public hearing on April 28th and based on the participant  
24 count feature, there were eight attendees on the call which  
25 included staff and members of the development team.



1 Because the callers did not identify themselves, it was  
2 hard to know if members of the public did call in. A copy  
3 of the hearing transcript is included in the package.

4 When the application was before you in December  
5 there was local opposition that staff had received and  
6 included in the Board materials at that time. When the  
7 inducement resolution was adopted in February, that same  
8 opposition was presented to the Board, however, no new  
9 opposition was received. For the application subsequently  
10 submitted and under review by staff, there has been no new  
11 public comment submitted.

12 To refresh your memory, that prior opposition  
13 included 22 letters from individuals and a petition signed  
14 by 27 individuals expressing opposition. There was also a  
15 letter from Bexar County Commissioner Tommy Calvert that  
16 also expressed opposition.

17 Staff recommends approval of Bond Resolution No.  
18 20-022 in the amount of \$20 million and the issuance of a  
19 determination notice of 4 percent housing tax credits in  
20 the amount of \$1,280,892.

21 MS. BINGHAM: Wow. I'm dizzy. Is it me? That  
22 took a village. Both were pretty complicated financing.

23 Any questions for Teresa?

24 (No response.)

25 MS. BINGHAM: So staff is recommending the

1 resolution stated in the Board book for the issuance of the  
2 multifamily housing revenue bonds for the \$20 million and a  
3 determination notice of the \$1.28-. Any questions for  
4 Teresa?

5 (No response.)

6 MS. BINGHAM: And, Naomi, would you let us know  
7 if there's anybody in the queue for item 5(d).

8 MS. CANTU: We don't have anyone in the queue  
9 and we only have one person pre-registered to speak if  
10 there's questions.

11 MS. BINGHAM: Great. We'll entertain a motion.

12 MR. BRADEN: I'll move to accept staff's  
13 recommendation.

14 MS. BINGHAM: All right. I have a motion from  
15 Mr. Braden. Is there a second?

16 MS. THOMASON: Second.

17 MS. BINGHAM: Ms. Thomason seconds.

18 Any further discussion?

19 (No response.)

20 MS. BINGHAM: All those in favor aye.

21 (A chorus of ayes.)

22 MS. BINGHAM: Opposed?

23 (No response.)

24 MS. BINGHAM: That motion carries.

25 Thank you, Teresa.

1 MS. MORALES: Could I say one last thing, if I  
2 may?

3 MS. BINGHAM: Absolutely.

4 MS. MORALES: With the Board action under item  
5 5, this represents four transactions that I think is the  
6 most that we've had on the agenda for quite some time.  
7 Obviously it speaks to how busy the private activity bond  
8 program has been, and part of what I wanted to do is just  
9 give a shout-out to Bracewell as the Department's bond  
10 counsel. They, particularly with the Holly and Pines  
11 transactions, got those substantially final bond documents  
12 before you in less than two weeks' time, which just shows  
13 how determined we are to keep these deals moving. So a  
14 huge shout-out to Elizabeth Bowes, Andy Prihoda, Victoria  
15 Ozimek and Sherry Anderson. And obviously with no  
16 disrespect to Norton Rose, I think Bracewell is pretty  
17 awesome. So thank you.

18 MS. BINGHAM: Thank you.

19 Bobby, Ms. Bast is stating that there's somebody  
20 from the Houston Housing Authority, the executive director,  
21 that has a hard stop and would like to see if we would be  
22 interested in taking his comment on item 7(e), application  
23 20114, 3300 Caroline.

24 MR. WILKINSON: At your discretion, Vice Chair.  
25 If you want to move forward with that, I'd recommend we

1 take that testimony and then go back to the regular order/.

2 MS. BINGHAM: Thank you, Bobby.

3 Naomi, can you see if you can find -- well,  
4 let's see, Ms. Bast first just because I don't think I have  
5 the name in the entry. Can you see if you can find Ms.  
6 Bast?

7 MS. CANTU: I'm sorry. We're talking about the  
8 Houston Housing Authority that Ms. Bast is volunteering.  
9 Is that the case?

10 MS. BINGHAM: Correct. I think she has a  
11 speaker with the Houston Housing Authority that would like  
12 to speak on item 7(e).

13 MS. CANTU: I don't see anyone with the Houston  
14 Housing Authority registered. Again, if they don't let me  
15 know directly, I cannot see them that they would like to  
16 speak, so we do request that people would not volunteer  
17 other people to speak.

18 MR. WILKINSON: Mr. Mark Thiele. Mr. Thiele,  
19 please type into the questions box if you'd like to  
20 testify.

21 MS. CANTU: Okay. We do see him. Okay. We can  
22 go ahead and unmute him.

23 MS. BINGHAM: Great. So while we're unmuting  
24 Mark, we're moving just for a quick comment from Mr. Thiele  
25 on item 7(3) application 20114, 3300 Caroline Street. Mr.

1 Thiele.

2 MR. THIELE: Madam Chair and Board of Directors,  
3 I appreciate your consideration, and I'm fine if you'd like  
4 to use the camera, I wore my favorite tie for you.

5 My name is Mark Thiele. I've been the interim  
6 president and CEO of the Houston Housing Authority since  
7 January, and it's a pleasure to make your acquaintance. My  
8 comments are regarding 3300 Caroline, item 7(e), 20114, and  
9 I am requesting that you grant the appeal.

10 Madam Chair, the Houston Housing Authority is  
11 one of the largest housing authorities on the country. We  
12 have over 23,000 units and serve over 58,000 individuals,  
13 some 47 percent of whom are children, and we are  
14 particularly known and recognized nationally for our  
15 commitment to ending homelessness. I have the privilege of  
16 chairing the Housing Houston Heroes initiative which was  
17 acknowledged in 2015 at a presentation by three cabinet  
18 level secretaries here for effectively ending veteran  
19 homelessness in Houston. In close collaboration with a  
20 broad array of partners, including the City of Houston and  
21 the Coalition for the Homeless, we have continued our  
22 efforts through Harvey and now through the pandemic.  
23 Homelessness in Houston has decreased by 54 percent since  
24 2011, bucking the national trend.

25 As regards 3300 Caroline, I submit for your

1 consideration HHA strives to coordinate with TDHCA so that  
2 our programs work in a complementary fashion to create as  
3 much well needed affordable housing as possible. We met  
4 with the applicant to discuss this application in August of  
5 2019 before the QAP was even finalized. We understood what  
6 the applicant was proposing and were very supportive. We  
7 were pleased to see the change in the definition of  
8 supportive housing that would allow us to partner with you  
9 by providing the project-based vouchers needed for  
10 supportive housing development such as this utilizing tax  
11 credits.

12 As you are aware via my correspondence to you  
13 dated February 26th and March 24th of this year, I and we  
14 have been strong supporters of this applicant. On March 4,  
15 2020, HHA published an RFP for PBVs. On April 21st our  
16 board of commissioners voted unanimously to award 149  
17 permanent supportive housing project-based vouchers to this  
18 applicant. We believe that we have done what needed to be  
19 done, even in the face of great challenge.

20 As a housing operator, I understand staff's  
21 inclination to be conservative, I really do. As a houser,  
22 however, Board members, this is not the time to be  
23 conservative, this is a time to be bold. Allow us to take  
24 this important step together, folks are counting on us. I  
25 respectfully request that you grant this appeal.

1 Thank you again for your consideration.

2 MS. BINGHAM: Thank you, Mr. Thiele.

3 Any questions from the Board for Mr. Thiele?

4 (No response.)

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

6 MR. THIELE: Thank you, Madam Chair.

7 MS. BINGHAM: Thank you.

8 We'll now go back to the agenda in order. We're  
9 at item 6. These are our COVID-related CARES Act. Action  
10 item 6(a) would be Abigail Versyp.

11 MS. VERSYP: Good morning. I'm Abigail Versyp.

12 I'm the director of Single Family and Homeless programs,  
13 and I'm presenting item 6(a), requesting a waiver of  
14 certain provisions of the Texas Administrative Code for the  
15 Emergency Solutions Grant program, or ESG.

16 As previously discussed at a prior Board  
17 meeting, TDHCA was allocated about \$33 million in ESG funds  
18 under the CARES Act. The ESG funds allocated under the Act  
19 have some special provisions, including additional eligible  
20 use of the funds and waivers of some requirements that  
21 apply to the regular allocation of ESG. Staff requests  
22 waivers of certain provisions of the Texas Administrative  
23 Code to align with those flexibilities that are offered to  
24 us under the Act.

25 The waivers requested to 10 TAC 7.3 would allow

1 ESG CARES grantees to utilize funds to provide temporary  
2 emergency shelter, including construction and building of  
3 temporary shelters without entering into a land use  
4 restriction agreement. Construction of temporary shelter  
5 is a special activity under CARES and it's not allowed with  
6 our regular ESG funds, so the 10 TAC as it is written  
7 doesn't contemplate construction that's temporary in  
8 nature.

9           Additionally, 7.3(f) sets forth construction  
10 standards and inspection requirements. The CARES Act  
11 exempted temporary shelters from the habitability standards  
12 and environmental regulations that apply to permanent  
13 shelters, and the waivers of 7.3(f) would allow us to apply  
14 only the limited requirements under the CARES Act for this  
15 purpose.

16           The second waiver requested is a waiver to  
17 7.32(c). This provision of 10 TAC prohibits our ESG  
18 grantees from sub-granting their award to another entity to  
19 administer on their behalf. Staff recommends that this  
20 waiver is applied in a very limited manner to allow our  
21 grantees to have ESG CARES funds to sub-grant only for  
22 limited purposes outlined in the ESG CARES funding plan  
23 that was approved in April. The plan allows for ESG CARES  
24 grantees to sub-grant funds to legal service providers,  
25 food service providers, and the lead agency that manages



1 HMIS which is the data collection system used by providers  
2 of ESG.

3 The third and final waiver requested is a waiver  
4 of 7.32(i) which outlines the allowable costs for HMIS.  
5 Those are limited because TDHCA isn't the HMIS lead agency.  
6 We've requested a waiver from HUD that would allow us to  
7 grant funds for certain HMIS costs that are usually  
8 ineligible for us to pay but will be eligible if the waiver  
9 is granted. This waiver to 10 TAC would be applied upon  
10 approval of the waiver from HUD.

11 Staff requests that the waivers remain available  
12 until expiration of the CARES Act which is currently  
13 September 30, 2022, but of course could be potentially  
14 amended, so we would just have the flexibility to extend  
15 beyond that date.

16 I'm here for any questions you have.

17 MS. BINGHAM: Thank you, Abigail.

18 Does the Board have any questions for Abigail?

19 (No response.)

20 MS. BINGHAM: So staff is requesting waivers for  
21 three different 10 TACs.

22 MS. VERSYP: Three different provisions.

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

24 We'll entertain a motion

25 MS. THOMASON: I make a motion to approve

1 staff's recommendation.

2 MS. BINGHAM: All right. Ms. Thomason moves  
3 staff's recommendation. Is there a second?

4 MR. BRADEN: Second.

5 MS. BINGHAM: Mr. Braden seconds.

6 So I have a motion and a second to approve  
7 staff's recommendation on item 6(a).

8 Naomi, is there any public comment on item 6(a)?

9 MS. CANTU: We do not have anyone pre-registered  
10 and there is no one in the queue.

11 MS. BINGHAM: Thank you.

12 If there's no further discussion, all in favor  
13 aye.

14 (A chorus of ayes.)

15 MS. BINGHAM: Opposed same sign.

16 (No response.)

17 MS. BINGHAM: Motion carries on item 6(a).

18 Thank you, Abigail.

19 Moving on to item 6(b), Marni.

20 MS. HOLLOWAY: Good morning. This is Marni  
21 Holloway. I'm the director of the Multifamily Finance  
22 Division.

23 Item 6(b) is presentation, discussion and  
24 possible action authorizing the executive director to waive  
25 or extend certain construction inspection requirements

1 under our multifamily rules, the QAP, the Multifamily  
2 Housing Revenue Bond rules, and the Multifamily Direct Loan  
3 rule.

4 As you are well aware, on March 13th Governor  
5 Abbott issued a statewide disaster declaration due to  
6 COVID-19 authorizing the use of all available resources to  
7 cope with the spread of the virus. The nature of the  
8 disaster is such that many persons will be impacted,  
9 including both those served by Department programs as well  
10 as those who apply for funds from the Department. Our  
11 rules include certain construction inspection requirements,  
12 either directly or because the rules are all interrelated.

13 Some of these inspections or the manner in which they are  
14 conducted are not required by state statute or federal law  
15 or regulation.

16 Typically these are the types of requirements  
17 that we would ask the Board to make a decision on  
18 individually regarding waiver or extension. Staff foresees  
19 maybe circumstances during the current disaster where  
20 waiver or extension of construction inspection requirements  
21 is appropriate but there's not sufficient time to present  
22 the decision to the Board. In these cases we are  
23 requesting the executive director be granted authority to  
24 waive or extend these construction inspection requirements  
25 without prior Board approval.

1           Any action taken under this authority will be  
2 applied equitably to all applicants unless the  
3 circumstances are unique to a single development. All  
4 actions will be supported by evidence of the impact of the  
5 disaster on the specific requirement. Statutory  
6 requirements that are also reflected in the rules will only  
7 be modified by the executive director to the extent they  
8 have been waived by the governor. Similarly, modifications  
9 for federal requirements will only be made to the extent  
10 that they have been modified or waived by the applicable  
11 federal agency.

12           All actions taken under this authority will be  
13 reported to the Board at the next available meeting and  
14 none will be considered an amendment to the rule or as  
15 establishing precedent.

16           Staff recommends that the executive director be  
17 granted authority to waive or extend the construction  
18 requirements that are not required by state statute or  
19 federal law or regulation unless also waived by the  
20 governor of the State of Texas or the applicable federal  
21 authority.

22           I'd be happy to take any questions.

23           MS. BINGHAM: Thanks.

24           Any questions from the Board for Marni?

25           (No response.)

1 MS. BINGHAM: Great. We'll entertain a motion.

2 MR. BRADEN: Move to approve.

3 MS. BINGHAM: Mr. Braden moves for staff's  
4 recommendation on item 6(b). Is there a second?

5 MS. THOMASON: Second.

6 MS. BINGHAM: Ms. Thomason seconds.

7 Naomi, are there any comments for item 6(b)?

8 MS. CANTU: I do not see anyone queued up and  
9 there's no one pre-registered.

10 MS. BINGHAM: Great.

11 We'll call for a vote. We have a motion and a  
12 second for staff's recommendation on item 6(b). All those  
13 in favor aye.

14 (A chorus of ayes.)

15 MS. BINGHAM: Opposed?

16 (No response.)

17 MS. BINGHAM: Motion carries.

18 MS. HOLLOWAY: Thank you.

19 MS. BINGHAM: Thanks, Marni.

20 Item 6(c), Michael De Young. Good morning. I  
21 think you're muted.

22 MS. CANTU: Michael, I believe you're self-  
23 muted.

24 MR. WILKINSON: We cannot hear you, Michael.

25 MS. CANTU: At this point, Michael, we cannot

1 see you. Okay, we see you now, Michael but we cannot hear  
2 you.

3 We're going to go ahead and provide some  
4 technical support to Michael. Hold on one second. Michael  
5 is actually in the office; there's a few of us here.

6 MR. DE YOUNG: Can you hear me now? Sorry about  
7 that.

8 Good morning, Madam Chair, members of the Board.  
9 The next item, item 6(c), pertains to some supplemental  
10 funding that is available to the Section 8 program through  
11 the CARES Act.

12 On May 8th, HUD released some guidance and the  
13 first portion of funding for the supplemental  
14 administrative money, and the Department received about  
15 \$117,000 in administrative fee funding. Staff is  
16 requesting to use these funds for upgrading our Housing  
17 Choice Voucher program software and to create a landlord  
18 incentive payment to retain or increase our owners'  
19 participation in the Housing Choice Voucher program.

20 If you recall, we are the acting public housing  
21 authority for about 37 counties throughout the State of  
22 Texas and in many of those areas housing supply for Section  
23 8 is not always available and what we would like to do with  
24 one portion of the funds use it as an incentive payment to  
25 incentivize the homeowners or the landlords to make their

1 homes available to Section 8 voucher holders.

2 And then the second part of this equation is the  
3 streamlining of our processes and our software so that as  
4 we work remotely in the COVID environment that our clients  
5 are able to give us the documentation we need, we're able  
6 to save it electronically and simplify the process for  
7 them. And then also, another aspect is we're going to ask  
8 for the ability to do online wait lists which in the future  
9 we should be opening up our wait lists for additional  
10 clients in the Section 8 Voucher program, so we want to be  
11 able to do that online. It helps to simplify and create an  
12 electronic record so we don't do it the old-fashioned way.

13 Staff is recommending your approval.

14 MS. BINGHAM: Thank you, Michael.

15 Do the Board members have any questions for  
16 Michael?

17 (No response.)

18 MS. BINGHAM: If not, I'll entertain a motion.

19 MS. THOMASON: Move to approve staff's  
20 recommendation.

21 MR. BRADEN: Move to approve.

22 MS. BINGHAM: Let's see, I heard a motion from  
23 Mr. Thomason and I'll take Mr. Braden's as a second.

24 MR. BRADEN: Second.

25 MS. BINGHAM: So Naomi, I did have a note that

1 there might be public comment or material on this item.

2 MS. CANTU: On item 6(c) I don't have anyone  
3 pre-registered. We are looking in the panel, the questions  
4 box, and I don't see anyone letting me know that they want  
5 to speak.

6 So again, if you do want to speak on these  
7 items, please indicate so in the questions panel when the  
8 agenda item is called.

9 MS. BINGHAM: Thank you.

10 So I have a motion and a second to approve  
11 staff's recommendation on item 6(c). We'll take a vote.  
12 All those in favor aye.

13 (A chorus of ayes.)

14 MS. BINGHAM: Opposed?

15 (No response.)

16 MS. BINGHAM: Motion carries. Thank you.

17 MR. DE YOUNG: Thank y'all.

18 MS. BINGHAM: Thank you, Michael.

19 Bobby, would now be a good time to take a brief  
20 break before we go into the items under item 7?

21 MR. WILKINSON: Seems to be a logical part of  
22 the agenda to take a break.

23 MS. BINGHAM: Very good.

24 Naomi, we'd like to take a ten-minute quick  
25 break.



1 MS. CANTU: Yes. We will put up the break slide  
2 and set the timer for ten minutes, and we will reconvene in  
3 ten minutes.

4 MS. BINGHAM: Great. Thank you.

5 MS. CANTU: Thank you, everyone. We're going to  
6 turn off the web cam for now.

7 (Whereupon, at 11:49, a brief recess was taken.)

8 MS. BINGHAM: Very good. So we're reconvening  
9 the May meeting of the Texas Department of Housing and  
10 Community Affairs Governing Board, and we are starting item  
11 7, the Multifamily Finance items.

12 Teresa Morales.

13 MS. CANTU: Teresa, you are self-muted.

14 MS. MORALES: Sorry. Is that better?

15 MS. CANTU: Yes.

16 MS. MORALES: Teresa Morales, director of  
17 Multifamily Bonds.

18 Item 7(a) involves the issuance of a  
19 determination notice for 4 percent housing tax credits and  
20 an award of direct loan funds in the form of National  
21 Housing Trust Fund.

22 Heritages Estates at Owen Estates is a new  
23 construction development in the ETJ of Austin and will  
24 include 174 units to serve the elderly population. Because  
25 of the NHTF component, there will be units for households

1 at 30 percent of AMI in addition to serving households at  
2 40 percent, 60 percent and 70 percent. The NHTF award is  
3 anticipated to help the Department meet its federal  
4 commitment deadline of October 2 of 2020 for program year  
5 2018 NHTF. If the applicant and the Department have not  
6 executed a contract for the NHTF funds, the Department may  
7 reduce those funds in whole or in part, notwithstanding any  
8 other deadline in the Texas Administrative Code.

9 The NHTF loan will be structured as a zero  
10 percent surplus cash flow loan in accordance with 10 TAC  
11 13.2, number 14, amortized over a 30-year period with a 60-  
12 year term.

13 Staff recommends approval of a determination  
14 notice in the amount of \$1,213,610 and \$3 million in  
15 National Housing Trust Fund, along with any conditions that  
16 are noted in your Board write-up.

17 MS. BINGHAM: Thank you.

18 Do the Board members have any questions for  
19 Teresa?

20 (No response.)

21 MS. BINGHAM: If not, I'll entertain a motion.

22 MR. VASQUEZ: Move to approve staff's  
23 recommendation.

24 MS. BINGHAM: Okay. Mr. Vasquez moves to  
25 approve staff's recommendation. Is there a second?

1 MS. THOMASON: Second.

2 MS. BINGHAM: Ms. Thomason seconds.

3 Naomi, is there anybody in the queue for item  
4 7(a)?

5 MS. CANTU: We only one person in the queue and  
6 it's only if the Board has any questions.

7 MS. BINGHAM: Very good.

8 Any further discussion from the Board?

9 (No response.)

10 MS. BINGHAM: All those in favor aye.

11 (A chorus of ayes.)

12 MS. BINGHAM: Opposed?

13 (No response.)

14 MS. BINGHAM: Motion carries approving staff's  
15 recommendation on item 7(a).

16 7(b).

17 MS. MORALES: Item 7(b) similarly involves the  
18 issuance of a determination notice for 4 percent credits  
19 and an award of direct loan funds in the form of National  
20 Housing Trust Fund.

21 Palladium at West Francis proposes the new  
22 construction of 240 units for the general population in  
23 Midland. Because of the NHTF component, there will be  
24 units for households at 30 percent of AMI, in addition to  
25 serving households at 40, 50, 60, 70 and 80 percent of area

1 median income. The development also proposes 23 units at  
2 market rate.

3 The NHTF award is anticipated to help the  
4 Department meet its federal commitment deadline in October  
5 of this year for program year 2018 NHTF. Similarly with  
6 the Heritage at Owen Estates, if the Department and the  
7 applicant have not executed a contract for these funds then  
8 we may reduce those funds in whole or in part.

9 The NHTF loan will be structured as a zero  
10 percent surplus cash flow loan amortized over a 30-year  
11 period with a 40-year term.

12 Staff recommends approval of a determination  
13 notice in the amount of \$1,596,885 and \$1,259,975 in  
14 National Housing Trust Fund.

15 MS. BINGHAM: We'll entertain a motion.

16 MS. THOMASON: Move to approve staff's  
17 recommendation.

18 MS. BINGHAM: Okay. Motion by Ms. Thomason.

19 MR. BRADEN: Second.

20 MS. BINGHAM: Mr. Braden seconds.

21 Any further discussion?

22 (No response.)

23 MS. BINGHAM: Naomi, anybody in the queue for  
24 7(b)?

25 MS. THOMASON: We have two people in the queue

1 but only for questions from staff or Board.

2 MS. BINGHAM: Great. Thank you.

3 I have a motion and a second to approve staff's  
4 recommendation on Palladium at West Francis in Midland.  
5 All those in favor aye.

6 (A chorus of ayes.)

7 MS. BINGHAM: Opposed?

8 (No response.)

9 MS. BINGHAM: That motion carries.

10 Item 7(c).

11 MS. MORALES: Teresa Morales, director of  
12 Multifamily Bonds.

13 Item 7(c) involves a determination of  
14 eligibility relating to developments within in certain  
15 school attendance zones, and also a determination with  
16 respect to neighborhood risk factors relating to a middle  
17 school within the developments attendance zone.

18 Despite being an ineligible development, a full  
19 tax credit application was submitted for Preserve at the  
20 Port which is an existing general population development  
21 located on the southwest side of San Antonio near Lackland  
22 Air Force Base.

23 The development proposes the rehabilitation of  
24 384 units, all of which will be rent and income restricted  
25 for households ranging between 30 percent and 70 percent of

1 the area median income. The development was built in 1945  
2 which makes it 75 years old, and the application reflects  
3 that all 384 units are currently market rate with no  
4 restrictions. Moreover, the application indicated that as  
5 of January 6th of this year the property was only 38  
6 percent occupied which means there are 234 vacant units.

7 At the time the 2020 QAP was approved, this  
8 Board established that developments in areas where a school  
9 in the attendance zone was rated F by TEA in 2019 and was  
10 rated Improvement Required in 2018 would be considered  
11 ineligible with no opportunity for mitigation. There was  
12 lot of discussion during both the Rules Committee meeting  
13 and the Board meeting about what to do with schools that  
14 failed multiple years in a row. In response to public  
15 comment, a provision was added to the QAP that allowed  
16 certain types of properties to be exempt from this  
17 ineligibility item. These include properties currently  
18 encumbered with a TDHCA LURA, elderly developments,  
19 supportive housing SRO developments, or supportive housing  
20 developments with all efficiency units. Preserve at the  
21 Port does not meet any of these criteria.

22 The property is located within the Edgewood  
23 Independent School District, a district with an overall  
24 rating of C, according to the 2019 TEA rating. The  
25 development is in the attendance zone of Winston Elementary

1 School which received a 2019 rating of F and a 2018 rating  
2 of Improvement Required. There is a lot of information in  
3 your materials that was provided by the applicant  
4 concerning this issue, however, because the rule  
5 specifically states that such developments are ineligible,  
6 there is no framework by which staff could review the  
7 information submitted and arrive at a recommendation other  
8 than that of ineligibility.

9 In addition to the elementary school  
10 performance, there is a neighborhood risk factor relating  
11 to the middle school. Brentwood Middle School received a  
12 2019 TEA rating of F and a 2018 Met Standard rating. While  
13 mitigation was submitted for Brentwood that could be  
14 evaluated under the rule, staff believes that because the  
15 bigger issue relates to ineligibility of the elementary  
16 school, the decision to find the site eligible under the  
17 neighborhood risk factors as it relates to that middle  
18 school should also be a Board decision.

19 In applying the waiver standards under 11.207 of  
20 the QAP, staff does not believe that those factors are met  
21 such that a waiver may be granted. Specifically, how the  
22 issue is beyond the control of the applicant which in this  
23 instance would be how selection of this particular property  
24 is beyond the control of the applicant, and how by granting  
25 the waiver that better serves the policies and purposes as

1 articulated in Texas Government Code than by not granting  
2 the waiver.

3 As previously noted, the full tax credit  
4 application was submitted, despite the fact that under the  
5 rule it is ineligible. As a result, staff has not  
6 performed an in-depth review of the application pending a  
7 decision with respect to ineligibility. However, upon a  
8 cursory review of the application in order to present this  
9 agenda item, staff noted several items of concern, some of  
10 which could cause ineligibility under different sections of  
11 the Department's rules or governing statutes.

12 While these eligibility determinations are not  
13 before the Board today, staff believes that it is important  
14 for the Board to be aware of these concerns when  
15 determining whether granting the waiver would better serve  
16 the purposes and policies articulated in the waiver rules  
17 and in statute.

18 First, the application indicated that the  
19 Department's accessibility requirements do not apply to the  
20 development, however, pursuant to the QAP, all developments  
21 must comply with the Department's accessibility  
22 requirements. This requires that all developments will be  
23 treated as substantial alterations for purposes of Section  
24 504. The application did not include any accessible units  
25 that would meet the requirements that 5 percent of the



1 units be accessible to those individuals with physical  
2 impairments, and another 2 percent be made accessible to  
3 those individuals with hearing and visual impairments.  
4 Moreover, an accessible path was not identified that would  
5 link the accessible units to the common amenities across  
6 the property. Given that the Department's accessibility  
7 requirements do not seem to have been factored into the  
8 application, staff questions the extent to which the costs  
9 reflected therein are accurate or if they are grossly  
10 understated.

11 Moreover, the rules require a scope and cost  
12 review, or an SCR report, be submitted which is completed  
13 by an independent third party to verify that costs  
14 identified by the applicant for the rehab are accurate.  
15 Upon a preliminary review of this report, staff believes it  
16 to be materially deficient as the exhibits referenced  
17 therein are not included in the report including an opinion  
18 of costs. The SCR also noted that with respect to  
19 accessibility, "no measurements of any type were taken" and  
20 "a comprehensive ADA survey was not performed."

21 In addition, a preliminary review of the  
22 environmental site assessment noted that the site is a  
23 moderate environmental risk and it's unclear whether the  
24 additional testing that was recommended was performed and  
25 the costs associated with that remediation has been

1 factored into the proposed development.

2 The issue before you is one of eligibility as it  
3 relates to the elementary school and a determination on  
4 whether the information provided in their materials is  
5 sufficient mitigation as it relates to the middle school.  
6 However, concerns on the part of staff extend beyond the  
7 school district and to the site itself that staff believes  
8 it is important enough to bring to your attention as well.

9 That concludes my presentation.

10 MS. BINGHAM: Thank you, Teresa.

11 Do the Board members have any initial questions  
12 of Teresa? I'm going to imagine we have public comment on  
13 this item.

14 (No response.)

15 MS. BINGHAM: So Teresa, so there's a request  
16 for waiver and the elementary school is, by staff's best  
17 estimate, an ineligibility that can't be mitigated, the  
18 elementary school. The middle school possibly has  
19 mitigation but the staff's position is that it would be  
20 difficult to move to trying to evaluate the mitigation on  
21 the middle school if the elementary school ineligibility  
22 issue appears to be pretty black and white.

23 MS. MORALES: That's correct.

24 MS. BINGHAM: Okay. Would a Board member care  
25 to make a motion on this item?

1 MS. THOMASON: I'll make a motion to approve  
2 staff's recommendation.

3 MS. BINGHAM: All right. We have a motion by  
4 Ms. Thomason to approve staff's recommendation on item 7(c)  
5 related to Preserve at the Port. Is there a second?

6 MR. BRADEN: Second.

7 MS. BINGHAM: Mr. Braden seconds.

8 Naomi, do we have comment?

9 MS. CANTU: We do. We have quite a few comments  
10 on here and you are in queue. We're going to start with  
11 Joey Guerra and then go on to Elizabeth Rohm. Joey, you  
12 are unmuted.

13 MR. GUERRA: Madam Chairman, members of the  
14 Board, can you hear me?

15 MS. BINGHAM: Yes.

16 MR. GUERRA: Okay. I think we've got a pretty  
17 compelling argument here and we've got some people who are  
18 members of the school district, myself, members of the  
19 Housing Trust, but first of all I want to just give you a  
20 little history of this area, what's going on, but first I  
21 want to thank y'all for your willingness to hear our  
22 petition and the facts surrounding this historic  
23 redevelopment and why we need the Board's waiver of Rule 10  
24 for the Preserve at the Port.

25 As a developer partnering with the San Antonio

1 Housing Trust, it's critical for the Board to know the area  
2 and the transformation that has occurred here in the last  
3 25 years. Now, everyone knows that Kelly and Lackland Air  
4 Force bases were San Antonio's economic mainstay for 45  
5 years and that 25 years ago Congress enacted the BRAC  
6 realignment of our armed forces which was pretty  
7 devastating to the San Antonio economy. But one vital  
8 portion of San Antonio's economy closed and a rebirth came  
9 forth basically through the hard work and vision of our  
10 city, county and state officials to what is now commonly  
11 known as Port San Antonio.

12 The Port's assets to the community are as  
13 follows: an industrial complex, complete rail facility  
14 with international access, companies like Lockheed Martin,  
15 General Dynamics, Standard Air, Union Pacific, our nation's  
16 national headquarters for Air Force support, the Department  
17 of Defense's Southern Command, and nation's top  
18 cybersecurity center with logistics support, to name a few  
19 companies. Since the inception of the Port, the employment  
20 there has grown to now 14,000 employees.

21 Now here today, May 21st, at this Board meeting,  
22 we have the opportunity to approve a new rebirth at this  
23 Preserve at the Port. This new development is adjacent to  
24 the Port and within walking distance to all these major  
25 employers at Port SA.

1           To give the Board members an idea of the  
2 redevelopment plan for this property, it was developed by  
3 the federal government as an officer's village over 70  
4 years ago. Currently the property is occupied at only 38  
5 percent with a majority of the buildings in a degraded and  
6 uninhabitable condition. This development that the members  
7 will be voting on today will enable us to create a safe,  
8 stable and a newly constructed Class A living environment  
9 that will provide individuals and families an affordable  
10 rental platform compared to the market rate options  
11 available at the Port.

12           The following options are some of the things  
13 that consist in these 384 units that we're looking to  
14 redevelop: new roofs; bio foamed attics; 40-year shingles;  
15 energy efficient appliances, including washers and dryers;  
16 high seer multi AC and heating units; newly constructed  
17 six-foot sidewalks ADA compliant and six-foot sidewalks  
18 connecting all existing buildings for ADA compliance and  
19 ADA ramps at street corners; one central core amenity area  
20 including playground, barbecue area, covered seating, pool  
21 and basketball; a new learning center that we will be  
22 building for early childhood education and life skills that  
23 we're collaborating with the Edgewood Independent School  
24 District; WIFI hot spots around the complex with tablets  
25 available in the clubhouse lounge for residents; new

1 exterior lighting for safety throughout the complex with  
2 security cameras on light poles.

3 Now, you've just heard kind of a brief narrative  
4 of the Port of San Antonio and the present condition of the  
5 Preserve at the Port and the future basic plans outlined  
6 for this development. For these reasons I have detailed to  
7 the Board surrounding this vital redevelopment of the Port,  
8 we hope and pray for the Board's approval of this waiver.

9 Now, following me will be presentations by Pete  
10 Alanis, executive director of the San Antonio Housing  
11 Trust, to be followed by Phil Chavez, deputy superintendent  
12 who will speak of the rebirth EISD initiated two years ago,  
13 and to close our presentation for this waiver will be our  
14 highly esteemed public servant for District 25, Senator  
15 Jose Menendez.

16 MS. BINGHAM: Thank you, Joey.

17 Does anybody have any questions?

18 (No response.)

19 MS. BINGHAM: Naomi, thank you.

20 MS. CANTU: Yes. Next is Elizabeth Roehm.  
21 Elizabeth, and then after you is Pedro Alanis.

22 Elizabeth, you should be unmuted. Elizabeth,  
23 we'll give you just a few more seconds. Otherwise, then  
24 we'll go on to Pedro. She said she is trying. You might  
25 be self-muted. If you called in, you might be muted on

1 your cell phone. We're going to skip over you for now and  
2 then go to Pedro

3 So Pedro, we're going to you and we will work  
4 with Elizabeth to get her back on.

5 MR. ALANIS: Can y'all hear me okay or see me?

6 MS. CANTU: We can hear you.

7 MR. ALANIS: Great. Good morning, Board  
8 members. For the record, my name is Pete Alanis. I'm the  
9 executive director for the San Antonio Housing Trust, and  
10 its public facility corporation.

11 Like TDHCA's Housing Trust Fund and the Texas  
12 State Affordable Housing Corporation, TSAHC, our mission at  
13 the City of San Antonio's created Housing Trust is to  
14 produce and preserve affordable housing for our most  
15 vulnerable populations. We achieve this by partnering with  
16 high quality affordable housing providers to ensure  
17 successful developments and to maximize a community return  
18 on our public investment. By the end of June we will have  
19 successfully on 26 affordable housing projects,  
20 representing \$1 billion total investment, and most  
21 importantly, creating 6,800 housing units, 4,000 of which  
22 are under the 60 percent AMI level.

23 It's safe to say without our partnership none of  
24 the 26 affordable housing projects would have been  
25 developed. While as impressive as that may sound, this is

1 tiny in comparison to the success of the state's 4 percent  
2 Low Income Housing Tax Credit program which is a testament  
3 to staff, Board leadership, community support, development  
4 partners, but more especially, in good policy making.

5           Regarding Preserve at the Port, I'd like to  
6 focus on why this project makes sense from a policy  
7 standpoint. As a member of our local housing commission, I  
8 can tell you that our city is navigating through a harsh  
9 reality that there's not enough high quality, low cost  
10 housing to keep up with our affordable housing demands, and  
11 the projected population growth that San Antonio  
12 anticipates. We estimate to catch up to this demand we  
13 would need to create or preserve close to 96,000 units over  
14 the next 10 to 15 year period. As overwhelming as this may  
15 seem, this is not an unachievably goal. How do you eat an  
16 elephant? One bite at a time.

17           So in this context our City of San Antonio  
18 established housing production and preservation goals  
19 within the SA Tomorrow Comprehensive Plan which is the  
20 official long range planning document that provides policy  
21 guidance for future growth, development, land use,  
22 infrastructure and services. SA Tomorrow identified 13  
23 regional centers across the city to specifically develop as  
24 vibrant mixed use places. The intent is to offer a variety  
25 of housing options that will benefit both residents and



1 employers in each center.

2 Preserve at the Port is located directly in the  
3 center of the joint base San Antonio Lackland and Port San  
4 Antonio regional center. The specific task of this  
5 employment based regional center is to provide housing for  
6 veterans and low cost housing options to support the joint  
7 base San Antonio area and the Port, because we recognize  
8 that in order to spur economic development and affordable  
9 workforce housing infrastructure is necessary as any other  
10 infrastructure needs.

11 Our goal in this regional center is to create or  
12 preserve 3,400 housing units over 1,800 being rental units.

13 This is why my five city council member board, including  
14 the councilwoman for this district, unanimously voted to  
15 partner on this project.

16 And if you look at the project today, you'll see  
17 an aging apartment complex with severe disrepair and more  
18 than half of those units sitting vacant. This is not the  
19 type of housing that gives a family an overwhelming sense  
20 of dignity and worth.

21 MS. BINGHAM: Mr. Alanis?

22 MR. ALANIS: Yes?

23 MS. BINGHAM: Let's wrap it up if we can.

24 MR. ALANIS: thank you. So wrapping up my  
25 comments, I would ask the Board to consider this policy,

1 consider the context, consider the goal and let us utilize  
2 this all important tax credit tool to make a real catalytic  
3 difference.

4 With that, I'll defer the rest of my time.

5 MS. BINGHAM: Thank you very much, Mr. Alanis.

6 And just a friendly reminder to those that have  
7 comments for the remainder of the meeting, we have a timer  
8 that we provide each speaker with two minutes. If there  
9 are multiple speakers, if each speaker can focus their  
10 comments on attributes of their position that haven't been  
11 addressed in previous public comment, which would help the  
12 Board a great deal. Thank you.

13 Naomi, did we find Elizabeth.

14 MS. CANTU: Yes. We're going to try Elizabeth  
15 again, and then after Elizabeth, Philip Chavez.

16 So Elizabeth, we're going to go ahead and unmute  
17 you.

18 MS. ROEHM: Hi. This is Elizabeth Roehm again,  
19 staff attorney at Texas Housers, speaking in favor of the  
20 staff recommendation on item 7(c).

21 This is a past submitted application for public  
22 subsidy for this housing. As you all know, this may be a  
23 great project but these regulations exist for the use of  
24 this public funding for a reason and TDHCA has recognized  
25 through the regulations the need to build in high

1 opportunity areas with high quality schools.

2 We just heard about transformation of this area.

3 There could be changes happening but the matter at hand is  
4 schools and those are trending worse. As we can all see in  
5 these materials, it looks like in 2018 both the elementary  
6 and middle school did meet standard but had bad reports  
7 prior and in 2019 both of those received a rating of F, so  
8 that doesn't look like trending upward to me, and this is  
9 exactly what these regulations are built for.

10 For both the 4 percent and 9 percent LIHTC, it's  
11 so essential for families to live near high performing  
12 schools. I won't go into the reasons but we all know about  
13 reasons that TDHCA has put these rules in place and then  
14 the need for students to be in high performing schools for  
15 their short term academic success as well as long term  
16 success in terms of college attendance and all of those  
17 other measures that we're looking at. So attendance at  
18 high performing schools is so critical.

19 I really appreciate your attention to this  
20 important issue and Texas Housers fully supports the staff  
21 recommendation not to grant a waiver for building in these  
22 areas. Thank you.

23 MS. BINGHAM: Thank you, Elizabeth.

24 Do the Board members have any questions for  
25 Elizabeth?

1 Naomi, Mr. Chavez?

2 MS. CANTU: Yes. We're going to go to Philip  
3 Chavez, and after that Senator Jose Menendez.

4 So Philip, you are unmuted.

5 MR. CHAVEZ: Madam Chair and Board members, my  
6 name is Phil Chavez, the deputy superintendent for  
7 Edgewood.

8 In 2018-19 we developed a five-year innovation  
9 plan along with the advent of our new superintendent, Dr.  
10 Eduardo Hernandez. That development plan was based on five  
11 innovation zones: early childhood, performing arts, public  
12 service, leadership zone, and esteem zone. The elementary,  
13 Winston, sits within the esteem zone.

14 In 2019-20, this year, we opened up Gardendale  
15 Elementary as an operating partner with Pre-K for SA, a  
16 City of San Antonio early childhood center. We've launched  
17 that with great success, providing different types of  
18 instruction for our pre-K second school at Gardendale.

19 Brentwood opened up this year as Brentwood  
20 Esteem School of Innovation, and we have implemented  
21 various types of informational technology and computer  
22 security courses for Brentwood. We started off with 6th  
23 grade this year, next year we're matriculating up to 7th  
24 and the third year we'll fill out that 8th grade in the  
25 third year.

1           Perales Elementary is also a pre-K-5th that sits  
2 within that zone. Our goal is to have a partnership with  
3 Texas A&M with Perales and also with Winston Elementary.  
4 Winston is slated to be a 3 through 5th grade intermediate,  
5 if you will, that would lead into Brentwood.

6           Within that particular group is also Kennedy  
7 High School. We are in conversations with Port SA -- we  
8 have, rather, memorandums of understanding with Port SA,  
9 the Dee Howard Foundation, we're in talks with Boeing, we  
10 have partnerships with Dell, National Security Agency, UPS  
11 and also Apple. We are looking to make that particular  
12 piece a pathway to technology early college high school.

13           So I want to let you know that with the advent  
14 of the innovation at Winston, our partnership with Texas  
15 A&M University, which we currently will launch a first  
16 partnership at Gus Garcia Middle School in 2021, at Winston  
17 our goal is to develop our relationship with Dee Howard  
18 Foundation where we have a 5th grade aerospace and STEM  
19 program that we're going to be matriculating down to grades  
20 4 and 3, and we'll also be implementing a project-based  
21 learning model titled New Tech Network.

22           As a part of this past year, the situation with  
23 COVID, we have been able to go with a one-to-one  
24 implementation, device implementation with iPads for grades  
25 pre-K through 5 and PCs for grades 6 through 12. We've

1 supplied an outstanding curriculum to graduate all  
2 students, college, career and military ready.

3 Thank you.

4 MS. BINGHAM: Thank you, Mr. Chavez.

5 Naomi, I heard Mr. Chavez or Mr. Alanis say that  
6 Senator Menendez is possibly available also.

7 MS. CANTU: We do have him in queue, yes. We  
8 are working to get him up.

9 SENATOR MENENDEZ: I don't know if you can hear  
10 me, Madam Chair and members of the Board.

11 MS. BINGHAM: We can hear you, Senator.

12 SENATOR MENENDEZ: Wonderful. Thank you,  
13 everyone. Once again, let me thank you all for your  
14 commitment and your service to the State of Texas. And  
15 Bobby, to you and your staff, I'm very proud of where the  
16 agency is and having been following it since 2001 quite  
17 closely.

18 For the members of the Board who may not be  
19 familiar or I may not be familiar with, I have represented  
20 this particular area since my days on city council in 1997,  
21 and then 15 years in the Texas House and then the last five  
22 in the Senate. What I have seen is since 1995 when the  
23 federal government left, we had an immediate degradation of  
24 the housing stock and the quality and the families, the  
25 number of families. Therefore, if you were to approve and

1 grant the waiver and consider this project, which I  
2 support, it would have an immediate benefit on the  
3 surrounding community that is in desperate need of quality,  
4 affordable housing.

5 I also believe that because we do have a new  
6 superintendent who is a hands-on superintendent, is in the  
7 community, is meeting with people, and who has a school  
8 district that has been losing children in part because  
9 there is not a quality, affordable housing stock, I think  
10 you would help the school district. And as you heard, if  
11 you could visualize this area, you have the former base  
12 with this which was officer housing and you have a school,  
13 an elementary within walking distance, a middle school  
14 within walking distance, and a high school, you would have  
15 the capacity. And my understanding, too, is that Port San  
16 Antonio has also started one of these -- what do they call  
17 them -- video game academies onsite which these schools  
18 would be able to access.

19 I believe that we have not had a high level of  
20 investment in the community, in the neighborhood  
21 financially because we haven't had any new rooftops, we've  
22 had a loss, so with this you would help the investment on  
23 behalf of the school, on behalf of the city, on behalf of  
24 the Port to continue to really have a reinvigoration of  
25 this community, of this plan. And what I love about it is

1 it would be 100 percent affordable with deep targets.

2 I understand the young lady, the attorney from  
3 Texas Housers, and I appreciate the need to help people  
4 have access to quality schools. My understanding, my  
5 thought is that with this new superintendent -- because I'm  
6 familiar with his work and the work that he's done in the  
7 schools -- that you have schools that are actually turning  
8 around and that would continue to turn around, especially  
9 when you think about the fact that Mr. Guerra said at the  
10 beginning, they were going to work hand-in-hand with  
11 offering WIFI, free WIFI and iPads and so you could help  
12 close the gap that we've seen in the digital divide in an  
13 area that is financially hurting.

14 So I think, like every major city in the State  
15 of Texas, San Antonio has over a 100,000 unit affordable  
16 housing gap that we need to close. I think if you were to  
17 do this you could help rehabilitate an old property in an  
18 area where the schools are improving and you would go on  
19 further to improve schools by providing them families that  
20 would see a quality, affordable place to live with WIFI,  
21 with iPads, and the ability to have the tax credit --  
22 possibly because it's a market rate and there are no  
23 guidelines as to who can rent there, the state coming in  
24 with a tax credit program would improve the quality of the  
25 tenants, and therefore, improve the quality of the whole



1 ecosystem there in that area.

2 And that's the only reason that I've agreed to  
3 come on today because everyone that's a partner in this is  
4 on board, and it's not always that you have the school  
5 district making a case, you have the city, the housing  
6 authority making the case, or the housing finance  
7 corporation, and everyone hand-in-hand trying to ask for  
8 the state's financial support.

9 This is a very old property and no one is going  
10 to invest in this property and make the rehab if they can't  
11 get some help subsidizing these doors. That's the only way  
12 we're going to. And I think it's unfair to families that  
13 already don't have quality, affordable places to live in  
14 that neighborhood to say no to them just because the  
15 schools have not had the best leadership.

16 And let me tell you, prior to the superintendent  
17 being there, the one that just got hired, the school  
18 district had been taken over by the state because they'd  
19 had a fight at the board, they had lost their  
20 superintendent, so they had been a rudderless district for  
21 some time. They have great leadership now, so much so that  
22 the State of Texas has pulled out, TEA has pulled out and  
23 allowed the elected board members to start working on their  
24 own with their superintendent. I do believe that this is a  
25 school on the change and that by doing this waiver you'd be

1 making an investment on the state tax rolls that would help  
2 an area that desperately needs it.

3 This is why you're not having anybody arguing  
4 against this, other than I understand the reason why the  
5 lady from Texas Housers and I share her concern, but I  
6 really think that we need to help kids who are in that area  
7 and we need to help close the digital divide and this is a  
8 win-win in every respect.

9 And so I want to thank you for allowing me and  
10 indulging me to go over two minutes but I really feel  
11 strongly that this is a positive, very positive  
12 development.

13 MS. BINGHAM: Thank you so much, Senator. Thank  
14 you for your time and your comments.

15 Does the Board have any questions for the  
16 Senator?

17 (No response.)

18 MS. BINGHAM: Thank you again, Senator.

19 SENATOR MENENDEZ: Thank you, Leslie. Thank  
20 you, Madam Chair.

21 MS. BINGHAM: Naomi, is there anyone else in the  
22 queue for comments?

23 MS. CANTU: We don't have anyone in the queue  
24 but we do have one person if you have questions.

25 MS. BINGHAM: Okay. Does the Board have any

1 questions for Teresa? We have a motion and a second to  
2 approve staff's recommendation regarding ineligibility for  
3 Preserve at the Port.

4 (No response.)

5 MS. BINGHAM: Hearing no further questions,  
6 we'll call for a vote. All those in favor aye.

7 (A chorus of ayes.)

8 MS. BINGHAM: Opposed?

9 (No response.)

10 MS. BINGHAM: Leo, I just want to make sure. I  
11 missed your aye.

12 MR. VASQUEZ: Correct. I agree. Aye.

13 MS. BINGHAM: Thank you.

14 Motion carries in favor of staff's  
15 recommendation regarding ineligibility for Preserve at the  
16 Port.

17 Item 7(d), this is Marni, I think.

18 Thank you, Teresa.

19 MS. MORALES: Thank you.

20 MS. HOLLOWAY: Hello again. Item 7(d) is  
21 presentation, discussion and possible action regarding a  
22 waiver of 10 TAC 11.101(b)(1) regarding ineligible  
23 development of application 20128, OST Lofts. This is a 9  
24 percent application.

25 The QAP approved site requirements and

1 restrictions for sites within a flood plain. Specifically,  
2 the site must be developed so that all finished ground  
3 floor elevations are at least one foot above the flood  
4 plain and parking and driveway areas are no lower than six  
5 inches below the flood plain. The waiver request says that  
6 there is a potential that the driveway from Old Spanish  
7 Trail to the apartment buildings' parking area will be  
8 lower than six inches below the flood plain. Both the  
9 architect and engineer confirm this is the case. Building  
10 a driveway in this location could encourage residents to  
11 drive through flooding on Old Spanish Trail to access the  
12 development.

13 Included in your Board materials is an excerpt  
14 of information submitted by the applicant before the book  
15 was published, including a support letter from the city  
16 council member. This is an excerpt because the applicant  
17 included a revised site plan with all driveways exiting  
18 above the flood plain, inferring that the Board could  
19 approve this alternative.

20 Staff has not reviewed this submission for the  
21 18 different items we look for during review of a site  
22 plan. Further, we have not requested this revision. Our  
23 rules regarding the deficiency process is clear that an  
24 applicant may not change or supplement any part of an  
25 application in any manner after the filing deadline or

1 while the application is under consideration, so a new site  
2 plan at this stage would be prohibited.

3 Our rule regarding waivers requires that the  
4 request must establish that the need for the waiver is not  
5 within the control of the applicant and how by granting the  
6 waiver it better serves the policies and purposes  
7 articulated in statute than not granting the waiver. The  
8 waiver request does not meet these requirements because the  
9 issues described in the request are directly related to the  
10 applicant's selection of the development site, and  
11 considering the revised site plan, their choice of  
12 placement of the driveways, both of which were in their  
13 control. The request simply says this waiver is not  
14 preventable by the applicant.

15 Staff is not able to make an affirmative  
16 recommendation regarding this request because it lacks the  
17 basis that we would build that recommendation on,  
18 therefore, we request that the Board determine whether  
19 waiver of the rule regarding flood plains should be granted  
20 for 20128, OST Lofts.

21 I'll be happy to take any questions.

22 MS. BINGHAM: What questions does the Board have  
23 of Marni?

24 MR. VASQUEZ: I guess I have a question, and I  
25 don't know if this is Marni or Beau, but from what Marni is

1 saying, our hands are tied as far as the secondary  
2 submission of information. I mean, we cannot consider that  
3 at this point?

4 MS. HOLLOWAY: I told you that it exists and I  
5 would bet that the applicant is available to answer any  
6 questions about it, but showing it to you and asking you to  
7 approve that site plan is something that we can't do.

8 MR. BRADEN: But could we grant a waiver with a  
9 condition that no driveway is under six inches?

10 MS. HOLLOWAY: I believe so.

11 Beau, do you want to weigh in on that?

12 MR. WILKINSON: While we're waiting on Beau, I  
13 have a couple of points. I think applicant is going to  
14 suggest that, you know, we didn't accept the site plan but  
15 they can just tell you we'll put both entrances and exits  
16 on the street that's above flood plain. But the way the  
17 applicant originally put the waiver request, a waiver might  
18 be needed and so the building itself is above flood plain,  
19 the whole parking lot is higher than six inches above flood  
20 plain, so it all meets.

21 The one drive that is not Old Spanish Trail is  
22 fine. It's just the drive off Old Spanish Trail  
23 eventually, as it hits Old Spanish Trail, is several feet  
24 below flood plain because Old Spanish Trail itself is below  
25 the flood plain.

1                   Staff was really freaked out about it. I was a  
2 Houstonian so I played in the flood waters. Right?

3                   MS. HOLLOWAY: We were freaked out?

4                   (General laughter.)

5                   MR. WILKINSON: You can either waive and allow  
6 the two entrances. It's a long skinny stretch, Old Spanish  
7 Trail on one side, above the flood plain on the other, or  
8 they'll say if you don't waive it can we put both  
9 entrances, you know, on the above flood plain side. I  
10 think you discretion to do either.

11                   Beau, do you have any comments on the legality  
12 of a conditional waiver or anything?

13                   MS. BINGHAM: Naomi, can you find Beau?

14                   MS. CANTU: We do see that Beau is on.

15                   MR. ECCLES: There you go. You unmuted me.

16 Thank you.

17                   MS. CANTU: Okay.

18                   MR. ECCLES: You have no idea how much people  
19 would pay to mute their lawyer with a push of a button.

20                   (General laughter.)

21                   MR. ECCLES: That said, a conditional waiver, I  
22 think, is absolutely within your authority. What Marni was  
23 talking about about hands being tied was exactly what Bobby  
24 was mentioning, and that is Texas Government Code 2306.6708  
25 states pretty clearly that an applicant may not change or

1 supplement their application in any manner after the filing  
2 deadline, so submitting a new site plan that had a  
3 different location for a driveway, that's just something  
4 beyond what we could accept or score, so that's why they  
5 submitted the waiver. So you can grant the waiver and you  
6 can always put conditions on it.

7 MS. BINGHAM: Anybody have any other questions  
8 or prepared to make a motion?

9 MR. VASQUEZ: Also, just to understand, this is  
10 allowing them to continue in the application process.  
11 Correct?

12 MS. HOLLOWAY: Yes. This isn't a decision  
13 regarding an award, nothing like that.

14 MS. BINGHAM: Are we prepared to make a motion  
15 on the item, or would you prefer to hear comment?

16 MR. VASQUEZ: Let me go ahead and make a motion  
17 so we can open it up for comment. I'd move that we provide  
18 a waiver or approve the waiver for this applicant to accept  
19 the revised flood layout -- or driveway layout addressing  
20 the flood issues.

21 MR. BRADEN: Grant the waiver with conditions?

22 MR. VASQUEZ: I'm sorry. I'm happy to amend it.

23 MR. BRADEN: No. I'll second that motion. My  
24 understanding from what Leo says is that the motion is to  
25 grant the waiver with the condition that driveways be



1 changed in compliance with our requirements.

2 MR. VASQUEZ: Yes.

3 MS. BINGHAM: Leo good? Okay. So a motion by  
4 Mr. Vasquez to grant the waiver with the condition that the  
5 driveways comply with our requirements to stay within -- is  
6 it within six inches below the flood plain?

7 MR. BRADEN: Correct.

8 MS. BINGHAM: And I have a second from Mr.  
9 Braden. Great.

10 Naomi, we will hear public comment.

11 MS. CANTU: We have a few people signed up.  
12 We'll start with Mark -- and I do apologize on your last  
13 name, Mucasey. We're then going to move to Adriana Tamez,  
14 and then end with Barry Palmer. We do have Donna  
15 Rickenbacker signed up, but we have not heard from her  
16 recently if she is wanting to speak. So again, we're going  
17 to start with Mark, and then Adriana and then Barry. And  
18 Donna, please get in touch if you would still like to  
19 speak.

20 So let's start with Mark.

21 MR. MUCASEY: Can everybody hear me?

22 MS. BINGHAM: Yes.

23 MR. MUCASEY: Awesome. Okay. Firstly, I'd like  
24 to thank the Department for supporting our projects for the  
25 past 24 years, and after reading two dozen QAPs, I feel I

1 almost know you all personally at this point.

2 Each year January and February are very exciting  
3 times for our staff as our clients allow us to use our  
4 design creativity on unique and special projects. When  
5 Donna sent me the OST tract, I called her back to express  
6 my excitement about her site selection, one that fronts  
7 multiple streets, is along one of Houston's most up and  
8 coming hike and bike bayou green belts, and that is across  
9 the street from the University of Houston's brand new  
10 medical school campus.

11 When I was told you were questioning the site  
12 selection due to the flood hazard issue and compliance with  
13 flood plain elevations, I was a bit surprised. However,  
14 when I saw the FEMA flood plain map as part of your  
15 response, I understood your concern.

16 Unfortunately, the blue area shown as flood  
17 hazard that encompasses part of our site gives a completely  
18 wrong impression of what this site really is, and in fact,  
19 this map has not been updated to reflect all of the  
20 improvements that Harris County has done since this was  
21 implemented. In actual fact, our site is a level and flat  
22 tabletop ready for development whose entire area is  
23 available for units, amenities and parking with the  
24 exception of the north 2 percent that slopes steeply down  
25 just to meet the third street OST.

1           You took issue with that short driveway  
2 connection being below the flood plain. In fact, during  
3 Hurricane Harvey two years ago, OST may have been flooded  
4 but the other two streets around us were not blocked and we  
5 don't expect OST to be flooded for another 498 years,  
6 especially in light of Harris County's massive flood  
7 control improvements that, in fact, have been going on all  
8 along Brays Bayou, up and down. If this are were such a  
9 flood hazard, why would the state-supported U of H chose  
10 its new medical school campus literally two blocks away,  
11 actually bordering the bayou on their side that is half  
12 covered by that scary blue flood hazard zone of the old  
13 FEMA map?

14           But given your reluctance, we were easily  
15 revising our layout to simply abandon the drive out to OST  
16 and use the third street, Delafield, as our front entrance.

17       The back entrance from Produce Row remains a great project  
18 connection of our pre-K school to the neighborhood, well  
19 above the flood plain. These revisions simply trade places  
20 between our storm water detention that was off of Delafield  
21 and one of our two driveways that was off of OST.

22           Now our storm water detention pond will be  
23 placed where it will function the best, at the lowest spot  
24 of our site along OST, and our main entry drive shifts to  
25 Delafield such that all parking, drives, buildings and

1 amenities will be out of the flood plain. Only our storm  
2 water detention pond will be below it which is where you  
3 want all of our water to flow anyway as it goes down to the  
4 bayou. No units, amenities or parking are at all affected  
5 by this alternate layout, and in fact, our pool courtyard  
6 actually grows, and our entry drive becomes even more  
7 inviting from the neighborhood.

8 So if you will allow a waiver to maintain the  
9 OST drive or allow us this condition to do the revised --  
10 very simple revision to this plan, the multifamily  
11 development and exciting pre-K school is really something  
12 that our city and this neighborhood really want and they  
13 really deserve. So I'm hoping that you will allow us to  
14 build it and certainly with an alternate plan.

15 Thank you very much for your time.

16 MS. BINGHAM: Thank you, Mark.

17 Any questions for Mark?

18 (No response.)

19 MS. BINGHAM: Great. Naomi?

20 MS. CANTU: Yes. Next actually we have Donna  
21 Rickenbacker. We have her up and we are going to unmute  
22 her.

23 MS. RICKENBACKER: Good afternoon, Board  
24 members. This is Donna Rickenbacker. I hope you can hear  
25 me. I'm one of the parties on the OST Lofts application.

1 I'm going to keep this very short and sweet,  
2 based on y'all's recommendation and following up Mark  
3 Mucasey. He's such a fabulous architect and we've been  
4 working with Mark for years.

5 I certainly fully know this area of the City of  
6 Houston and know all of the tremendous amount of work that  
7 the City of Houston and Harris County have done in the way  
8 of flood mitigation. I do want to point out that this site  
9 is immediately west of the University of Houston's central  
10 campus and where the school is locating their medical  
11 school, and so we're really excited about this location.  
12 There was deliberateness in selecting this site and the  
13 City of Houston was very much supportive of what we were  
14 doing over here and this site in particular.

15 So I very much appreciate y'all taking the time  
16 to hear us out and giving us an opportunity to advance this  
17 development forward. Thank you very much.

18 MS. BINGHAM: Thank you. Donna, this is Leslie.  
19 So you are comfortable with the motion as it's been  
20 presented?

21 MS. RICKENBACKER: Can y'all hear me?

22 MS. BINGHAM: Yes, we can now.

23 MS. RICKENBACKER: Yes, I am if that's the  
24 direction the Board wishes to go. OST is just one point of  
25 access. I hate to lose it because it's a great area for

1 visibility and presence to the site, but you know, again,  
2 Mark Mucasey has and will continue to work his magic so  
3 that we still have that wonderful presence off OST but our  
4 access points will be from other arteries.

5 MS. BINGHAM: Okay. Thank you.

6 Any questions for Donna?

7 (No response.)

8 MS. BINGHAM: Naomi, any other speakers?

9 MS. CANTU: We do have two more, Adriana Tamez,  
10 we're going to go to her, and then Barry Palmer is going to  
11 be next.

12 Adriana.

13 DR. TAMEZ: Yes. Good morning, Madam Chair,  
14 members of the Board.

15 First of all, I want to apologize to you. My  
16 network connection is too slow to support webcam, so I know  
17 it's always best to see who's talking to you, who's  
18 speaking to you, so I apologize.

19 My name is Adriana Tamez. I am the CEO of the  
20 Tamez Center for Community Concerns and superintendent of  
21 schools of the Raul Yzaguirre School for Success which are  
22 public schools in Houston and in Brownsville.

23 We are a partner in this development. We're  
24 sponsors at this development, item 7(b), at the proposed  
25 site at 5520 Old Spanish Trail. The Tejano Center is a

1 nonprofit community-based organization providing services  
2 that support and empower our community since 1992 in the  
3 areas of affordable housing, tackling homelessness, and  
4 making sure that we are able to provide housing for them,  
5 child foster home certification program, and child  
6 placement agency, adult education.

7 In the areas of health we work with adjudicated  
8 youth. We work with victims of violence through a program  
9 funded by the Governor's Office. We also work with senior  
10 citizens.

11 We have an apartment complex and our senior  
12 citizens also play a role in our other programs, such as  
13 our largest program which is our school system. We work  
14 with zero to two at a daycare, we work with pregnant  
15 mothers and mothers and their babies or fathers and their  
16 babies for pre-literacy skills. We have a three- and four-  
17 year-old program and a K-12. And our senior citizens also  
18 are part of that curriculum. So we're very excited about  
19 the possibilities.

20 Council Member Gallegos sent a letter -- I  
21 believe it's included in your packet -- as did Senator  
22 Carol Alvarado and State Representative Christina Morales,  
23 and so many others that support this development. But as  
24 far as our city council member and our city council, they  
25 passed an ordinance in December of '19 expanding the

1 boundaries of the TRZ No. 7 to include in part our site  
2 with the intentions of continuing the revitalization  
3 efforts that are taking place in TRZ No. 7, especially  
4 along, as you heard, Brays Bayou and the road systems along  
5 Brays Bayou that include Old Spanish Trail.

6           It was always envisioned, like Donna said, that  
7 our planned development would be constructed on the Old  
8 Spanish Trail site given its proximity, which is exciting,  
9 to the University of Houston's central campus. The  
10 University of Houston is constructing, as they mentioned  
11 earlier, the medical school off of Old Spanish Trail which  
12 would be an incredible partner in his endeavor. The City  
13 of Houston fully supports our plans. In addition to  
14 expanding the TRZ No. 7, Houston City Council also granted  
15 a resolution supporting the location of the OST Lofts on  
16 our site.

17           The Tejano Center will be the educational  
18 provider of the pre-K school. We have, as I mentioned  
19 earlier, the Raul Yzaguirre School for Success. I think as  
20 an educator my background, my undergrad is education, my  
21 masters is education, and my doctorate is education. It's  
22 my life, nonprofit and education.

23           And you can put up a pre-K school but it's got  
24 to be high quality, and so the schools that I manage, we  
25 are an A district, we have a TEA early college designation,



1 we have a TEA T-STEM designation. We plan to use those  
2 blueprints, like we're doing now, in our pre-K center at  
3 this development to make it a high-quality educational  
4 experience.

5 As all of you know, providing that strong  
6 foundation is crucial and research tells us over and over  
7 again who come from low income households often enter  
8 kinder substantially below level, and so these  
9 opportunities are crucial for our students as long as they  
10 are high quality pre-K centers, and ours will be that I can  
11 assure you.

12 So I ask you to please, please, I pray that you  
13 will grant our waiver request and allow us to move this  
14 important project forward. Thank you so very much.

15 MS. BINGHAM: Thank you, Ms. Tamez.

16 Any questions for Ms. Tamez?

17 (No response.)

18 MS. BINGHAM: Thank you very much.

19 And Naomi, is there anybody else?

20 MS. CANTU: Yes. So Barry Palmer has removed  
21 his request to speak so there are no other comments.

22 MS. BINGHAM: Great. So if there's no further  
23 discussion, we have a motion by Mr. Vasquez with a second  
24 from Mr. Braden to grant a waiver with the condition that  
25 the driveways to the property meet the minimum requirement

1 of six inches above the 100-year flood plain, and this is  
2 for OST Lofts, application number 20128.

3 Is there any further discussion?

4 MR. WILKINSON: Actually if I could make a  
5 clarification. It's no lower than six inches below the  
6 flood plain.

7 MS. BINGHAM: What did I say, did I say above?

8 MR. WILKINSON: Above.

9 MS. BINGHAM: Sorry. Yes, very good. So the  
10 TDHCA requirement that it can no more than six inches below  
11 the 100-year flood plain. Thank you for the correction.

12 With that, all those in favor aye.

13 (A chorus of ayes.)

14 MS. BINGHAM: Opposed?

15 (No response.)

16 MS. BINGHAM: Motion carries. Thank you.

17 MS. HOLLOWAY: Thank you.

18 MS. BINGHAM: Thanks, Marni.

19 So we move on to 7(e)?

20 MS. HOLLOWAY: Yes. 7(e) is presentation,  
21 discussion and possible action on timely filed appeals  
22 under the Department's multifamily program rules.

23 The first two applications we're going to  
24 discuss together because they're the same applicant with  
25 the same issue. This appeal is material deficiencies in

1 the applications 20040 which is Espero Austin at Rutland,  
2 and 20041, Espero Austin at W. 24th.

3 As you'll recall, we changed the definition of  
4 supportive housing for the 2020 QAP and part of that change  
5 allows the developments to carry foreclosable debt if they  
6 meet certain criteria. As originally presented in the QAP,  
7 part of that criteria was that applications would have to  
8 include evidence of project-based vouchers or operating  
9 subsidy for 100 percent of the units. After comment at the  
10 November meeting, the Board elected to reduce the number of  
11 units required to have that support to 25 percent.

12 The two applications we're discussing today have  
13 made use of that change in the definition. They are both  
14 supportive housing developments with foreclosable debt.  
15 They included a document in their application titled  
16 Operating Subsidy Agreement in which the applicant made an  
17 agreement with itself to provide operating subsidies for a  
18 minimum of 25 percent of all units. They are appealing  
19 staff's interpretation that applications using this  
20 definition must demonstrate a commitment of project-based  
21 assistance from an external entity that is capable of  
22 making that commitment. To be fair, the term "external  
23 entity" is not in the rule, however, the agreement they  
24 provided does not commit project-based rental assistance or  
25 project-based operating subsidies as these terms are

1 commonly used in the affordable housing industry.

2           The appeal questions staff's interpretation of  
3 the definition in the past that has allowed supportive  
4 housing developments without hard debt financing to include  
5 sponsor loans and that in contrast we not approve this  
6 operation subsidy agreement which they state is in very  
7 near the same form. So the change to the definition this  
8 year was very intentional in having different requirements  
9 for supportive housing as it relates to developments that  
10 carry hard debt and those that don't. An operating subsidy  
11 agreement is not the same thing as a sponsor loan.

12           As I mentioned earlier, the comments at the  
13 November meeting that led to the change to 25 percent was  
14 focused on the difficulty of obtaining a finite resource  
15 like vouchers for 100 percent of the units by the time of  
16 application. Relatedly, the applicant's response to the  
17 initial deficiency requested an explanation as to how  
18 application met that definition said in part, "We would  
19 have liked to provide a federal voucher and/or subsidy  
20 commitment for each project to meet the 25 percent  
21 requirement.

22           "That reality simply does not exist in our  
23 community. Our local housing authorities do not have an  
24 open voucher commitment dedicated to persons experiencing  
25 homelessness, like other Texas communities, and have many

1 less vouchers in total. Every voucher or operational  
2 subsidy available in our community is already being used."

3 As the applicant interprets the phrase "project-  
4 based rental or operating subsidy" it appears that it means  
5 project-based rental subsidy or any other form of operating  
6 subsidy. Accordingly, they interpret the phrase to allow  
7 an affiliate of the applicant to enter into a contract to  
8 provide a benefit that would be agreed on at a later date.

9 The relevant portion of the agreement states,  
10 "2.1 operating subsidy. The purpose of the subsidy is to  
11 provide rental assistance to prospective affordable housing  
12 tenants." Further along it says, "From time to time the  
13 partnership -- so that would be the partnership owner of  
14 the development -- and Caritas will agree upon a base  
15 amount of monthly operation subsidy necessary for the  
16 subsidy eligible units of the project as budgeted by the  
17 partnership." The agreement between Caritas and the  
18 partnership doesn't specify an amount to be paid but rather  
19 they will agree on a base amount of monthly operation  
20 subsidy as necessary.

21 The lack of an annual amount violates the  
22 statutory requirement that the source and annual amount of  
23 funds be provided if rental assistance or an operating  
24 subsidy are part of an application. Considering these  
25 requirements, it is unclear whether this agreement to agree

1 is actually the subsidy contemplated by our statute and  
2 rule.

3 This point is further demonstrated by section  
4 1.3 of the agreement which includes the definition of  
5 operating subsidy as "Any prospective project-based or  
6 tenant-based vouchers that may be made available to the  
7 development or its tenants." Following that definition, as  
8 the development or its tenants obtain vouchers, there may  
9 come a point where the amount of funds to be agreed upon by  
10 Caritas and the partnership will decrease or even entirely  
11 disappear. This supports the determination that the  
12 agreement does not meet the common concept of a project-  
13 based operating subsidy and does not meet the statutory  
14 requirements for an application.

15 To summarize, staff does not interpret the rule  
16 to allow an applicant to propose a development be  
17 considered supportive housing with hard debt while also  
18 pledging itself to provide the operating subsidy required  
19 by the definition. Therefore, a determination was made  
20 that the applications do not meet the definition of  
21 supportive housing. Because they don't meet this  
22 definition, in order to continue as eligible applications,  
23 the target population would have to be changed to either  
24 elderly or general, however, the developments do not meet  
25 threshold requirements for serving either of those groups.

1           In responding to the appeal, the executive  
2 director noted the numerous letters of support for these  
3 applications from state and local officials and expressed  
4 an important point: TDHCA staff does not dispute that the  
5 City of Austin is in need of more supportive housing, nor  
6 does TDHCA question the noble mission or work of Caritas.

7           The executive director's decision to deny this  
8 appeal was administrative and based on what he saw as  
9 staff's reasonable interpretation of this new rule.  
10 Accordingly, staff recommends that the Board deny the  
11 appeal.

12           I'll be happy to take any questions.

13           MS. BINGHAM: Thank you, Marni.

14           What questions does the Board have of Marni?

15           (No response.)

16           MS. BINGHAM: So this is regarding appeals  
17 timely filed. We're looking right now at applications  
18 20040, Espero Austin at Rutland, 20041, Espero Austin at W.  
19 24th. Staff's recommendation is to deny the appeal for  
20 these two applications. Is there a motion?

21           MR. BRADEN: I'll make a motion to approve  
22 staff's recommendation.

23           MS. BINGHAM: Okay. I have a motion by Mr.  
24 Braden to approve staff's recommendation to deny the  
25 appeal. Is there a second?

1 MR. VASQUEZ: Second.

2 MS. BINGHAM: Mr. Vasquez seconds.

3 Naomi, do you have comment on applications 20040  
4 and 20041, the Espero Austin applications?

5 MS. CANTU: Yes, we do. We have three people  
6 queued up. Marni, we're actually doing to take your video  
7 down so that we can pull up our speakers, and I also wanted  
8 to remind everyone in attendance that Mayor Adler and  
9 Council Persons Casar and Tovo also commented on this  
10 earlier in this meeting.

11 We're going to get started with Jo Kathryn  
12 Quinn, then on to John Shackelford, and finally Jennifer  
13 Hicks. So Jo Kathryn.

14 MS. QUINN: Can you hear me?

15 MS. CANTU: We can hear you, but we cannot see  
16 you.

17 MS. QUINN: Okay. Can you see me now?

18 MS. BINGHAM: Yes.

19 MS. QUINN: Madam Vice Chair Bingham and Board,  
20 I'm Jo Kathryn Quinn, the CEO of Caritas of Austin. Thank  
21 you for letting me speak in support of both Espero Austin  
22 projects today.

23 Over 40 years ago I saw for the first time a man  
24 experiencing homelessness. My reflex of compassion for  
25 this man grew into a burning passion to end homelessness



1 once and for all. This has been my life work. For 14  
2 years Caritas has used the transformative power of  
3 supportive housing to permanently end people's  
4 homelessness. Our data reveal 98 percent of our residents  
5 do not re-experience homelessness. We have a solution.

6 Caritas has been serving Austin for over 55  
7 years and as Austin's leading nonprofit in homeless housing  
8 and with broad community support, we are beyond qualified  
9 to own and operate the projects before you. Moreover, our  
10 service has not skipped a beat during this pandemic. We  
11 have ended homelessness in supportive housing for 398  
12 people and raised just under \$2 million in 66 days.

13 Last October Governor Abbott made it clear that  
14 we, Austin, need to do something about homelessness.  
15 Before you is Austin's direct response to that request, two  
16 developments that rank at the very top statewide. It is a  
17 travesty that these first-rate projects ranked one and  
18 three in our region have been terminated due to an  
19 ambiguous rule. Surely you see the wisdom of letting our  
20 applications move through the process toward a state-led  
21 homelessness solution for Austin, as the governor  
22 advocated.

23 Here are the simple facts. An ambiguous new  
24 rule which seeks to define supportive housing is the  
25 context of these terminations. That staff interpretation

1 of the operating subsidy is not stated in the rule. In  
2 Austin, as referenced in letters from both Austin and  
3 Travis County Housing Authority, we cannot obtain a voucher  
4 commitment prior to a project's development, leaving us in  
5 a position of impossibility of performance with regard to  
6 vouchers for a third-party subsidy. We followed the rule  
7 to its exact wording, with documentation which meets every  
8 aspect of the statute.

9 I favor a rule which provides clarity since an  
10 applicant could try to claim these extra points without the  
11 experience or expertise to actually deliver the units.  
12 Caritas is not that applicant. Our singular focus is  
13 supportive housing in the mode defined by the QAP.  
14 Annually we raise over \$12 million which supports over 500  
15 units in Austin. I assure you we have the capacity to  
16 support these projects.

17 I fervently request you reinstate both of our  
18 supportive housing applications. Thank you.

19 MS. BINGHAM: Thank you, Ms. Quinn.

20 Do the Board members have any questions for Ms.  
21 Quinn?

22 (No response.)

23 MS. BINGHAM: Thank you very much.

24 Naomi?

25 MS. CANTU: Yes. Next is John Shackelford.

1 We're going to go ahead and move him over so he can mute  
2 his video. You are now a panelist and can use your video.  
3 You are self-muted.

4 MR. SHACKELFORD: Can you hear me now?

5 MS. CANTU: We can hear you, and you can enable  
6 your video.

7 MR. SHACKELFORD: Thank you, Madam Chair,  
8 members of the Board, Mr. Wilkinson and Mr. Eccles. Good  
9 afternoon. My name is John Shackelford. I represent the  
10 two applicants on these applications that have been  
11 terminated.

12 First, I'd like to thank you for taking out of  
13 order earlier today the mayor and city council members,  
14 letting them go ahead so they could attend their city  
15 council meeting scheduled at ten o'clock this morning.

16 I'd like to emphasize some of the things that  
17 Ms. Quinn just referenced and sort of get into some of the  
18 legal arguments from my perspective on this matter.

19 First, both these applications were number one  
20 and number three in the region and scored amongst the  
21 highest in the state, and I would ask that in connection  
22 with reviewing this rule that you all take a more flexible  
23 approach to what staff interpreted the rule under. And so  
24 this is a case of first impression. As Ms. Holloway  
25 pointed out in her letter that she sent to my clients when

1 the applications were terminated, she said, "As this with  
2 debt option for defining supportive housing is a new rule  
3 and this is the first opportunity for the Board to  
4 interpret its rule, it is per the course for staff to more  
5 strictly apply the definition and allow the executive  
6 director and Board to provide its input should you choose  
7 to appeal."

8 Well, here we are, we have appealed, and Mr.  
9 Wilkinson affirmed the decision of staff, and what I'd like  
10 to point to is the language that's actually in the rule and  
11 it states that -- what's really at work here is, it says,  
12 "Financed with debt that meets feasibility requirements  
13 under Subchapter (d) of this chapter without exception and  
14 must also be supported by project-based rental or operating  
15 subsidies for a minimum of 25 percent of the units."

16 Well, as Ms. Holloway said, nowhere in that rule  
17 does it say from an external entity, although in the Board  
18 action item that she wrote up and as she just said and in  
19 letters from the staff, they point that it has to be an  
20 external entity. That's not in the rule and so to me  
21 that's ambiguous and it's omission by staff that it is  
22 ambiguous, it's open to a different interpretation.

23 In addition to that, Mr. Wilkinson in his  
24 response letter affirming the decision said that the rule  
25 was reasonably interpreted by staff to mean project-based

1 rental subsidy or project-based operating subsidies. Well,  
2 again, in order for Mr. Wilkinson to reach his conclusion  
3 that it was a reasonable interpretation by staff, he  
4 inserted the word "project-based" after the word "or" and  
5 prior to operating subsidies.

6 So to me the issues, as I frame it, is when an  
7 applicant interprets the rule based upon the language of  
8 the rule as written before the applicant determines whether  
9 it's going to comply with the rule or not or must it infer  
10 staff's intent and the intent of additional language into  
11 the rule before it makes a decision whether it complies  
12 with the rule or not.

13 And so my arguments were twofold. One is the  
14 ambiguity of this rule. When I read it at face value what  
15 the language says, it does not require that this operating  
16 subsidy come from an external entity, and it does not  
17 require that it be a project-based subsidy.

18 In the context -- again, I know there's  
19 differences between a supportive housing project with debt  
20 and without debt, but the Department has accepted for years  
21 and allocations have been made to tax credit properties for  
22 years on the basis of without debt that the operating  
23 subsidy comes from a nonprofit sponsor.

24 And here to credit Ms. Holloway, she said that  
25 essentially we entered into an agreement with ourselves.

1 We believe that's not correct. The applicants are limited  
2 partnerships that will do these deals. Caritas of Austin  
3 is an affiliate but it's now with itself. By definition,  
4 it is an external entity to the applicants.

5 So to me, I'd ask that you find the language to  
6 be ambiguous and with this being a new rule and staff  
7 looking for guidance here for interpretation by the Board,  
8 that you all determine for two projects that scored one and  
9 three in this particular region to help our homelessness  
10 issue, as acute as it is in the City of Austin, that there  
11 be a little bit more flexibility of interpreting the rule  
12 in its first year.

13 And I think there would also be a suggestion to  
14 staff that, hey, before we go into the 2021 QAP you've got  
15 to sharpen your pencil and try to make this language a  
16 little bit more clear on what it the intent was of staff  
17 when it wrote this rule in the first place.

18 Also, in the contract interpretation, if there's  
19 a contract that's written and there's a provision that's  
20 ambiguous, it's interpreted against the drafter. In this  
21 case, staff is the drafter of this rule and I would suggest  
22 that in a legal context it should be interpreted against  
23 the drafter.

24 The other aspect of it is the possibility of  
25 performance, let's get down into this a little bit. The

1 rule provides for two alternatives to meet the requirement:  
2 either vouchers or project-based rental, meaning vouchers,  
3 which are not available. In your Board packet there's  
4 three letters that you received from the Housing authority  
5 of the City of Austin, the housing authority of Travis  
6 County and one from the city of Austin. They don't do  
7 vouchers.

8 Okay. That means there's an alternative  
9 provided in the rule, doing operating subsidies. As Mr.  
10 Wilkinson pointed out in his letter to us, what that  
11 typically means is either something from HUD or USDA.  
12 Well, USDA doesn't apply because we're in the City of  
13 Austin, it's not a rural project, so you're left with HUD.

14 HUD will not allow an applicant and they will  
15 not give a commitment for an operating subsidy when at this  
16 point in time it's only in the abstract, it hasn't been  
17 awarded credits and the project hasn't been built.

18 Operating subsidies come from HUD under the continuum of  
19 care subsidy when the project is built and a sponsor goes  
20 and applies to HUD for that operating subsidy, then they  
21 get the money and then they can put the money into the  
22 project.

23 So it doesn't make sense for a rule to be  
24 written that makes it impossible to perform that which it's  
25 trying to accommodate. So gain, under contract

1 interpretation, you would look at it as, okay, what did the  
2 drafter intend. Well, the drafter intended for it to be  
3 possible to use an operating subsidy to meet the  
4 requirement.

5 Well, if you can't do that through HUD or USDA  
6 in this instance, then it seems like to me where it says  
7 just operating subsidies, my reading of it means, okay,  
8 then -- and you allow nonprofit to work without debt, that  
9 it applies in this instance too. And I think the legal  
10 interpretation from our clients have come to the conclusion  
11 that we satisfy all the requirements.

12 MS. BINGHAM: John, do you have any other final  
13 comments?

14 MR. SHACKELFORD: Just one other thing. The  
15 last thing is -- and thank you, Madam Vice Chair -- we  
16 think the agreement submitted does comply. Mr. Wilkinson  
17 points out there's no specific amount listed. Exhibit A of  
18 both of these operating subsidy agreements provide the  
19 annual amount that's going to be paid per unit and it gives  
20 the number of units.

21 What they didn't do is they didn't make the  
22 calculation for the Department and multiply the two numbers  
23 together to give an aggregate total for each project. But  
24 in the agreement itself, Exhibit A, it does specifically  
25 state the amount per unit of the subsidy and the number of



1 units. And so to me, if that was all the issue that we  
2 have, then that would be addressed by an administrative  
3 deficiency.

4 And that's all I have for you. Thank you.

5 MS. BINGHAM: Thank you, John.

6 Any questions from the Board members for Mr.  
7 Shackelford?

8 (No response.)

9 MS. BINGHAM: Naomi?

10 MS. CANTU: Yes. So we have two other speakers.

11 We're actually going to go to Zachary Krochtengel first  
12 and then Jennifer Hicks.

13 As a reminder, please limit your testimony to  
14 three minutes.

15 So we have Zachary Krochtengel unmuted. I think  
16 you have a little bit of feedback.

17 MR. KROCHTENGE: I'm not hearing anything over  
18 here.

19 MS. CANTU: Okay. You are unmuted.

20 MR. KROCHTENGE: Good afternoon, members of the  
21 Board. I am very much in support of supportive housing and  
22 I do see how important it is to Texas and Austin as well,  
23 and that's why they're granted three extra points in their  
24 applications scoring is to prioritize that affordable  
25 housing. But I think that when you grant three extra

1 points it becomes very important that these projects  
2 comply with what is actually supportive housing, and the  
3 applicant tried to satisfy the rules that they required to  
4 proving up a rental assistance subsidy, however, they  
5 attached an operating subsidy agreement that I don't  
6 believe really meets those requirements.

7 None of the sources of funding that were  
8 recommended in that subsidy agreement, including project-  
9 based vouchers, tenant-based vouchers, or Caritas itself  
10 were proven up significant and sufficiently at the time of  
11 application. If you look at the resolution they attached  
12 from their board, it did not give them the authority to  
13 enter into an operating subsidy agreement, it didn't give  
14 them authority to enter into agreements to develop the  
15 project.

16 Also, if you are looking at how it's really  
17 defined for supportive housing, it requires the owner of a  
18 supportive housing development -- this is directly from the  
19 QAP -- to secure sufficient funds to maintain the  
20 supportive housing development's operations throughout the  
21 entire affordability period. Well, in this instance on tab  
22 19, development activities, of the application, the  
23 applicant has selected a 45-year affordability period,  
24 however, the operating subsidy agreement is only for 15  
25 years, as signed by Caritas itself. So that leaves a great

1 deal of time in their affordability period where they're  
2 not covered by that operating subsidy agreement.

3 Also, I'd like to point out that I don't believe  
4 that at this time this is truly an enforceable agreement  
5 that can be relied upon to prove up funding. There's no  
6 consideration being given from the LLC to Caritas itself.

7 Finally, if we're talking about definitions, not  
8 every word of the QAP is going to be defined in the defined  
9 terms of the QAP, so when you look at a term like  
10 "subsidy", I looked to *Black's Law Dictionary* to see that  
11 it's a grant of money made by a government in aid of the  
12 promoters of any enterprise, work, or improvement in which  
13 the government desires to participate.

14 So I think the word "subsidy" itself shows that  
15 it's close to impossible to subsidize yourself. You can't  
16 subsidize your own project because that subsidy is implied  
17 that it's coming from a third party.

18 And finally, while it was said by Mr.  
19 Shackelford that you can't prove up a contract in the  
20 threshold requirements for rental assistance and subsidy it  
21 does allow you to show that you proved that you entered  
22 into an application for those funds. So if they had proved  
23 that that application was filed before the March 1st  
24 deadline, they would have satisfied this threshold  
25 requirement, however, they were unable to do so and I

1 believe that that agreement that they filed with their  
2 application does not meet these threshold requirements  
3 which leads to a material deficiency in their application  
4 which should lead to termination of that as recommended.

5 Thank you.

6 MS. BINGHAM: Thank you, Zachary.

7 Naomi?

8 MS. CANTU: Yes. We have Jennifer Hicks. We're  
9 moving her over to be a panelist so she can share her  
10 video, and there she is.

11 MS. HICKS: Thank you.

12 Madam Vice Chair Bingham and Board members. My  
13 name is Jennifer Hicks, consultant to the applicant.

14 To begin, I want the Board to know that I have  
15 dedicated my entire career to supportive housing. I have  
16 overseen the financing of nine TDHCA awarded supportive  
17 housing projects. I understand this model, including the  
18 subsidies. I state with conviction that the Espero Austin  
19 projects meet the supportive housing definition and  
20 underwriting rules and are a familiar model of a strong  
21 nonprofit with control of the project with a solid fund-  
22 raising background and substantial experience.

23 A story. Three years ago I was in the car with  
24 my kids. We approached a man who appeared to be  
25 experiencing homelessness. I saw my son's furrowed brow

1 and I got ready for a talk. As we pulled away, I heard him  
2 turn to his baby sister and say, "Don't worry, Mommy is  
3 going to build him a home." That simple statement is why I  
4 am here. Its simplicity carries through in today's  
5 decision.

6 First, the projects submitted met the rules as  
7 written, period. Second, there was no roundtable  
8 discussion or manual where details were missed. The first  
9 time hearing staff's interpretation of an operating subsidy  
10 was in our termination letter. Third, there is no risk in  
11 reinstating these applications.

12 They meet the intent of the subsidy requirements  
13 to ensure that only true and supportive housing is awarded  
14 three points. You have over 20 letters of support,  
15 including the senator and two state reps, city council  
16 members, city department heads, advocates and nonprofit  
17 partners showing Caritas's dedication to ending  
18 homelessness. There is simply no question.

19 To clarify, we did pursue vouchers and both  
20 housing authorities said that vouchers aren't available  
21 until the project is farther along. We instead provided a  
22 15-year operational subsidy sourced out of ample funding  
23 awarded to Caritas. These local, state, federal and  
24 philanthropic subsidies are not awarded to an applicant or  
25 a project, they are awarded to Caritas.

1           Final note on precedent. Our operating subsidy  
2 agreements are in the exact same form as past operating  
3 subsidy agreements accepted by TDHCA on past supportive  
4 housing deals. This is not a sponsor loan; these are  
5 operating subsidy agreements. We use them as a template.  
6 Debt or no debt, an operating subsidy performs the same way  
7 to ensure the feasibility and confirm targeting.

8           In closing, we can look to next year's QAP to  
9 clarify language, but be assured that these projects are  
10 exactly what you intend.

11           I am grateful for your consideration. Please  
12 reinstate these applications that allow us to be saved.

13           I also want to point out that the gentleman,  
14 Zachary -- I didn't get his name -- is with the application  
15 in Region 6 that would benefit if our application -- the  
16 Houston application 3300 Caroline, their application with  
17 benefit if that application is also -- the termination is  
18 upheld. So I just want to point that out that he is not an  
19 applicant in Region 7 where our application is.

20           Thank you so much.

21           MS. BINGHAM: Thank you very much, Jennifer.

22           Any questions for Jennifer?

23           (No response.)

24           MS. BINGHAM: Thank you.

25           Naomi, are there any other comments?

1 MS. CANTU: I don't see any other comments in  
2 the questions box and we have covered everyone who had pre-  
3 registered to speak.

4 MS. BINGHAM: Great.

5 Can we have Marni back?

6 MS. HOLLOWAY: Here I am.

7 MS. BINGHAM: There you are.

8 So we have a motion and a second to deny the  
9 appeals timely filed by the two Espero projects in  
10 alignment with staff's recommendation. Do the Board  
11 members have any other questions of Marni?

12 (No response.)

13 MS. BINGHAM: I guess we'll call for the vote.  
14 Let's call for the vote. So we have a motion and a second  
15 to deny the appeal timely filed by Espero Austin Rutland  
16 and Espero Austin W. 24th. All those in favor the motion  
17 aye.

18 (A chorus of ayes.)

19 MS. BINGHAM: Opposed?

20 (No response.)

21 MS. BINGHAM: The motion carries to deny the  
22 appeals. And really, we were able to review all of the  
23 documentation that was provided, and Bobby, I really  
24 appreciate the work of you and your staff. I know there  
25 were a lot of hearts involved in this and that these

1 projects are very special, and I would speak for the Board  
2 in that, you know, we are extremely advocates for  
3 supportive housing. I think this was an obstacle that we  
4 felt like was clear as evidenced by the motions and the  
5 unanimous vote, but we really continue to encourage the  
6 community to seek viable solutions for more supportive  
7 housing, clearly it's needed.

8 So thank you all for your work on that. I know  
9 that was very difficult.

10 So Marni, shall we move on to application 20114,  
11 3300 Caroline?

12 MS. HOLLOWAY: Certainly. This application is  
13 another proposed supportive housing development that's  
14 taken advantage of the changed definition to submit an  
15 application. The application included a narrative  
16 describing the applicant's intention to have a long-term  
17 Section 8 project-based housing assistance payment contract  
18 through the Houston Housing Authority but didn't include  
19 evidence of an agreement with the authority.

20 Staff determined that the application should be  
21 terminated because it did not provide sufficient evidence  
22 that it met the requirements of the supportive housing  
23 definition. In response to a deficiency notice, the  
24 applicant informed staff they had submitted a proposal in  
25 response to the Houston Housing Authority's request for



1 proposals to distribute 1,000 project-based vouchers,  
2 however, the RFP was issued after the application  
3 acceptance period had ended.

4 The appeal focuses on the prospective nature of  
5 the wording of some criteria in the definition and notes  
6 that the application included a letter from the Houston  
7 Housing Authority supporting the idea that a proposed  
8 development submit a proposal for project-based vouchers.  
9 For the appeal, the housing authority provided a letter  
10 explaining the RFP process and materials indicating that  
11 the applicant has now submitted an application seeking  
12 project-based vouchers for all 149 units.

13 Finally, the applicant claims to have satisfied  
14 the threshold requirements for project-based vouchers by  
15 including with the application documentation that  
16 identifies the source and annual match of the funds, the  
17 number of units receiving the funds, and the term or  
18 expiration date of the contract or other agreement. Our  
19 rules state that if rental assistance is proposed to exist  
20 for a development any related contract or other agreement  
21 securing those funds or proof of application for such funds  
22 must be provided.

23 It may be true that the applicant submitted  
24 everything it could with the application to indicate that  
25 project-based vouchers were expected for this development

1 as they stated in their appeal. The timing of their  
2 request for proposals did not allow submission of a  
3 contract or application for the rental assistance. In  
4 addition, the supportive housing definition requires that  
5 the proposed development must also be supported by these  
6 vouchers which can't be shown without a contract or  
7 application.

8 Our statute imposes certain requirements that if  
9 an application includes rental assistance, without  
10 publication of the RFP prior to the application's delivery  
11 date, there's no way to determine if the proposed  
12 assistance meets those requirements. Our underwriting  
13 rules are also clear that this information is necessary for  
14 REA to prepare its report.

15 Because the applicant did not provide evidence  
16 of project-based vouchers or operating subsidy for a  
17 minimum of 25 percent of all units, staff determined that  
18 the application does not meet the definition of supportive  
19 housing and the target population must be changed to either  
20 elderly or general. The development does not meet  
21 threshold requirements to serve either of these  
22 populations. Staff recommends that the Board deny the  
23 appeal.

24 I'd be happy to take any questions.

25 MS. BINGHAM: So Marni, are you saying that they

1 have secured it since then?

2 MS. HOLLOWAY: They have applied for it and I  
3 believe the gentleman that spoke earlier from the housing  
4 authority said that --

5 MS. BINGHAM: Mr. Thiele?

6 MS. HOLLOWAY: -- Mr. Thiele said that they  
7 have been awarded those vouchers. Yes.

8 MS. BINGHAM: Okay. Any other questions for  
9 Marni?

10 MR. BRADEN: And just for clarity and to  
11 emphasize a possibly distinguishing factor, first of all,  
12 these are vouchers, and second of all, they're coming from  
13 a third party, a third-party government entity. Correct?

14 MS. HOLLOWAY: Right. They're coming from the  
15 Houston Housing Authority.

16 MR. BRADEN: Right.

17 MR. WILKINSON: This was a much closer call.  
18 It's closer to the definition and the rule. It's just a  
19 matter of timing.

20 MR. BRADEN: Right. It seems like they comply  
21 now but they couldn't comply when they submitted the  
22 application because the Houston Housing Authority hadn't  
23 finished its process.

24 MS. HOLLOWAY: That's correct.

25 MR. VASQUEZ: And isn't that process dependent

1 on federal approvals and timing delays are built into that?

2 MS. HOLLOWAY: I don't know. Perhaps there is  
3 someone who is prepared to speak on that question. It  
4 could very well be. You know, most federal funds are  
5 provided as an annual allocation, so you're not able to  
6 start the review process or start the application process  
7 until you know that you have those funds coming.

8 MR. WILKINSON: I think it would be safe to  
9 assume they had federal hurdles.

10 MR. ECCLES: This is Beau, I'm on the line.  
11 It's just not an inquiry we made because they did not  
12 satisfy the definition of being able to provide proof of  
13 application for these vouchers.

14 MS. BINGHAM: Is there a Board member interested  
15 in making a motion on this appeal timely filed for 3300  
16 Caroline Street?

17 MR. VASQUEZ: Before that, I'm sorry, can I  
18 just -- I guess it's a question for Beau again. Is this  
19 just a Board discretion decision as to whether we can  
20 accept the information that they now do have the vouchers  
21 that wasn't submitted with the original application?

22 MR. ECCLES: Well, it's a little bit more  
23 convoluted than that and it winds up being a bit of a rule  
24 interpretation. The statute requires that an application  
25 contain detailed information in a form prescribed by the

1 Board and for rental assistance or operating subsidies it  
2 needs to identify the source and annual amount of the  
3 funds, the number of units receiving the funds, the term  
4 and expiration date of a contract or other agreement. Now,  
5 our rule takes off of that in a form prescribed by the  
6 Board and it expands it to include a related -- you can  
7 provide at application a contract or other agreement  
8 securing those funds or proof of application for such  
9 funds.

10 So the rule sort of interpretation that may be  
11 to the Board is what we have and was submitted with the  
12 application for 3300 Caroline was a letter dated February  
13 26, 2020 from the Houston Housing Authority that lays out  
14 all of the elements of the source and annual amount of the  
15 funds, the number of units receiving, the term and  
16 expiration date, but the problem is they were also saying  
17 we don't have an application yet. So is pre-application  
18 proof from the Houston Housing Authority, is that an  
19 application.

20 MR. VASQUEZ: And in this case after the fact  
21 they did provide proof.

22 MR. ECCLES: Yes, but that's not part of their  
23 application.

24 MR. VASQUEZ: So it's our discretion as a Board  
25 to accept it or not?

1 MR. ECCLES: I would say it's an interpretive  
2 matter for the Board to say whether the language in 11.204,  
3 I think it's (8)(F) regarding rental assistance and  
4 subsidies that if rental assistance, an operating subsidy,  
5 an annuity or an interest rate reduction payment is  
6 proposed to exist or continue for the development, any  
7 related contract or other agreement securing those funds or  
8 proof of application for such funds must be provided. The  
9 proof of application for such funds would include  
10 essentially a discussion of the application process and  
11 satisfaction of all of the elements required by statute  
12 with the entity that would award them but they haven't put  
13 the application up yet.

14 MS. THOMASON: Marni, are there applications  
15 that did meet these requirements?

16 MS. HOLLOWAY: The two Espero applications and  
17 this one are the only supportive housing -- I believe -- I  
18 believe they're the only ones that came in under this  
19 particular part of the supportive housing definition, but  
20 let me double check that.

21 MR. BRADEN: I mean, I guess I find it a little  
22 hard to say that we're going to make a determination that  
23 they did not provide proof of application when, in fact,  
24 they did apply and they were awarded these vouchers.

25 MS. THOMASON: But they didn't include proof of

1 application in the application.

2 MR. BRADEN: They included a letter that said  
3 they're applying, and this is all the stuff we need and  
4 it's what we're going to ask for. It's up to us to  
5 interpret whether we think that is satisfactory proof of  
6 application in light of the fact that they got the  
7 vouchers.

8 MR. VASQUEZ: I was going to say if they didn't  
9 get the vouchers, that letter would not have been  
10 sufficient, but since they did and on a timely basis, I  
11 tend to lean towards approving.

12 MR. BRADEN: And that their timing is fortunate.  
13 Right? I understand why staff denied the application  
14 because they didn't notify and proof wasn't sufficient, and  
15 by the time they got to the appeal, well, here's proof, we  
16 have them. I mean, it sort of substantiates the fact that  
17 what we filed with our application in fact was proof  
18 because now we have the vouchers.

19 MR. VASQUEZ: Hearing Paul's comment, I could  
20 make a motion, Madam Chair.

21 MS. BINGHAM: Mr. Vasquez.

22 MR. VASQUEZ: Okay. I would move that the Board  
23 approve the appeal of the applicant at 3300 Caroline and  
24 allows the application to continue forward.

25 MS. BINGHAM: Okay. I have a motion to approve

1 the applicant's appeal for application 20144, 3300 Caroline  
2 Street. Is there a second?

3 MR. BRADEN: I'll second.

4 MS. BINGHAM: We have a motion from Mr. Vasquez,  
5 a second from Mr. Braden.

6 We will check with Naomi to see if there's  
7 comment.

8 MS. CANTU: We do have comments on this. Are  
9 you ready to hear public comment?

10 MS. BINGHAM: Yes.

11 MS. CANTU: We have several people signed up.  
12 We're going to start with Cynthia Bast, she's going to use  
13 her camera. And then we are going to move on to Lance  
14 Gilliam.

15 So Cynthia, we see you.

16 MS. BAST: Good afternoon. Thank you very much.  
17 Thank you for the thoughtful discussion. It's clear that  
18 you understand where we are with this application, and I  
19 just want to give you some assurances that I do believe  
20 that this application meets both the statute and the rule.

21 The statute gives us our threshold requirements  
22 in the rule about identifying the source, the annual amount  
23 of the funds, the number of units receiving the funds, the  
24 term, the expiration date, all of the things. We did have  
25 the letter from the Houston Housing Authority that



1 describes those things. And then our client used that  
2 information throughout his operating pro forma to show its  
3 intent, so I believe we meet that.

4 That gets us to the second element which is any  
5 related contract or other agreement securing those funds or  
6 proof of application for such funds may be provided.  
7 Obviously, any applies to the extent available. There is  
8 not a contract available at this time. As I believe you  
9 heard from Mr. Thiele this morning -- it's been a long time  
10 since his testimony -- the Houston Housing Authority does  
11 have procedures that it has to go through to be able to  
12 award these vouchers, and the timing for that just did not  
13 match up with TDHCA requiring a commitment at the time of  
14 application.

15 They had to go through their annual option plan  
16 and then putting out an RFP and a variety of things, but at  
17 the time they met in August of 2019, as Mr. Thiele  
18 testified, they knew this RFP was coming, they knew this  
19 development was planned. They knew the RFP was going to be  
20 for a thousand units and there was only 150 being requested  
21 here. They knew that this application would score well  
22 because of all of the attributes of being in a good  
23 opportunity area and all of those kinds of things.

24 So we presented in the application everything  
25 that could be presented which is evidence that the process

1 had been started with the Houston Housing Authority, and  
2 therefore, we appreciate your interpretation that that is  
3 sufficient to meet the threshold rule and that we can say  
4 that this development is supported by project-based rental  
5 vouchers.

6 So I will give the rest of my time now to --  
7 since Mr. Thiele had to leave, I think Kevin Campbell  
8 wanted to speak next, if possible. And I'm happy to answer  
9 any questions. Thank you.

10 MS. BINGHAM: Naomi?

11 MS. CANTU: Yes. We actually have Lance next,  
12 Lance Gilliam. And as a reminder, please limit your time  
13 to three minutes and we are not donating time during this  
14 meeting, you cannot donate to another person.

15 So Lance, you are next.

16 I will also want to say after Lance we have Neal  
17 Drobenare -- I do apologize about the pronunciation -- and  
18 after Drobenare we have Zachary Krochtengel again. We do  
19 have three people signed up that have not indicated they  
20 want to speak recently, so three people pre-registered.  
21 That's Mark Eichenbaum, Mark Thiele, and Kevin Campbell.  
22 They pre-registered but they have not indicated to us that  
23 they would like to speak. So if you would like to speak  
24 now, please go ahead and let us know in the questions panel  
25 so we can find you and make sure you're in the queue.

1           So again, we're going to Lance, and Lance, you  
2 are unmuted.

3           MR. GILLIAM: Yes, ma'am. My name is Lance  
4 Gilliam. I was formerly the chairman of the Houston  
5 Housing Authority's Board of Commissioners and now the  
6 incoming chairman of the Coalition for the Homeless,  
7 Houston/Harris County. I'm also an advisor to the  
8 applicant, two highly respected nonprofit organizations,  
9 Magnificat Houses and the NHP Foundation.

10           As my friend, Mr. Thiele, noted earlier, HHA's  
11 Board of Commissioners unanimously approved a resolution to  
12 contribute project-based vouchers to support the  
13 applicant's proposed development. That approval was  
14 granted at the first possible board meeting after HHA's  
15 process to approve vouchers allowed.

16           I know HHA endeavored to coordinate their  
17 resources with TDHCA's guidance as provided in the 2020  
18 QAP, and notwithstanding best efforts by HHA, I'm now  
19 recognizing the timing wasn't perfect but they truly have a  
20 collaborative commitment to work with you and your team.

21           As a former public official, I have tremendous  
22 respect for the responsibility that each of you bear and  
23 trust that you place in your staff. Notwithstanding, I do  
24 hope that you will grant the requested variance because I  
25 believe it not only respects your intentions when you

1 approved the QAP, but also most importantly, honors the  
2 importance of critical collaboration between TDHCA, local  
3 housing authorities and valued nonprofit.

4 Thank you for your thoughtful consideration.

5 MS. BINGHAM: Thank you, Mr. Gilliam.

6 Any questions for Mr. Gilliam?

7 (No response.)

8 MS. BINGHAM: Naomi?

9 MS. CANTU: Yes. Next is Neal Drobenare. We're  
10 going to go ahead and unmute you.

11 MR. DROBENARE: Can you hear me?

12 MS. CANTU: Yes.

13 MR. DROBENARE: Great. Thank you very much for  
14 this opportunity to talk to you. My name is Neal  
15 Drobenare. I'm senior vice president of the NHP  
16 Foundation, which is a national affordable housing  
17 developer that works with smaller local nonprofits, such as  
18 Magnificat, to build affordable housing here in Texas and  
19 around the United States. We have a thousand units in  
20 Houston.

21 I'd also like to take this opportunity to thank  
22 both the Board and the staff for running a very inclusive  
23 process on changing the rule that we're talking about right  
24 now and we think it's a great additional step.

25 One of the things that this rule does is it

1 changes the QAP definition from one based on how the  
2 project is financed to who the project is serving and what  
3 they're doing to serve them, and we think that's a great  
4 step forward, and allowed us for the first time to have  
5 hard debt. Now, we think that it's in the definition  
6 mostly because originally the prohibition was in this  
7 definition. Now that it's changed, we think that the  
8 Section 8 operating subsidy should be treated just like  
9 every other piece of the finance and that it needs to be  
10 proven out in underwriting and ultimately as a condition of  
11 building it.

12 I think we clearly meet that. I think we met  
13 the application back in August when the housing authority  
14 thought it could do vouchers without a competitive process.

15 We met with them, and that started the process where they  
16 realized they couldn't and they put out the RFP once they  
17 were able to see what you were doing on the QAP.

18 We think that it's reasonable that y'all find  
19 that we moved forward at the appropriate time and that I  
20 think as a matter of course that these issues be dealt with  
21 in underwriting and feasibility and are not really a  
22 threshold item. You've gone in the direction of making  
23 supportive housing that is for particular populations that  
24 get particular services.

25 How they're financed is really an issue in

1 feasibility not in the definition, because you can't have  
2 projects that are supportive housing with debt and  
3 supportive housing without debt as part of your definition.

4 I hope that you use your discretion to clarify  
5 this rule which, quite frankly, was a great step forward  
6 and we appreciate the fact that you and your staff took the  
7 time to come out with a rule that we think is comprehensive  
8 and one of the best in the nation. Thank you very much.

9 MS. BINGHAM: Thank you, Neal.

10 Naomi?

11 MS. CANTU: Yes. Up next we have Zachary  
12 Krochtengel. We're going to go ahead and put him in queue.

13 After Zachary we have Mark Eichenbaum. We are still  
14 waiting to hear from Mark Thiele and Kevin Campbell. If  
15 you are on and would like to speak to this item, please let  
16 us know in the questions box.

17 MR. KROCHTENGEL: Good afternoon, Board members.  
18 Once again, Zachary Krochtengel.

19 You know, in hearing all these arguments, it  
20 really comes down to timing and deadlines and we all deal  
21 with these timing and deadlines. I've had city councils  
22 that were unable to pass a resolution and their next  
23 meeting was not until March so I couldn't get a resolution  
24 done.

25 HHA could have issued an RFP on February 28th

1 but they couldn't get that RFP issued and the timeline  
2 didn't match up. They had a letter saying they intended to  
3 apply for that RFP, but that RFP was not applied for before  
4 that application deadline. And I apologize but I'm going  
5 to go through a bit of QAP language to show why this  
6 application is, unfortunately, ineligible and I don't think  
7 that this is an interpretation issue in any way.

8           The application is proposing a long-term Section  
9 8 project-based contract with the Houston Housing  
10 Authority. Now, when we are talking about 11.204, the  
11 title of those rules under which the evidence is required  
12 is "Required Documentation for Application Submission."

13           It goes on to say, "The purpose of this section  
14 is to identify the threshold documentation that is required  
15 at the time of application submission or as specifically  
16 indicated or otherwise required by Department rule."  
17 That's black and white, these are threshold requirements.

18           And then there's a section specifically for  
19 rental assistance or operating subsidy which gives you  
20 either a contract or proof of an application for such  
21 funds. I do not believe that the letter stating that they  
22 were going to submit a contract after the application  
23 deadline fits either of those two parameters.

24           Finally, when you really look at this, this goes  
25 to whether this is an administrative deficiency or a

1 material deficiency, and I want to remind the Department of  
2 what the definition of a material deficiency is. A  
3 material deficiency specifically states: "The inability to  
4 provide documentation that existed prior to submission of  
5 an application to substantiate claimed points or meet  
6 threshold requirements is a material deficiency." So that  
7 fits perfectly with this definition.

8 It did not exist prior to the submission of the  
9 application. Their application to the RFP was on March  
10 4th, not prior to the application deadline, and that would  
11 have substantiated the requirement of a threshold item  
12 under 11.204.

13 The presence of a material deficiency under  
14 11.202(2)(B) dealing with ineligible applications and  
15 applications state: "An application shall be ineligible if  
16 any criteria in subparagraph (A) through (C) of this  
17 paragraph apply to the application." And subparagraph (B)  
18 specifically includes if the application has a material  
19 deficiency, they are considered ineligible. That is why  
20 when we go through the QAP rules, there really is no leeway  
21 on this because they did not have a threshold requirement  
22 under 11.204 and that's a material deficiency by definition  
23 because it did not exist prior to the application.

24 There are many supportive housing applications  
25 that meet certain requirements and were able to move



1 forward. We were working on an application in Region 6 for  
2 supportive housing that we did not believe met these  
3 threshold requirements, did not put that application in  
4 specifically for those reasons, and to see threshold  
5 requirements waived after the fact for actions taken after  
6 the February 28th deadline flies in the face of what other  
7 people may not have submitted because of these specific  
8 stringent deadlines and threshold requirements that are  
9 defined in the QAP.

10 Thank you.

11 MS. BINGHAM: Thank you, Zachary.

12 Naomi?

13 MS. CANTU: Yes. We have Mark Eichenbaum next.

14 Let's go to Mark. You are self-muted.

15 MR. EICHENBAUM: Can you hear me?

16 MS. CANTU: We can.

17 MR. EICHENBAUM: Great. Good afternoon, Madam  
18 Chair and honorable members of the Board. My name is Mark  
19 Eichenbaum, and I'm a special assistant to the mayor of  
20 Houston for its homeless initiatives, and on behalf of the  
21 City of Houston I'm here to express our support of this  
22 project.

23 This project is a vital component of our larger  
24 initiative to substantially reduce homelessness in the  
25 region. We are grateful for the continuing partnership

1 with TDHCA.

2 That partnership is best exemplified in our  
3 defined efforts to not just respond to homelessness but  
4 permanently reduce and end it, and TDHCA's support is  
5 instrumental in helping the Houston area house 18,000  
6 homeless individuals, reducing homelessness in the region  
7 by 55 percent in 2011. However, Hurricane Harvey has  
8 caused an increase that we have still not recovered from,  
9 and in light of Harvey and COVID and our efforts to house  
10 people off the streets have been shelters, we have devised  
11 a large scale comprehensive public-private initiative to  
12 move the needle.

13 The stars are aligning. The city, the county  
14 and others are prepared to make substantial investments in  
15 supportive services, housing navigation, rent/income  
16 management, but one thing is missing, and that invaluable  
17 missing piece is tax credits for projects like 3300  
18 Caroline. All the stars are aligning.

19 It doesn't happen very often. This is a  
20 fleeting opportunity to exponentially leverage TDHCA's  
21 award to maximize the cap. Because of TDHCA's support,  
22 Texas is on the cusp of becoming the first state in the  
23 country with a major city to achieve an end to chronic  
24 homelessness. This project will help Houston and the state  
25 achieve this groundbreaking milestone.

1           The city is not asking for special treatment for  
2 this project, rather we're asking for fair and equitable  
3 treatment. The current staff's position requiring a hard  
4 commitment of vouchers at the time of application means  
5 that it was virtually impossible for a Houston project  
6 depending on project-based vouchers to meet this threshold  
7 requirement for supportive housing.

8           It is not that the applicant failed to provide a  
9 hard commitment for project-based vouchers, rather, it was  
10 impossible for the applicant or any applicant in Houston  
11 depending on the vouchers from the Houston Housing  
12 Authority to provide it. No fault of their own. Their  
13 hands were tied.

14           The city supported and is grateful for the  
15 Board's approval of the rule change and broadening the  
16 definition and the intent of this change was to expand  
17 supportive housing applicants and the current  
18 interpretation of the new rule is exactly the opposite by  
19 restricting it. Affordable housing developers and projects  
20 is one thing, but it is exponentially harder to come across  
21 projects willing to provide essential supportive housing.

22           This project now has the hard commitment, it has  
23 the hard commitment for the vouchers from the Houston  
24 Housing Authority. It was impossible for them to provide  
25 that hard commitment by the application deadline, no fault

1 of their own.

2 For all these reasons, the City of Houston asks  
3 the Board to approve the applicant's deal.

4 Thank you for your time and your service.

5 MS. BINGHAM: Thank you very much, Mark.

6 Naomi, I think Mark Thiele had already spoken  
7 earlier. Do you still have Kevin Campbell?

8 MS. CANTU: Kevin has not responded to us that  
9 he would like to speak. We do have him? All right. Then  
10 we do have Kevin, so we can go to Kevin. We also have Mike  
11 Nichols queued up and Jason Minter queued up as well. So  
12 we'll go to Kevin Campbell.

13 MR. CAMPBELL: I'd like to thank the Board for  
14 hearing us and considering approving our appeal. My name  
15 is Kevin Campbell. I am here speaking for Magnificat  
16 Houses, Inc., who is the owner of the land in question at  
17 3300 Caroline and is the social services provider for this  
18 proposed project. I'm going to talk to you a little bit  
19 about who Magnificat is and also what's unique about this  
20 high opportunity location for this project.

21 For 51 years, Magnificat Houses has proved to be  
22 an alternative for people living on the streets by  
23 sheltering, clothing, feeding and providing mental health  
24 support, employment training, and spiritual guidance to  
25 these men and women at the very bottom of Houston's

1 economic ladder.

2 In 1968, as a faith-based nonprofit, we opened  
3 our first home staffed by volunteers to house and support  
4 women being released to the street from a state mental  
5 hospital. From that humble beginning we have steadily  
6 grown to 16 residential homes housing up to 170 people at a  
7 time. Subsequently, over the last 51 years we have housed  
8 and supported over 20,000 of Houston's most impoverished,  
9 forgotten and forlorn.

10 Additionally, in the last 48 years we have  
11 provided over 10 million meals from our Loaves and Fishes  
12 soup kitchen downtown. But we don't just provide a bed and  
13 a meal. For five decades we have wrapped social services,  
14 guidance and rehabilitation supports around all of our  
15 guests.

16 In our midtown campus, which surrounds 3300  
17 Caroline, and which is located halfway between downtown  
18 Houston and its services and the Texas Medical Center and  
19 its services. In this location we have eight residential  
20 properties, a consecrated chapel, a mental health  
21 rehabilitation facility, a thrift store, an art studio, a  
22 commercial wood shop and a two-acre park with fruit trees  
23 and a vegetable garden.

24 We are next door to the Houston Community  
25 College main campus, one block from HCC train station which

1 is two stops from the Wheeler transit center and two stops  
2 from the Downtown transit center. And we have two major  
3 bus stops at the end of our streets. Magnificat is well  
4 established and well received in the neighborhood and well  
5 recognized as being part of the solution helping Houston's  
6 homeless where they live and providing support services  
7 exactly where they're needed.

8 The rising land value in midtown has caused the  
9 cost of development to skyrocket in this high opportunity  
10 area. Having bought our properties 30, 40 and 50 years ago  
11 and being a nonprofit, we are in a unique position to  
12 redevelop our property for desperately needed public  
13 services, services that no one else would or could  
14 economically do. So we sought out a development partner  
15 whose nonprofit public service mission and values matched  
16 our own, and that is our experienced development partner,  
17 NHP Foundation.

18 We were constantly being approached with high  
19 dollar cash offers by for-profit developers to buy our  
20 property to build million-dollar condos and high end office  
21 and retail. The money is very attractive but what would  
22 happen to the people we serve? There is no place that we  
23 could move to that comes even remotely close to being able  
24 to provide the employment, transportation and access to  
25 medical and social services to the people we serve as this

1 location at 3300 Caroline.

2 So again, we thank you and ask you to help us  
3 help our people where they need it most, at this unique  
4 high opportunity location in midtown.

5 MS. BINGHAM: Thank you, Mr. Campbell.

6 Naomi?

7 MS. CANTU: Yes. We next have Mike Nichols and  
8 Jason Minter. So Mike, you're up next.

9 MR. NICHOLS: Am I unmuted? This is Mike  
10 Nichols.

11 MS. CANTU: We can hear you.

12 MR. NICHOLS: Thank you, thank you. I am the  
13 president and CEO of the Coalition of the Homeless of  
14 Houston, Montgomery County, Harris County and Fort Bend  
15 County, and we are the group that tries to align the  
16 resources that help homeless people.

17 It was spoken earlier, since 2011 more than  
18 18,000 people have been housed. Currently there are 5,000  
19 former homeless people who are housed with supportive  
20 services. The major thing is when you have a system like  
21 that there is an 85 percent success rate. These programs  
22 work, supportive housing works.

23 One of the issues we have is we need more units  
24 and we need people like Magnificat and NHP to join in the  
25 process of gaining more units. It is a complex process, as

1 you can see, and we really appreciate the Board looking at  
2 the complexity of trying to align these resources.

3 Mark Eichenbaum spoke about a new plan that  
4 would end chronic homelessness in Houston because of the  
5 new COVID dollars. The issue continues to be enough  
6 housing. So this project is very important, it's in the  
7 right place with the right partners, and we need the  
8 additional partners in our system.

9 We want TDHCA to help us garner more people and  
10 more partners interested in building supportive housing, so  
11 yes, we need you to support this effort. The tax credits  
12 are essential in building this supportive housing,  
13 especially in a city like Houston with all the other  
14 demands that we have.

15 Again, we've had meetings on this program  
16 recently to end chronic homelessness, and the one thing we  
17 have, the one problem we have to overcome is the need for  
18 more units. This is a real opportunity for us and I urge,  
19 urge the TDHCA to join with the mayor and the city council  
20 and the county judge and the Houston Housing Authority and  
21 the Coalition for the Homeless in aligning resources.

22 That's what our job is to do to make government  
23 work, to make it where it's not just barrier after barrier.  
24 This is a chance to show that government works.

25 Thanks so much.



1 MS. BINGHAM: Thank you very much, Mr. Nichols.  
2 Naomi?

3 MS. CANTU: Yes. We have Jason Minter and then  
4 next up Casey Bump, so Jason Minter is next.

5 MS. BINGHAM: Great. Can we just remind, we've  
6 heard a lot of comment on this application and would just  
7 encourage the remainder of the speakers to speak to only  
8 aspects that have not been addressed to this point and to  
9 please stick to the three minutes. Thank you.

10 MS. CANTU: Thank you, Ms. Bingham.

11 Yes, please make sure to stick to three minutes  
12 and only on items that have not already been addressed.

13 With that, we will go to Jason Minter and then  
14 Casey Bump.

15 MR. MINTER: Thank you. I'll be quick. First I  
16 just want to thank you guys for your time and  
17 consideration. I'm Jason Minter and I'm an assistant of  
18 Neal's at the NHP Foundation.

19 I just wanted to make one quick comment on the  
20 intent of the rule, and one thing I learned today in  
21 Marni's overview was that the original intent was to secure  
22 or to require 100 percent of TBVs and that was reduced  
23 through dialogue with the development community last year.

24 I just wanted to point out that today we do have that  
25 commitment from the Houston Housing Authority for all 149

1 units that will ultimately be at 3300 Caroline. So I just  
2 wanted to add that other point that today we do meet that  
3 original intent of the rule.

4 And just thanks for your time.

5 MS. BINGHAM: Thank you very much, Jason.  
6 Naomi, Casey?

7 MS. CANTU: Yes. Now on to Casey, we're going  
8 to move on. As a reminder, please stick to three minutes,  
9 and we will unmute you.

10 MR. BUMP: Good afternoon, Madam Chair and Board  
11 members. Can you hear me?

12 Great. I will be very quick. Casey Bump,  
13 president of Bonner Carrington and we do have an  
14 application that is in the region that's below these, and  
15 at the end of the day, a number of the speakers who have  
16 indicated that the applicant was not able to make the  
17 threshold because the RFP did not exist, and so at the end  
18 of the day you can't apply for something that's not there.  
19 And as an applicant down the line, I would just  
20 respectfully request that you apply the threshold  
21 requirements evenly.

22 Thank you, and I appreciate your time.

23 MS. BINGHAM: Thank you very much, Casey.

24 So Naomi, there are no more comments in the  
25 queue for 3300 Caroline?

1 MS. CANTU: I do not see any other comments for  
2 this application. We do have Mark Thiele available for  
3 questions if needed.

4 MS. BINGHAM: Thank you very much.

5 So we heard staff's presentation and we've heard  
6 comments on application 20114 for 3300 Caroline Street. We  
7 have a motion and a second to approve the appeal timely  
8 filed. Is there any further discussion?

9 (No response.)

10 MS. BINGHAM: We'll call for a vote. All those  
11 in favor of the motion to approve the appeal, aye.

12 (Ayes: Bingham, Braden, Vasquez.)

13 MS. BINGHAM: Any opposed?

14 MS. THOMASON: I'm opposed.

15 MS. BINGHAM: Thank you very much. Pardon me?

16 MS. THOMASON: Yes, I am opposed.

17 MS. BINGHAM: Okay. Thank you very much.

18 Majority rules on 3300 Caroline Street approving  
19 the appeal.

20 All right. Application 20148, High View Place.  
21 Is Marni still with us?

22 MS. HOLLOWAY: I'm here.

23 So for application 20148, High View Place, staff  
24 determined that the application does not qualify for points  
25 under the concerted revitalization plan scoring item

1 because the application only included a HUD consolidated  
2 plan and CAFR. Staff issued a scoring notice alerting the  
3 applicant of the loss of seven points subject to  
4 applicant's ability to appeal.

5 The QAP clearly states that a consolidated plan,  
6 one-year action plan or any other plan prepared to meet HUD  
7 requirements will not meet the requirements under this  
8 clause unless evidence is presented that additional efforts  
9 have been undertaken. The appeal describes the steps that  
10 were taken by the City of Killeen to develop its HUD  
11 consolidated plan for the 2015-2019 period -- it's a five-  
12 year plan -- stating the degree of detail, which is unusual  
13 in a consolidated plan, was clearly intended to implement  
14 the revitalization initiatives within the North Killeen  
15 local target area without the necessity of a subsequent  
16 implementing plan as is sometimes used by cities.

17 After review of the plan, staff did not find  
18 that additional efforts beyond anything already prepared to  
19 meet HUD requirements were undertaken to meet the rule  
20 requirements for scoring. While it is clear that a  
21 consolidated plan could be used as a basis to meet the  
22 requirement of the rule, the rule requirement to present  
23 evidence of additional efforts requires the presentation of  
24 additional evidence outside of the con plan showing that  
25 those efforts are more than what is set out for HUD.

1           The appeal seems to take the opposite view that  
2 all of that evidence can be found within the con plan  
3 itself describing efforts made by the city to identify  
4 areas of need and consider public comment. The HUD  
5 exchange website included this description: "The  
6 consolidated plan is designed to helps states and local  
7 jurisdictions to assess their affordable housing and  
8 community development needs and market conditions and to  
9 make data-driven place-based investment decisions. The  
10 consolidated planning process serves as a framework for a  
11 community-wide dialogue to identify housing and community  
12 develop priorities that align and focus funding from the  
13 CCD formula block grant programs."

14           The efforts described in the appeal are the same  
15 efforts that every participating jurisdiction, even the  
16 State of Texas, undertakes every five years. Without clear  
17 evidence that the additional efforts clause of the rule has  
18 been met, staff found that the application did not qualify  
19 for seven points for a concerted revitalization plan and  
20 will recommend that the Board deny the appeal.

21           MS. BINGHAM: Thank you, Marni.

22           Any questions from the Board members of Marni?

23           (No response.)

24           MS. BINGHAM: If not, we'll entertain a motion.

25           MR. BRADEN: I'll move to approve staff's

1 recommendation.

2 MS. BINGHAM: Okay. We have a motion from Mr.  
3 Braden to approve staff's recommendation. Is there a  
4 second?

5 MS. THOMASON: Second.

6 MS. BINGHAM: Ms. Thomason seconds. Thank you  
7 very much.

8 Naomi, will you let us know if there is public  
9 comment on High View Place?

10 MS. CANTU: We do have comment. I believe we  
11 have a letter to be read into the record by Michael Lyttle  
12 first, and then after Michael will be Tamea Dula.

13 We are looking for Michael Lyttle, and you are  
14 self-muted.

15 MR. ECCLES: Actually, this is Beau. This is a  
16 letter that was sent in from a city administrator from City  
17 of Killeen, and I have questions as to whether it contains  
18 new evidence not included in the application. It is in the  
19 chair's discretion whether this is allowed to be read into  
20 the record, so before it's read into the record, the chair  
21 needs to actually make that determination.

22 MS. BINGHAM: Beau, do I have access to the  
23 letter, or can I use your counsel?

24 MR. ECCLES: I'm sure that we could provide you  
25 the letter.

1 MS. BINGHAM: Actually, Beau, so I would prefer  
2 not to read it into the record if it includes information  
3 that hasn't already been -- if it's new information.

4 MR. ECCLES: And perhaps the applicant could  
5 shed some light on that, whether this is all contained  
6 within the application or if this is new information.

7 MS. BINGHAM: Very good.

8 So Naomi, we will not read the letter into the  
9 record at this point in time and move to comments.

10 MS. CANTU: Yes, of course. So we have Tamea  
11 Dula. We're going to go to Tamea first and then next is  
12 Tim Smith.

13 MS. DULA: Can you hear me?

14 MS. CANTU: Yes, we can hear you.

15 MS. DULA: Thank you. This is Tamea Dula with  
16 Coats Rose. Good afternoon. I'm here to speak in  
17 connection with number 20148, High View Place in Killeen,  
18 Texas, in opposition to that application's termination.  
19 I think we need to consider why the QAP indicates that a  
20 consolidated plan with evidence of additional efforts can  
21 qualify for the CRP points.

22 From 2015 to 2018, the QAP did not refer to  
23 consolidated plans in the concerted revitalization plan  
24 requirements. The status was, however, the consolidated  
25 plans were generally not regarded as being able to qualify

1 for the points because they were too vague. Why is that?  
2 Well, a consolidated plan is prepared for HUD to plan the  
3 use of community block grant funds such as HOME and CDBG  
4 funds.

5 Consolidated plans are general in nature, they  
6 cover the entire jurisdiction such as an entire city, and  
7 they are focused on population categories such as low  
8 income, elderly, disabled, homeless and special needs  
9 persons, and they're also focused on the allocation of the  
10 HUD funds within the jurisdiction in order to assist these  
11 populations.

12 In 2019 the QAP was changed to permit one or two  
13 plans to be utilized in meeting the concerted  
14 revitalization plan points, and the language concerning the  
15 consolidated plan requesting evidence of additional efforts  
16 in order to quality was first inserted there. The same  
17 language is in the 2020 QAP. So since 2019, the tendency  
18 has been to have one plan showing the initial  
19 identification of a revitalization area and a subsequent  
20 plan implementing a revitalization project.

21 The City of Killeen, however, provided both  
22 identification of a local revitalization target area and an  
23 implementation plan in the same document, the consolidated  
24 plan that they submitted to HUD. The QAP language can be  
25 interpreted as either showing evidence of additional



1 efforts within the consolidated plan itself or through  
2 extra materials provided in the application.

3 This applicant did both. The consolidated plan  
4 is substantially in excess of the minimum consolidated plan  
5 requirements set out in HUD's guidelines for preparing  
6 consolidated plans for local jurisdictions.

7 The applicant additionally provided annual  
8 audits for 2015 to 2018 synopsizing subsequent financial  
9 support for the North Killeen target area that was provided  
10 by the city. Also included was the city's resolution of  
11 financial support for this project in the North Killeen  
12 target area, and their resolution establishing this project  
13 as being the most important one for their revitalization  
14 efforts.

15 Staff has never suggested in our correspondence  
16 concerning the termination and appeal that the applicant  
17 failed to meet all of the requirements for the CRP points  
18 absent the issue of whether the consolidated plan had to be  
19 in concert with other additional evidence.

20 We submit that most consolidated plans would not  
21 meet these requirements but this one does, demonstrating  
22 the additional effort of one, responding to public input by  
23 including the implementation of a revitalization target  
24 area, and two, providing evidence of the city's continuing  
25 efforts to fulfill the implementing requirements by

1 subsequently funding the infrastructure projects within the  
2 North Killeen targeted area that were established in the  
3 2015 consolidated plan.

4 Now Tim Smith is going to disclose and discuss  
5 how this application meets all requirements of the QAP,  
6 unless you have questions for me.

7 MS. BINGHAM: Does anybody have any questions  
8 for Tamea?

9 (No response.)

10 MS. BINGHAM: Okay.

11 MS. DULA: Thank you.

12 MS. BINGHAM: Thank you very much.

13 MS. CANTU: All right. Next up we do have Tim  
14 Smith, and as a reminder, please limit your testimony to  
15 three minutes. There is a timer on the screen if you need  
16 a visual reminder as well.

17 Tim, you are ready.

18 MR. SMITH: Okay. Can you hear me?

19 MS. CANTU: Yes.

20 MR. SMITH: Okay. Very good.

21 Good afternoon, members of the Board. My name  
22 is Tim Smith of Hope Development Services, and I'm a  
23 consultant for the applicant.

24 The issue here is whether the CRP plan submitted  
25 in the application meets the requirements of 11.9(d)(7)(A)

1 of the QAP and particular part 3 of the subsection. The  
2 applicant has thoroughly documented in the application that  
3 the submitted CRP plan meets all the requirements of  
4 section 3. This was done in the initial application and  
5 then reiterated in the appeal to the scoring notice.

6 Through this entire process, correspondence and  
7 communication from TDHCA staff has never stated that there  
8 were problems or deficiencies in meeting the threshold for  
9 concerted revitalization plan as outlined in section 3 of  
10 the QAP. Staff has consistently responded that the issue  
11 is not that the CRP plan did not meet the requirements of  
12 section 3, but they're looking for additional effort in  
13 meeting the requirement.

14 The purpose of additional effort is to ensure  
15 that you meet the requirements of this section. It is the  
16 means, not the goal. What are the requirements? Number  
17 one, the target area cannot be citywide but a smaller local  
18 area. The plan thoroughly documents how this small local  
19 target area within in the city, designated as the North  
20 Killeen local target area, was identified and created. The  
21 development site for this application is located in this  
22 area.

23 Second, the plan was adopted by the local  
24 municipality. This was evidenced in the application.  
25 Next, the revitalization area must be identified through a

1 process involving public input. The CRP plan documented  
2 the extensive community survey conducted by the City of  
3 Killeen and how the public input shaped the formation of  
4 the plan.

5 The plan must also identify eligible problems  
6 such as infrastructure in disrepair including streets and  
7 sidewalks. These exact specific problems cited in this  
8 section of the QAP were identified in the CRP plan within  
9 the North Killeen local target area.

10 Section 3 also requires that the goals adopted  
11 in the plan have funding and established timelines for  
12 addressing identified problems. The applicant went to the  
13 additional effort to submit audits in the form of CAFR  
14 reports published by the City of Killeen and their  
15 accounting of the money spent by the city to address and  
16 mitigate the very problems identified in the North Killeen  
17 local target area.

18 Finally, the applicant documents the CRP plan is  
19 current and that works to address identified problems has  
20 begun and there are not obstacles for funding and  
21 accomplishment of these goals. This requirement was  
22 verified in the letter from the City of Killeen as required  
23 by the QAP.

24 TDHCA is not saying the application did not  
25 comply with the requirements of part 3 of 11.9(d)(7)(A) but

1 that they can't find additional effort in meeting the plans  
2 requirements. One could ask the question: How do I know  
3 if I've met the intent?

4 And I quote the QAP: "Additional efforts have  
5 been undertaken to meet the requirements of clause 3 of  
6 this subparagraph." And I know if I have engaged in  
7 sufficient additional efforts to meet the requirements of  
8 clause 3. One would think if you meet the requirements of  
9 clause 3, additional efforts have been satisfied. That is  
10 the point of additional effort, to meet the requirements.

11 This is a form over substance issue. We cannot  
12 think that TDHCA would intentionally adopt a policy that  
13 creates an argument that can never be satisfied. That  
14 cannot be the purpose, intent, nor interpretation of  
15 further additional effort. A TRZ comprehensive plan or any  
16 other plan does not require meeting the concept of  
17 additional efforts.

18 Why is this language linked to a consolidated  
19 plan? Its purpose is to ensure that applicants do not  
20 submit a consolidated plan or one-year action plan that  
21 meets HUD's minimum standards but then fails to meet the  
22 requirements of the QAP.

23 There are new ways that additional efforts can  
24 be undertaken to ensure a consolidated plan meets the  
25 requirements of section 3. A city can adopt a secondary

1 implementation plan --

2 MS. BINGHAM: Mr. Smith. Do you have a final  
3 point? We're past three minutes.

4 MR. SMITH: Okay. Another way a city can go to  
5 additional efforts in meeting the requirements of the QAP  
6 is to go above and beyond the minimum requirements of a  
7 standard consolidated plan and incorporate the requirements  
8 of 11.9(d)(7)(A). This is what the City of Killeen did.  
9 This is really a form over substance case, and we ask the  
10 Board to remove the stumbling blocks to the substance to  
11 the goal. We ask the Board recognize that the application  
12 complies with 11.9(d)(7)(A) and grant the applicant's  
13 appeal to reinstate the seven points for concerted  
14 revitalization.

15 Thanks for your time. I'm here to answer  
16 questions.

17 I would say the purpose of the letter from the  
18 city is to talk about how they went above and beyond the  
19 minimum requirements.

20 MS. BINGHAM: Understood. Thank you very much,  
21 Mr. Smith.

22 Does anybody have any questions for Mr. Smith or  
23 Ms. Dula?

24 (No response.)

25 MS. BINGHAM: Very good.

1 Naomi, are there any other comments in the  
2 queue?

3 MS. CANTU: We do have two people pre-  
4 registered. Art Schultz is actually up next and he's let  
5 us know. We also have Barry Palmer who has indicated he  
6 would like to speak but not recently, so if Barry Palmer  
7 would like to speak, please go ahead and enter that in the  
8 questions box and we'll put you in the queue.

9 The next is Art Schultz.

10 MS. BINGHAM: If we could just remind the rest  
11 of the speakers, we are running close to losing quorum, and  
12 we'd like to be able to give a little bit of time to the  
13 remaining appeals, so if we could wrap this up and anybody  
14 else that's remaining to speak could be please be  
15 respectful of the group's time. Thank you.

16 MR. SCHULTZ: Madam Chairperson and members of  
17 the Board, I wish to thank you for this opportunity. My  
18 name is Art Schultz, president of Housing Solutions  
19 Alliance. We are the development partner to the Killeen  
20 Housing Authority.

21 Our firm was engaged by the housing authority  
22 several years ago to assist in the redevelopment of both of  
23 their public housing properties, along with a conversion to  
24 the RAD program. We have completed the first of those two  
25 projects, and High View, this application is the remaining

1 development, and I want to emphasize it's located in the  
2 heart of the North Killeen local target area.

3 The city in several meetings that we've had with  
4 them discussing this application and our efforts have  
5 clearly stated to us that their consolidated plan goes  
6 above and beyond the minimum requirements of a consolidated  
7 plan that they would normally submit just to HUD. In fact,  
8 they said that they developed this specific North Killeen  
9 local target area with extensive input from its citizens as  
10 well as a separate resolution from the Killeen City Council  
11 implementing this targeted revitalization area. The city  
12 has spent considerable amount of funds and has incentivized  
13 private investment in the amount of over \$2.1 million for  
14 redevelopment in this area.

15 We presented our proposed application to the  
16 city council in January and we received unanimous support,  
17 and again, the overriding comment from the council members  
18 was that they see our rehabilitation and preservation of  
19 High View as one that would complement their other  
20 revitalization efforts in the North Killeen local target  
21 area.

22 And just to follow up with what Tim and Tamea  
23 have stated, we really believe we have complied with the  
24 QAP for the criteria under the CRP and we respectfully ask  
25 for your concurrence. Thank you.



1 MS. BINGHAM: Thank you very much, Mr. Schultz.  
2 Naomi, is there anyone else?

3 MS. CANTU: Last one is Barry Palmer. We're  
4 going to go ahead and unmute him and we set the timer.  
5 Barry, you have three minutes.

6 MR. PALMER: This is Barry Palmer with Coats  
7 Rose. We represent the applicant.

8 And as was stated by staff and other speakers,  
9 the provision of the QAP provides that you can get the  
10 points for community revitalization with your consolidated  
11 plan but if it's just the consolidated plan, you have to  
12 provide some evidence that additional efforts have been  
13 undertaken. That's a little vague, it doesn't say who the  
14 efforts have to be undertaken by but presumably it's the  
15 city. And we did, in fact, provide evidence of additional  
16 efforts being undertaken in the application.

17 There's a letter in the application and in your  
18 materials that the city sent on February 25th where they  
19 detailed again the problems in the North Killeen target  
20 area. They went through in some detail about the steps  
21 that they had taken to address those problems, and they set  
22 out, recited some of the progress that had been made in the  
23 target area.

24 And then they also noted that the City of  
25 Killeen had passed a resolution on February 11th

1 identifying High View as the development contributing more  
2 than any other to the city's revitalization efforts. So  
3 all of those were done in the letter by the city that was  
4 submitted in the application that we believe constitutes  
5 their additional efforts to meet the requirements of a  
6 concerted revitalization plan.

7 And another thing that the city has done which  
8 constitutes additional efforts as they have invested over  
9 the last four years \$1.6 million of their CDBG and HOME  
10 funds which in effect constitutes 54 percent of all CDBG  
11 and HOME funds that the City of Killeen has put into this  
12 targeted area. So that to me provides quite a bit of proof  
13 of the additional efforts that the city has gone to assert  
14 that this is a community revitalization plan.

15 And as Tim Smith had said, there's no question  
16 if you took the city's revitalization plan and broke it in  
17 half and just had the one portion of the plan that  
18 satisfies HUD that talks about the entire city and then you  
19 take the half of it that talks about the North Killeen  
20 targeted area and breaks that into a separate plan, that  
21 would clearly satisfy the requirements.

22 So it's a little bit of form over substance in  
23 that regard, but again, this additional efforts is somewhat  
24 vague but we think that we have satisfied it in two ways:  
25 by the letter from the city from February 25th, and by the

1 investment by the city of 54 percent of their HUD funds  
2 into this neighborhood.

3 Thank you.

4 MS. BINGHAM: Thank you, Barry.

5 Marni, so staff's review of the February 25th  
6 letter, he said from the city, I have a February 25th  
7 letter from Killeen Community Development Department. I  
8 guess that's the one.

9 MS. HOLLOWAY: Yes, I believe that's the one  
10 he's talking about.

11 MS. BINGHAM: So the staff reviewed that and did  
12 not find evidence of additional action?

13 MS. HOLLOWAY: No, we did not find anything that  
14 describes activities beyond what was laid out in the con  
15 plan.

16 MS. BINGHAM: Okay. Thank you.

17 Do the Board members have any other questions  
18 for Marni?

19 (No response.)

20 MS. BINGHAM: We have a motion to approve  
21 staff's recommendation to deny the appeal and a second.  
22 All those in favor aye.

23 (Ayes: Bingham, Braden and Thomas.)

24 MS. BINGHAM: Opposed?

25 MR. VASQUEZ: No.

1 MS. BINGHAM: I voted aye. So we have three  
2 ayes, one opposed, motion carries to approve staff's  
3 recommendation to deny the appeal.

4 Marni, 20318, Cypress Creek at Spencer Landing.

5 MS. HOLLOWAY: Yes. This is proposed new  
6 construction development located in La Porte, and as you  
7 know, our rules identify specific requirements and  
8 restrictions related to a development seeking multifamily  
9 financing. Our undesirable site rule identifies those  
10 features that must be disclosed by applicants at the time  
11 of application.

12 A few of those undesirable features are  
13 development sites located within 500 feet of heavy  
14 industry, which includes maintenance of fuel storage  
15 facilities and excludes gas stations, development sites in  
16 which the buildings are located in the accident-potential  
17 zones for the runway clear zones of any airport, and  
18 development sites that contain one or more pipelines  
19 situation underground or above ground which carry highly  
20 volatile liquid or development sites located adjacent to a  
21 pipeline easement.

22 The application disclosed that the development  
23 site is located approximately 430 feet from a 5,000 gallon  
24 aviation gasoline above-ground storage tank, it is directly  
25 adjacent to an easement that contains pipelines that carry

1 highly volatile liquids, and it is within approximately 650  
2 feet of a runway that is part of the La Porte Municipal  
3 Airport and it's within the existing and ultimate runway  
4 protection zone.

5 The disclosure includes pages from the  
6 environmental site assessment to address proximity to heavy  
7 industry which the report identifies as a fueling station.  
8 The applicant has suggested it's a gas station and  
9 therefore exempt. Staff does not agree.

10 There is also a PIPA report to address the  
11 pipeline. Regarding proximity to the airport and fueling  
12 station, the airplane fueling station is clearly not a gas  
13 station in the rule and does not qualify for the exception  
14 indicated.

15 Per the application, none of the buildings will  
16 be located within the accident potential zone or the runway  
17 clear zones of the airport. The feasibility report  
18 describes conversations with the City of La Porte public  
19 works director so that there is now an easement imposed on  
20 the site. The runway that is closest to the development  
21 site is used for landing planes that would approach the  
22 site from the southeast.

23 The entire western boundary of the development  
24 site borders the pipeline corridor. Per the site plan,  
25 this side of the site will consist of parking and a

1 detention area.

2           Regarding the nearest hazardous liquids  
3 pipeline, the report indicates a potential impact radius of  
4 312 feet and states, "Because flame-resistant materials  
5 will be used for the construction of the buildings and  
6 structures and egress will be provided on the sides of the  
7 structures opposite the pipeline corridor, a 50-foot  
8 setback should be adequate."

9           Regarding the nearing crude oil pipeline, the  
10 report indicates the concept of an impact radius does not  
11 apply and that any harm would be environmental in nature.  
12 Regarding the highly volatile liquids pipeline, the report  
13 states that since HVLs are heavier than the air, they will  
14 tend to be collected in low-lying areas displacing the  
15 oxygen.

16           Because of the flat terrain in the vicinity of  
17 the pipeline corridor, a small perimeter on the western  
18 edge of the site should be sufficient to prevent the  
19 migration of heavier-than-air vapors to the proposed  
20 apartment. Absent adverse wind conditions, the vapors  
21 would migrate to the airport across the highway or along  
22 pipeline corridors.

23           Individually, each of these as a mitigation  
24 offered might be acceptable to allow staff to determine  
25 that the issue does not trigger ineligibility on the basis

1 as a whole. However, the development site's proximity to  
2 the runway, coupled with proximity to the fueling station  
3 is of great concern. A landing plane could very well  
4 introduce the adverse wind conditions the PIPA report  
5 suggests would cause HVL vapors to migrate to the  
6 apartments.

7 Based on the information provided, staff  
8 determined that the development is ineligible under the  
9 rule. The appeal restates much of the information already  
10 reviewed by staff and offers as new information an  
11 aeronautical from the Federal Aviation Administration  
12 Southwest Regional Office, which found that the development  
13 will not be a hazard to air navigation expressly  
14 conditioned on the installation of special rooftop markings  
15 and lighting on the building nearest to the runway.

16 None of the information provided in the appeal  
17 led to a different conclusion. The development site's  
18 proximity to the runway, fuel storage facility, and the  
19 pipeline corridor makes this site an unnecessarily  
20 hazardous one to locate a multifamily development. Staff  
21 recommends that the Board deny the appeal.

22 MS. BINGHAM: Staff's recommendation is to deny  
23 the appeal. Do we have any questions of Marni, members?

24 (No response.)

25 MS. BINGHAM: We'll entertain a motion.

1 MR. BRADEN: Yes. Move to approve staff's  
2 recommendation.

3 MR. VASQUEZ: Second.

4 MS. BINGHAM: I have a motion from Mr. Braden  
5 and a second from Mr. Vasquez to approve staff's  
6 recommendation.

7 Naomi, can you let us know how many people you  
8 have in the queue to speak for 20318, Cypress Creek at  
9 Spencer Landing?

10 MS. CANTU: We have seven people pre-registered.

11 Only one person has indicated they would like to speak now  
12 that the agenda item has been called. If anyone else would  
13 like to speak, you need to let us know in the questions  
14 box, but so far only one person has let us know, and that's  
15 Tamea Dula in the questions box.

16 MS. BINGHAM: Great. We're ready for Tamea.

17 MS. CANTU: Ms. Dula.

18 MS. DULA: Thank you. Can you hear me?

19 MS. CANTU: Yes.

20 MS. DULA: this is Tamea Dula with Coats Rose.  
21 I'm speaking in opposition to the termination of number  
22 21318, Cypress Creek Apartments at Spencer Landing in La  
23 Porte.

24 It is true that this project is located near the  
25 La Porte Municipal Airport and it has a 5,000-gallon



1 aviation fuel tank within 500 feet of it, and it is also  
2 next to a 200-foot wide pipeline corridor. These check off  
3 several different site feature issues.

4 The 500-foot -- the fuel tank was cited as being  
5 a heavy industry indicator, and you cannot have a site  
6 within 500 feet of heavy industry on the basis that the  
7 facility maintains the fuel storage facility and it  
8 excludes a gas station. I'd like you to turn to page 966  
9 of the supplemental board book and take a look at this fuel  
10 storage tank but it's not an extremely difficult thing to  
11 see that it would not create a huge problem. See the  
12 photograph on page 966.

13 This phase 1 report that was provided with the  
14 application, Terracon stated that this storage tank does  
15 not qualify as heavy industry because there is an absence  
16 of any kind of apparent manufacturing or machinery. The  
17 storage tank is associated to an aviation school that's  
18 located on the airport grounds.

19 The runway clear zone of any airport is an issue  
20 with regard to site features and must be either mitigated  
21 or waived. Here the runway clearance zone clips the site  
22 on one of its corners.

23 That clipped-off area will be involved even if  
24 it's the ultimate runway clearance zone which will be  
25 smaller in scope than the current existing clearance zone.

1       It is clear that the project has been designed in  
2 accordance with FAA requirements. No buildings will be in  
3 the area and the necessary lights are planned to be used.

4               The development site is also adjacent to a  
5 pipeline easement, and we have provided a PIPA report and  
6 engaged a PIPA consultant to provide a mitigation plan  
7 based upon the PIPA best practices, and that was contained  
8 in the application.

9               So each of these site features is mitigatable  
10 and waivable by the Board, and staff has raised the specter  
11 of the confluence of these features creating a catastrophic  
12 situation, but this is highly unlikely, as the subsequent  
13 speakers will tell you.

14               So we're asking that this project not be made  
15 ineligible because of these three site features, any one of  
16 which could be waived and all of which can be waived by the  
17 Board.

18               MS. BINGHAM: Thank you.

19               Are there any questions for Ms. Dula?

20               (No response.)

21               MS. BINGHAM: Naomi?

22               MS. CANTU: Yes. So I believe we do have Corby  
23 Alexander on the line signed in as another name. We're  
24 going to go ahead and unmute Roy Ortiz, which we believe is  
25 Corby Alexander, and then after Corby is John Jacobi.

1 MS. BINGHAM: So Naomi, how many more speakers  
2 do we have?

3 MS. CANTU: We have six -- no -- we have five  
4 more.

5 MS. BINGHAM: We won't have time to hear that  
6 comment. I would ask the Board if they want to hear  
7 abbreviated comment from all of them as in 30 seconds to 45  
8 seconds, or if there's another recommendation? We

9 MR. VASQUEZ: Let's just give shorter time  
10 frames, because I need to go also.

11 MS. BINGHAM: Yep. Clock is ticking.

12 Okay. So we'll ask the remaining speakers to  
13 hit their key points in 30 seconds.

14 MS. CANTU: Mr. Alexander, you are unmuted. Mr.  
15 Alexander?

16 (No response.)

17 MS. CANTU: Okay. We're going to move on to the  
18 next person, John Jacobi.

19 Mr. Jacobi, you are unmuted and you have 30  
20 seconds.

21 MR. JACOBI: Okay. Can you hear me?

22 MS. CANTU: Yes.

23 MR. JACOBI: Thirty seconds, I planned on three  
24 minutes.

25 24 CFR Part 51 does not consider buried

1 pipelines and pipelines in compliance with federal safety  
2 standards as hazards. There are no applicable federal or  
3 local standards or regulations regarding setbacks from  
4 pipelines.

5 In the past TDHCA has approved proposals with  
6 minimum requirements that all structures being ten feet  
7 from a pipeline right of way or corridor or 50 feet from  
8 the nearest pipeline, whichever is greater, if a proposed  
9 development meets all those criteria. The pipelines in the  
10 corridor are essentially patrolled continuously.

11 I've talked to the La Porte LEPC. They're well  
12 aware of the situation. They've voiced no concern  
13 whatsoever with respect to dealing with potential  
14 interactive threats associated with the airport, with the  
15 pipeline corridor and the location of the proposed  
16 development.

17 And in my opinion, the likelihood of an  
18 interactive threat exacerbating the situation is extremely  
19 remote. I looked at NTSB reports. There's no reports  
20 suggesting an airplane had ever damaged a buried pipeline,  
21 much less any airplane that can take off and land in less  
22 than 12,200 feet.

23 Given the terrain and the porous nature of the  
24 soil in the vicinity, the likelihood of an incident  
25 associated with the 5,000-gallon aviation fuel tank

1 affecting the pipeline corridor or the proposed development  
2 seems extremely small, and it's just not going to happen.

3 The NTSB has very few reports relating to  
4 department standards relating to rupture or emission of  
5 nearby gas pipelines, maybe three. There's no such reports  
6 involving any hazardous liquid transmission lines, HVL or  
7 other hazardous liquid pipeline involving apartments.  
8 There's numerous reports involving service lines to  
9 apartments and leaks associated with natural gas piping.  
10 These will be developed greatly.

11 And I apologize for taking more than 30 seconds.  
12 Thank you very much.

13 MS. BINGHAM: Thank you very much, Mr. Jacobi.

14 I think we've run out of time. Do the Board  
15 members have any questions of Marni or any of the prior  
16 speakers?

17 (No response.)

18 MS. BINGHAM: Are you comfortable with us  
19 calling for a vote? So we have a motion for staff's  
20 recommendation to deny the appeal on application 20318,  
21 Cypress Creek at Spencer Landing, and we have a second.  
22 All those in favor of staff's recommendation aye.

23 (A chorus of ayes.)

24 MS. BINGHAM: Opposed?

25 (No response.)

1 MS. BINGHAM: Motion carries to approve staff's  
2 recommendation to deny the appeal.

3 We have one more application, Marni, application  
4 20342, The Cottages at Cedar Ridge. We will need to table  
5 that for the June meeting.

6 MS. HOLLOWAY: Certainly.

7 MS. BINGHAM: Okay. We are at the end of the  
8 action part of the agenda.

9 Thank you, Board members, for anybody that has  
10 to leave. We can hear public comment on matters other than  
11 items that were posted on the agenda, so we are ready for  
12 Naomi to see if there are any comments in the queue for  
13 items that weren't on the posted agenda.

14 MS. CANTU: Yes. We did have a few comments not  
15 on the agenda. We're going to check to see if they are  
16 still with us. One is Stella, let me find her.

17 MR. VASQUEZ: Are we required to maintain a  
18 quorum?

19 MR. WILKINSON: No.

20 MR. VASQUEZ: Okay. I'm sorry. I needed to go  
21 an hour ago.

22 MS. BINGHAM: Thank you, Leo.

23 MR. VASQUEZ: Thank you.

24 MS. CANTU: Stella, we're going to go ahead and  
25 unmute you.

1 MS. RODRIGUEZ: Okay, perfect. I'll be very  
2 quick. Hello. My name is Stella Rodriguez, executive  
3 director of the Texas Association of Community Action  
4 Agencies.

5 On behalf of the community action agencies in  
6 Texas, we thank your staff, Mr. Wilkinson, Brooke Boston,  
7 Michael De Young, and all staff of the Community Affairs  
8 Division. The network has been working closely with your  
9 staff to prepare for the administration of the soon to  
10 arrive funding for the Community Services Block Grant and  
11 the Low Income Home Energy Assistance Program under the  
12 CARES Act.

13 Staff has been very supportive and responsive to  
14 inquiries from our agencies already. We wanted to take a  
15 minute to acknowledge the assistance of your staff, and we  
16 look forward to showcasing outcomes and success stories.

17 Thank you.

18 MS. BINGHAM: Thank you very much, Stella.

19 Naomi?

20 MS. CANTU: Yes. We have one more, Jason  
21 Shaughnessy.

22 MR. SHAUGHNESSY: Thank y'all very much, Board.

23 I know you don't have to stick around, and I do appreciate  
24 and well respect your time.

25 I am a private citizen speaking on behalf of

1 application 20116, The Diane Street Villas here in Houston,  
2 Texas, within the Shady Acres, Clark Pines and Timbergrove  
3 association neighborhoods. I am opposed to this  
4 development primarily on the basis for traffic and safety  
5 concerns.

6 Mr. Wilkinson, as you said, you are from the  
7 Houston area so you can appreciate the fact that the  
8 Heights is a very condensed area as it is already with very  
9 limited roadways.

10 MR. WILKINSON: I lived there, yes.

11 MR. SHAUGHNESSY: So we already have an issue  
12 with the lack of sidewalks and the lack of available green  
13 spaces for our residents who are very active and a part of  
14 our community to be able to walk safely, jog safely, work  
15 out safely, whatever it may be. And this also could have  
16 potential impact with the lack of infrastructure and the  
17 increased number of residents in the area for them to be  
18 able to walk safely to public transportation lines.

19 Those are just some of the examples, there's a  
20 whole list, but for the sake of time, I'm going to start  
21 closing it up.

22 We do have other high-density developments  
23 already being put on Shepherd and on Durham, so we will  
24 feel the impact of continued high-density development where  
25 the initial grid for the Heights was not built for that. I



1 understand development is needed but we just would like to  
2 make sure that we are taking the correct approach and  
3 looking at all avenues of what the appropriate development  
4 -- whether it's affordable housing or market value housing,  
5 what the appropriate development needs to be and where it  
6 needs to be.

7           Because there are other locations within the  
8 area on 18th where there's a development going on right  
9 now, and another one in this proposal at 26th and Ella,  
10 which is closer to -- not only is it more units, it's got  
11 better access to the freeways and is off of four-lane  
12 roads.

13           With that, I do thank you for your time very  
14 much. Thank you very much for hanging on.

15           MS. BINGHAM: Thank you. Thank you very much,  
16 Jason.

17           So Naomi, is there anyone else in the queue?

18           MS. CANTU: I don't see anyone else in the  
19 queue. Again, if you did have a comment for anything not  
20 on the agenda, now is your time. And I do not see anyone  
21 else in the queue in the questions box. Thank you very  
22 much.

23           MS. BINGHAM: Great. Well, we'll at this time  
24 just thank everyone. I see there's about a hundred people  
25 maybe left in the call. Thank you all so much for your

1 patience. We tried to do our best to hear all of the  
2 concerns and we appreciate everybody's understanding.

3 And I always thank staff for all of the work,  
4 the hours and hours of work that go behind every single one  
5 of these meetings. We really appreciate all of the effort  
6 that you make.

7 And thanks very much to Sharon. Girl power.  
8 The girls held out past the boys today. Thank you for  
9 hanging on. And we'll thank the other Board members too.

10 And I always miss thanking Naomi. I bet she  
11 finishes these video conferences and hopes to never hear my  
12 voice say her name. But Naomi, thank you so much for your  
13 patience and being willing to be under the gun for a very  
14 long meeting day.

15 And we will look forward to seeing everybody  
16 back here for the June meeting. Thank you all.

17 (Whereupon, at 3:04 p.m., the meeting was  
18 adjourned.)

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MEETING OF: TDHCA Board  
LOCATION: via telephone and web link  
DATE: May 21, 2020

I do hereby certify that the foregoing pages,  
numbers 1 through 234235, inclusive, are the true,  
accurate, and complete transcript prepared from the verbal  
recording made by electronic recording by Nancy H. King  
before the Texas Department of Housing and Community  
Affairs.

DATE: May 27, 2020

\_\_\_\_\_  
(Transcriber)

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