

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Room E1.028  
Capitol Extension  
1500 N. Congress  
Austin, Texas

Thursday,  
November 10, 2011  
9:00 a.m.

MEMBERS:

J. PAUL OXER, Chair  
TOM H. GANN, Vice Chair  
KENT CONINE  
LESLIE BINGHAM ESCAREÑO  
LOWELL KEIG  
JUAN MUÑOZ

STAFF:

TIM IRVINE, Executive Director

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

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P R O C E E D I N G S

MR. OXER: Good morning, everyone.

Penny, can you hear it? Is it picking up?

THE REPORTER: Yes.

MR. OXER: Great.

I'd like to welcome you to the board meeting of the Texas Department of Housing and Community Affairs. First thing I'd like to do is, in honor of Veterans' Day tomorrow, could -- are there any veterans? Dr. Munoz -- please stand, all the veterans. Raise your hands to them.

(Applause.)

MR. OXER: Please remain standing. We'd like the veterans to lead us in the pledge to the flag.

(Pledge of Allegiance.)

MR. OXER: Now, to the Texas flag, please.

(Texas Pledge of Allegiance.)

MR. OXER: Thank you.

All right. Let's do the roll call. Ms. Bingham?

MS. BINGHAM: Here.

MR. OXER: Mr. Conine?

MR. CONINE: Here.

MR. OXER: Mr. Gann?

MR. GANN: Here.

MR. OXER: Mr. Keig?

MR. KEIG: Here.

MR. OXER: Dr. Munoz?

DR. MUNOZ: Present.

MR. OXER: And I'm J. Paul Oxer, and I am, in fact, here.

All right. First thing we'd like to do on the agenda -- we have had -- there's no formal -- we were actually considering a resolution to modify our components for public comment, but there are several who would like to make comment this morning, and we will take those, to being with, as we have historically done, allowing three minutes per person.

And we've got a different setup today, so we don't exactly have our old on-deck circle, like we had in the big room. So we're going to have to have something here -- I'll have a roll -- a list of names that are coming up for the people, so when your name is being called, let you get on up here when we get ready to present, so that we don't waste too much time, because there's a lot of people that want to speak today.

All right. In order, we have Mr. Juan Ada

[phonetic], Donald Parish, Ellen Williams, and Anna Hill.  
So, Mr. Ada?

MR. AYALA: Good morning. My name is actually Juan Ayala; I don't have the clearest handwriting. I am the --

MR. OXER: Forgive me for that.

MR. AYALA: My apologies.

I am the chief of staff for State Representative Eric Johnson. He is unable to join us today, so he's asked me to read a letter of support into the record.

"Dear Honorable Chair and Members of the TDHCA Board: Thank you for the opportunity to express for the record my full and strong support for the 2011 housing tax-credit application for the Hatcher Square Development, TDHCA Number 11098.

"As a state representative for District 100, I have pledged my wholehearted support for the Frazier Revitalization, Inc.'s, growth and improvement plan for the Frazier neighborhood in Dallas, Texas.

"The Hatcher Square Development calls for the construction of a mixed-use transit-oriented addition to the Frazier neighborhood. This project is located in close proximity to two of Dallas' greatest assets.

"It is a short drive away from Fair Park, home

of the State Fair of Texas, which attracts millions of visitors each year. It is also located across the street from the newly opened green line of the Dallas Area Rapid Transit light-rail system.

"In addition to providing 136 housing units, this development will also provide much needed retail space as well.

"Affordable housing and additional retail space are both badly needed in this community, which has suffered from negligence and discrimination in the past. The City of Dallas recognizes this and has pledged its financial support to the project as well.

"It is located along a vital transit artery, which is -- and this development is needed to keep the positive momentum, which has already led to a significant revitalization in the Frazier neighborhood.

"The current economic turmoil has slowed this development, and all of the hard work and progress that has already been made is now at risk. We need this project to keep the neighborhood moving forward.

"I appreciate your consideration of the Frazier Revitalization, Inc.'s, application for the tax credits, and I strongly urge you to support this project and its efforts to leverage the new opportunities provided by the rail line,

which will make this once again a vital part of the city of Dallas.

"Sincerely, Eric Johnson, State Representative, District 100."

MR. OXER: Thank you, Mr. Ayala.

Any questions?

(No audible response.)

MR. OXER: Good.

Mr. Parish?

MR. PARISH: Yes, Mr. Chairman. I would like another member of our delegation to come before I make my presentation. Could we -- could you entertain having Mr. Don Williams come before me?

MR. OXER: Sure. Let me -- yes.

MR. WILLIAMS: Thank you, Mr. Chairman. There are six people who have signed up to speak for Hatcher Square. Three are yielding their time, so if we may have the five-minute allocation for that? Is that permissible?

MR. OXER: That is permitted, yes.

MR. WILLIAMS: Thank you. Should we sit down?

MR. OXER: Please.

MR. WILLIAMS: Thank you.

MR. OXER: And, please, state your name and -- we have a record. Okay. And I would remind everyone that,

despite the fact you can't see it, Big Brother is watching.

MR. WILLIAMS: Well, thank you very much. My name is Don Williams, from Dallas, and I'm here to speak on behalf of the Hatcher Square project, which is your Case Number 11098.

First, thank you for allowing us to speak, and frankly, thank you for serving on these boards. I've been on these state-appointed boards before, and I know how much time they take, and I thank you for that.

MR. OXER: Yes. And they're a lot of fun, too.

MR. WILLIAMS: They really are. You get a really high reward in the next life.

Seventeen years ago, I retired as CEO of Trammel Crow Company in Dallas, staying on as chairman, because you know the way it works in Dallas, you get your phone call returned if you're chairman rather than do-gooder.

But I formed the Foundation for Community Empowerment to try to see if, from a business community perch, we could go about systematic support and help of revitalizing our lowest-income neighborhoods in Dallas, transforming our public school system to have the best public school system in America, to have services and all of that at a -- so I've spent the last 17 years working on that problem.

People often ask me why do you do this and what's in it for you. And speaking honestly, I do this out of my

faith, because -- and my faith calls me to partner with the poor, the marginalized, the people who have been left out, the people who don't have opportunities, and so being in the struggle with them.

What's in it for me, there is no financial in this for me, except outflow, a whole lot. But what is in this for me is the privilege of working alongside some of the most remarkable people in our low-income neighborhoods in southern Dallas that I've ever met in my entire life, and my career has been all over the world. So that's why I'm doing this.

As one part of our effort in low-income neighborhoods in southern Dallas, seven years ago we formed the Frazier Revitalization, Inc. -- FRI -- which is the sponsor of this project.

The Public Housing Authority was tearing down Frazier Court Public Housing Project and rebuilding it a \$60 million project, and we visited with them about could we use that investment to leverage a lot more change and revitalization in this whole neighborhood, which goes from the east side of Fair Park all the way over -- 1,150 acres -- all the way over to Frazier Court.

So that's how FRI got started seven years ago. I was the founding chairman of that. The current chairman, Mr. Richard Knight, is here today. Many of you know him,

former city manager of Dallas and a very successful businessman there.

From the beginning, FRI's had five community residents on the board, along with five businesspeople. That's the way we operate, in collaboration and partnership with community leaders.

So when the FRI -- we sent you all a copy, in a letter we submitted last week, of the plan for that whole area. We engaged Antonio DiMambro from Boston to do this comprehensive plan that was what the community wanted to have happen in their own community.

So our mission at FRI is what we work for; it's fitting affordable housing for working families, working individuals; safe neighborhoods; great schools -- I've led the public school reform initiative in Dallas for years, and we have great schools in this low-income neighborhood, some of the best in Dallas -- jobs, job creation, trying to get businesses to move into the lower-income neighborhoods with good jobs.

The community identified this corner, where this project is, Scyene and Hatcher, as the sight. They said it was the gateway, the southern gateway, to this whole neighborhood, and that's what we've been focusing on, with Truly Missionary Baptist Church Reverend Parish, who you'll

hear from next, over these years to assemble that land around there. And we're also involved in a lot of other things in the community.

That was very difficult. There was a hot-sheet motel there. There was an illegal nightclub operation there.

There was the typical stuff you see in a lot of low-income neighborhoods -- you know, a convenience store that sold cigarettes one at a time laced with drugs.

All that's gone. We've acquired all of that, demolished it all. The site is ready, and we're here, you know, pleading for the tax credit to support that project.

You all know these kind of neighborhoods. The buildings have all been demolished. We have to have the 9 percent tax credits. Four percent tax credits don't work.

We did all the numbers; they don't work. You cannot get conventional financing in this part of town, like you can in other parts of town, in Dallas. So that's why our appeal to you all for a tax credit -- 9 percent tax credit award.

And I think, importantly, this is not just a one-off project. This is part of a community-wide effort.

The city has poured \$11 million of direct investment right into this neighborhood for acquisition, tearing down buildings.

Their land bank program has acquired vacant lots,

blighted houses, torn them down; more than 50 new single-family homes done by a variety of nonprofit developers, including us at Frazier, have gone up in this immediate area.

So Baylor Hospital invested \$15 million in a new program for diabetes prevention in Juanita Craft Recreation Center, right there in the community.

So my point, as you can see, there's a lot of funding from -- has gone into this. We've raised in Frazier \$5 million of private philanthropy in Dallas, because we had to so overpay for those properties, you know, without eminent domain, as you all know. So that's where the funds have gone.

Hatcher Square is not a developer-driven project. It is not a developer-fee-driven project. It is a community-driven project. And the developer fee, besides having to pay the contractor to build, all goes into the nonprofit for use in the community.

So we believe and appeal to you all that you would be investing prudently, in the Hatcher Square project, in the hopes and dreams of a whole community there in South Dallas, because this such a key component to that, and frankly, in Dallas a community that's been too long and too frequently passed over for North Dallas.

We respectfully ask you all to put this on your December agenda and at the December 15 meeting to consider

a \$2 million tax-credit allocation for the Hatcher Square project. And, again, thank you all for the permission to speak with you and all that you all are doing for our state.

MR. OXER: Thank you, Mr. Williams.

Any questions?

(No audible response.)

MR. OXER: Any comments?

(No audible response.)

MR. OXER: Oh, excuse me. I'm sorry.

(Pause.)

MR. OXER: Mr. Parish, give me just a second here.

It'll be Mr. Parish, Dorothy Hopkins -- now Dorothy has yielded to Ms. Hill, so -- Don Parish and Anna Hill and then Richard Knight.

Yes, sir. Good morning.

MR. PARISH: Thank you, Mr. Chairman. My name is Donald Parish -- and to the other members of the board.

I am pastor of the Truly Missionary Baptist Church, and I'm also here to speak on behalf of the Hatcher Square project and as a member of the community.

The Frazier community -- our church is 102 years old, and our church has been in this community for that entire length of time. I grew up in this community, and now I'm pastor in a church that is located in this community. So

I have a broad span of history.

I've had an opportunity to see this community go from what it used to be, a vibrant African American community where people owned homes -- these were the people that sent their children to college. These were the people that went to work every day.

And then I've had an opportunity to see it deteriorate to what it was in our recent past, where there was frequent open-air drug transactions, prostitution, dilapidated housing, absentee ownership, just a blighted community.

That was a bright ray of hope when as we have been investing and -- in buying property as it became available, when FRI came to partner with us, to make a very positive change in our community.

We have worked to reduce the crime in the community. They were able to acquire properties that we could not afford to purchase. We had purchased that that we could purchase, but we did it in order to make a positive change in the community.

And we were looking forward to the development of this project. This project will be right across the street from the recently opened DART green line, which runs right across the street. It creates an opportunity for affordable

housing.

A person who -- let's say, a college graduate, for example -- recently out of school could live there, could matriculate all over the metroplex without having to own an automobile. It's a very positive thing.

We were very, very disappointed when we found that this project had been stalled, because we see this as arresting all of the progress that we have worked so hard to put forth, to advance.

It may have the effect of bringing back those things that we have worked so hard over the past ten or 15 years to drive out of the community. We have turned this community around, and we want to keep it going on a positive note.

We see this project as a very, very positive sign for our community. Our church is in support of it. We are partnering with the Frazier Revitalization, a nonprofit organization. Our community is in support of this project.

And I would like to, as Mr. Williams did before me, appeal to you to, please, place this on your agenda for your December 15 meeting, so that we may revisit this. I think that it is a very worthwhile project, and it certainly merits your attention. Thank you so much.

MR. OXER: Thank you.

Any questions?

(No audible response.)

MR. OXER: Okay. Thank you, Mr. Parish.

Anna Hill?

MS. HILL: Good morning.

MR. OXER: Ms. Hill.

MS. HILL: I apologize for coming --

MR. OXER: You sound as bad as I feel sometimes.

MS. HILL: Okay. We do have something in common.

MR. OXER: Pass her one of these, Michelle.

(Pause.)

MS. HILL: I have peppermint. Thank you. It's not doing any good.

But my name is Anna Hill. I've lived in Dallas all my life. I am the president of Dolphin Heights Neighborhood Association. We are located two miles from downtown Dallas, southeast of the Fair Park.

The members and myself have taken a very active interested role in what happens in our communities. I am here with laryngitis to speak in support of the Hatcher Square project.

For the past seven years, or eight, FRI Founder and Chairman Don Williams has worked very, very hard to bring a part of Dallas back to a reality which is South Dallas.

The communities in South Dallas -- Hatcher and Scyene Streets -- we as a community picked those streets to incorporate a mixed-use development right across the street from our very much needed DART rail.

I and residents of the community, we plead with you board members to take into consideration the 9 percent tax credits, so that we can continue to revitalize our southern Dallas area.

Without those tax credits, we can't move forward.

And it will affect the schools, the people that might want to come back to the neighborhood. It will just mess it up, if we don't get the tax credits.

And we've worked hard, as they said. We had Baylor that did a diabetes center. We have other development going on in the southern sector of Dallas.

And I respectfully ask you all to consider putting the Hatcher Square project, TDHCA Number 11098, back on your December agenda. Respectfully, thank you.

MR. OXER: Thank you, Ms. Hill.

Questions?

(No audible response.)

MR. OXER: All right. Mr. Knight?

MR. KNIGHT: Thank you, Mr. Chairman. Actually, I gave my time to Reverend Parish, but if there is time left --

MR. OXER: I didn't --

MR. KNIGHT: -- I welcome the opportunity for  
the --

MR. OXER: Well, I think your point is made.

MR. KNIGHT: Okay.

MR. OXER: I think the -- we're getting the  
message up here. Okay?

MR. KNIGHT: Thank you so much. I appreciate  
that.

MR. OXER: Is there anyone else who had a comment  
on 11098?

(No audible response.)

MR. OXER: We're going to go a little out of  
sequence here, just because I'd like to recognize Julie Frank.  
Julie?

(No audible response.)

MR. OXER: Somebody said she stepped outside?

(No audible response.)

MR. OXER: While we're waiting for her, Cynthia  
Bast? Cynthia?

MS. BAST: Good morning, and thank you, Mr. Oxer,  
for just a brief moment. I wanted to give a public  
recognition.

MR. OXER: And you need to identify yourself.

MS. BAST: And my name is Cynthia Bast of Locke Lord.

MR. OXER: We know who you are, but she needs to know who you are.

MS. BAST: Penny knows who I am, too; I promise.  
(Laughter.)

MS. BAST: Tonight, in San Antonio, the Texas General Counsel Forum is going to be awarding their annual Magna Stella awards. The General Counsel Forum is an association of in-house legal counsel from across the state, with approximately 600 members.

And the Magna Stella awards recognize in-house counsel for outstanding achievements in the previous year for certain categories. And our own Mr. Irvine is a finalist for this award in the category of nonprofit and governmental agency.

(Applause.)

MS. BAST: He was nominated for, among other things, his leadership of the TDHCA legal team in getting through about a bajillion exchange and TCAP closings last year.

And the other finalists in this category include the general counsel of the University of Texas system, the general counsel from the Seton family of hospitals, and the

general counsel from the University of Houston.

So he's in very good company. And I think that it is marvelous that this department and its legal staff is being recognized in this manner. And I'd appreciate just a moment to share this public recognition. Thank you.

MR. OXER: Thank you, Ms. Bast.

And I have to say, as the chairman -- newly stationed chairman of this particular organization, I am really glad to have Tim Irvine sitting next to me. So thanks very much, Tim.

(Applause.)

MR. OXER: Just a moment.

(Pause.)

MR. CONINE: Somebody needs to send us an e-mail to the outcome of that little competition. So make sure we know --

MR. OXER: All right. Bill Schlescinger and Diana McIver have requested to speak -- oh, I'm sorry -- Julie. Julie, hey --

MS. FRANK: Oh, I don't want to speak.

MR. OXER: Well, we're glad you're here. Thanks very much. We can read into the record that she is here.

MR. IRVINE: Let the record note that Julie Frank, with the Standard Intergovernmental Relations Committee,

Chairman West's committee, is here. Thank you.

MR. OXER: Thank you for joining us.

MS. FRANK: Thank you all.

MR. OXER: All right. Bill Schlescinger and Diana have asked to speak.

VOICE: Mr. Chairman?

MR. OXER: Yes?

VOICE: Could I speak at 4(d) instead?

MR. OXER: Well, that's what I was getting ready to ask, if you'd prefer to do that, because you had it marked for public comment.

VOICE: I did, and they said that I wouldn't be able to, and so I put down for general comment instead.

MR. OXER: We actually prefer you to speak at --

VOICE: Thank you.

MR. OXER: So -- all right. You, too, Diana?

MS. MCIVER: I'm the same, yes.

MR. OXER: Great. All right. Let's get started.

Okay. Let's go to the consent agenda.

MR. IRVINE: Mr. Chairman, if I might, before you embark upon the consent agenda, I have a couple of items to correct or clarify.

In the minutes, first of all, it was determined, after we reviewed the transcript, that the amendment offered

by Dr. Munoz, regarding forward commitments, was accepted by the author of the motion.

And we also confirmed that Linda Brown provided public testimony on 1400 Belleview; it was not Sarah Reedy.

So we do have those two corrections in the minutes.

I would also like to just add, by way of amplification, on the consent item requested to approve tax credit counsel, there were several other significant tax-credit firms that were contacted and advised of this and simply elected not to proceed.

But we actually did take efforts to ensure that others had the opportunity, and we are very confident in the recommended selection of Holland Knight.

MR. OXER: Good.

Okay. Members of the board, anything on the consent agenda to pull?

MR. CONINE: I'd like to pull Item U, if I could?

MR. OXER: U, as in universal?

MR. CONINE: Yes, sir.

MR. OXER: And uniform.

(Pause.)

MR. CONINE: Aside from that, I move we approve the consent agenda.

MR. OXER: Motion by Mr. Conine to approve consent

agenda.

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No audible response.)

MR. OXER: Motion carries.

Okay. Let's get right into it.

MR. IRVINE: With respect to Item U, Mr. Pender, would it be appropriate to take up Item U after closed session, and -- or do you wish to take it up --

MR. PENDER: Yes. Jeff Pender, deputy general counsel. I think we can take U up in closed session. It involves legal advice.

MR. OXER: Okay.

(Pause.)

MR. OXER: Okay. Item 2?

VOICE: What I need is legal advice.

MR. OXER: You get the advice legally whether you want it or not.

MR. IRVINE: Well, Mr. Chairman, Item 2, I guess, involves opening the can of worms of the whole public comment process.

We've attempted to do an exhaustive resolution,

addressing these matters in a way that will comply with statute, will continue to give the public an opportunity for input, and will also minimize what we all survived as a very long and, frankly, exhaustive process of getting forwards for several months.

And staff has prepared this recommendation for revisions to the changes. We really believe that the large open-mike item at the front end kind of tends to meander and wander.

We think it's more appropriate and more consistent with statute, perhaps, to allow for specific comment on the actual items that are under consideration at board meetings, perhaps to allow for some additional opportunity at the end to request that item to be placed on future agendas, without going through full-volume presentations at that time.

Yes. I would also just offer, as a staff comment, we really want to encourage everyone to have public participation. It's a great thing, you know. We need to know what people are thinking -- good, bad, and indifferent -- and get ideas. But the process has just become kind of almost debilitating, frankly.

So, with that, I think we throw it open for discussion. There is a draft staff recommendation for adoption of a new policy that would take effect at a later

date.

MR. CONINE: Do we have any public comment on this item?

MR. OXER: None requested.

VOICE: Well, Barry --

MR. OXER: I'm sorry. Barry Palmer and Michael Hartman -- we have three, actually. Public comment -- Barry Palmer, Michael Hartman, and John Henneberger.

Good morning, Mr. Palmer.

MR. PALMER: Barry Palmer with Coats Rose. Good morning.

All right. I think that we all recognize that some change in the public comment procedure is probably warranted, after what everyone went through on the last board meetings on the forward commitments.

But it's really just that issue, I think, that's caused a problem. And I think that this policy kind of overshoots the mark and is more restrictive than it needs to be to deal with this particular issue.

I think there are -- and so I would suggest, one, that the board consider tabling this and getting some input from the development community, as this was just posted last week, and I don't think a lot of people have had time to study it and look at it.

But there are a couple of things in the policy that trouble me. Probably the most difficult is the part that public comment isn't received until after a motion is made.

And, really, the comment that you're making to the board is to try to influence what the motion is that is made, whether it's to approve or reject an item. Once the motion's made, it's very difficult to swing the momentum on the board to consider a different view. So that, in particular, troubles me.

The fact that you can't speak to an item unless it's on the agenda really forecloses the opportunity to come to the board and to ask that an item be placed on the agenda for a future meeting and to explain why that's necessary.

And then I think the restrictions on the number of speakers should be on an individual project, not an individual issue, like, for example, the QAP today -- there was some interpretation perhaps that the new policy would only allow three speakers on the QAP, as opposed to, you know, three speakers on each individual project.

So I think some of those things need to be studied, and perhaps the policy doesn't need to be this restrictive, and really just address the forward commitment issue, which is the problem.

MR. OXER: Any questions?

(No audible response.)

MR. OXER: Any comments?

(No audible response.)

MR. OXER: I have a comment. I have to say that for my first opportunity to chair one of these meetings, it was an interesting initiation that you guys put me through.

So I'm happy to see that -- and I think I speak for the entire board that it is our intent to make sure that everybody gets heard, but at least have a little respect for our intelligence. We've heard you once. We probably know what you're going to say the third, fourth, and fifth time you show up about the same project.

So, that said, I would encourage the board to consider the points Mr. Palmer has suggested and we give this some thought and allow for some more comment at the next meeting.

Good timing. Okay. Mr. Hartman?

MR. HARTMAN: Good morning. Michael Hartman, Roundstone Development. Thank you for giving me a chance to speak.

My comments pretty much echo Mr. Palmer's, so I'm going to be very brief. I can understand the board's desire

to cut down on public comment -- or not cut down on public comment, but to make sure that the meetings run efficiently.

I sit on your side on a couple boards myself and chair a county housing authority. So I can understand what you go through.

But at the same time, in general, I think we have to look at the fact that probably -- this country was founded on being able to address the government and bring forth, you know, what people care about, and to make sure they have that.

And especially some of the things that Mr. Palmer talked about -- yes, it's true that we don't need 20 speakers for a particular project, but at the same time, to -- in some cases to limit it, you know, pendulums swing back and forth.

In this instance, I think, maybe -- as Barry suggested, maybe take a month and let's look at the policy, and it -- and I've seen this happen before at other state housing agencies, where the pendulum has swung this way.

In Florida, we had a board meeting that lasted three days and three nights. The board was there from 9:00 to 9:00 for three days. So what you went through, I've seen happen before, only a little worse.

MR. OXER: That makes me feel a whole lot better.

MR. HARTMAN: Yes, I'm sure. And the pendulum swung a little too far the other way, because it went too

far one way -- it swung the other way. Maybe let's give it a month to kind of settle down, look at the policy, and see -- maybe fine-tune it a little bit more. Thank you.

MR. OXER: Good. Questions?

(No audible response.)

MR. OXER: We have -- let's see -- Mr. Henneberger, who will recognize a couple of legislative staffers that are here. Mr. Henneberger?

MR. HENNEBERGER: Thank you, Mr. Chairman, members. My name is John Henneberger; I'm with the nonprofit Texas Low-Income Housing Information Service.

Thank you, first of all, again, for your service and for your patience with dealing with this very contentious and difficult process that we go through.

That said, the board has -- this board has been extremely accommodating of public input. And that has served the board and the state of Texas very well over recent years.

I'm very troubled by this suggestion about restricting the availability of the public to make comment.

It presumes, first of all, that there's only one or two sides to every question.

It presumes that you can say, Okay, the developers get to speak, and there'll be three other people get to speak, and they'll work out among themselves how they're going to

represent the interests.

Well, very often, there's more than that number of interests. And I don't know how that's going to accommodate the people who have legitimate differences of opinion and have -- want to come and speak before the board.

The second day is the four-day advance requirement for filing written comments. You know, one of the major reforms of the Sunset bill that was passed back in 2000 or 2001 was to require advance postings of agendas of this board, so that the citizens could understand what the board was going to consider and review those things and make intelligent comments on them.

Prior to that, items came to this board at the last minute, and people didn't know what was on the agenda.

People weren't prepared to discuss it, and things happened, and trouble occurred.

Routinely, now, there are emergency posting items on your agenda. Just this agenda has an advance -- I think, three-day advance posting. If you require four-day advance comments and you do three-day emergency postings, you've precluded the comment -- the opportunity for written comment.

Third, your administering federal funds. Federal funds require certain procedures to be adhered to in the administration of those funds. Your consolidated plan, your

action plans, your paper, your state low-income housing plan -- which touches on submissions to the federal government -- all require and presume that there is open and abundant opportunity for the public to comment.

The way this resolution is drafted, I believe it violates the requirements of federal comment on federally administered funds, with regard to block grant monies. And I urge you to take another look at that.

Finally, you know, I share your pain. I mean, I probably sit through almost as many meetings of this board as most people here have, and I share your pain about the duplicating and the lobbying -- endless lobbying for projects. And we seem to be in a cycle of that.

I believe there is some opportunity for making a distinction between policy issues that come before this board and contract issues that come before this board.

When contractors stand up and argue that they ought to be given a particular project or contract, I think that is a different animal, in terms of public participation, than when you discuss policies about how funds are going to be allocated, who's going to qualify for money, and what the general policies are around the QAP and other things. Thank you very much.

MR. OXER: Thank you for your comments.

Any comments from the board?

MR. CONINE: Does that end the public comment on this item?

MR. OXER: It does.

MR. IRVINE: If I might, Mr. Chairman, I'd just like to clarify a couple of things. I absolutely agree with John that on policy issues everybody should have an opportunity.

But we have explanation: The four-day requirement was, if you're going to provide written materials, give them to us in time that we can put them up so that the whole public can see the written materials we're looking at.

I personally have had a problem with people bringing written materials and providing them at the last moment and thereby precluding the public's ability to review them.

I would certainly welcome a round-table working session or whatever to work through these issues and bring back a better product.

MR. OXER: We had a round-table workshop, actually in this room, on the QAP, and had some good comments and suggestions that came out of that.

So as your -- do not let it be misrepresented or misinterpreted that we don't want to have public comment.

We want public comment on everything that comes up. We want to make sure that you're heard.

But there are a lot of people that want to be heard, and we run into the problem of hearing so many times the same thing. I could almost give you -- tell you what you're about to say when you show up -- the fifth time.

So that's -- I mean, this is a balancing act. Nobody said this was going to be easy. And sometimes we're trying to balance on a razor blade, and either side's going to fall down; it's not going to be the one you want.

So I encourage everybody to consider how to make this process more efficient and more appropriate to what we're actually trying to get done with the work that the board has and the agency has. So --

MR. IRVINE: And I also might add that, although I very much agree with the sentiments that Michael and Barry expressed, we do have the statute, and the statute says that we shall provide for public comment after the department staff has made its recommendations and the motions have been made by the board. So we've got to deal with the statute.

MR. OXER: Yes. We do have our higher authority we have to get back to.

All right. Any more action on this item?

MS. BINGHAM: Mr. Chair, move to table the item

and propose a round-table work group to look at the public comment issues further.

MR. OXER: Motion by Ms. Bingham to table and consider.

MR. CONINE: Second.

MR. OXER: Second by Mr. Conine. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No audible response.)

MR. OXER: Motion carries. Good. I think this is worthy of some considerable conversation and discussion amongst the entire community that's involved in this. So we'll have it on the agenda for the December 15 meeting and look forward to some more comment.

And we would elicit your comments -- everybody's comments -- about this, about how you make this process more efficient.

Okay. Item Number 3 on appeals -- Tom, anything?

MR. GANN: No.

MR. OXER: Okay. We're good there.

On rules?

MR. IRVINE: Patricia Murphy will present Item 4(a).

MR. OXER: Yes. And while you're coming up,

Patricia -- Penny, is this mike hot here?

THE REPORTER: Yes.

MR. OXER: Okay. All right. So when we're -- if we're doing a couple of tag teams and there's a list, whoever's next, go to the other mike. Okay?

Patricia, good morning.

MS. MURPHY: Good morning. Patricia Murphy, chief of compliance and asset oversight.

Item 4(a) is final adoption of the compliance monitoring rules. We had a round-table to take public comment, and I got some written public comment as well.

The majority of the comment received was regarding the changes to the material noncompliance methodology. And staff is recommending that the rules be adopted as they were presented to you back in -- at the September board meeting, when you considered them.

There's a couple of other minor changes that were made to the rules, based on comment, that we will respond to owners' requests for an extension within five business days and some other kinds of comments.

Are there any questions about the agenda item?

(No audible response.)

MR. KEIG: Mr. Chairman, move to adopt the rules as recommended by staff.

DR. MUNOZ: Second.

MR. OXER: Motion by Mr. Keig to adopt the staff recommendation, second by Dr. Munoz. We have one public comment. Justin MacDonald?

(Pause.)

MR. OXER: And while he's coming up, I would like to recognize Rebecca Martinez from the governor's office and Husson Mack [phonetic] from the lieutenant governor's office.

(Pause.)

MR. OXER: Okay. Justin?

MR. MACDONALD: Thank you, Mr. Chairman. My name is Justin MacDonald. I'm a developer from Kerrville. I'm here to speak to you regarding the changes to material noncompliance, that Patricia just mentioned, proposed in these rules.

During the public comment process, staff received consistent public comment that the points associated with events of material noncompliance should drop to zero after one year from the date of correction, rather than the three-year roll-off date that's proposed in the rules that are on the table right now.

In spite of this public comment, which is even noted in the staff write-up on this agenda item, staff is recommending that their proposal remain unchanged.

I feel that it's unfair to owners, especially those of larger portfolios of properties, to force these points to be retained for three years.

While staff notes that they often only inspect these properties every three years and so this shouldn't be an issue, we've had several properties over the last few years that have been inspected, in some cases multiple times in a year, and at the very least, once a year.

If we keep these points on for three years, then I don't really see where the incentive is to actually correct the noncompliance. It seems to simply be a way to punish or drive property owners out of business, despite their best efforts to comply with the rules.

If you truly want to incentivize owners to correct noncompliance, then, please, heed the public comments and allow these points to drop off after one year, rather than leaving them on for three. Thank you.

MR. OXER: Okay. Thank you.

Any questions?

MR. CONINE: Patricia, you got a response -- a staff response?

MS. MURPHY: Hi. Patricia Murphy, chief of compliance and asset oversight.

I understand there's been some anxiety about this

issue. And, first of all, the -- it's actually kind of hard to get into material noncompliance, and definitely the incentive to correct is that the points do reduce.

So there's a higher score for an uncorrected event of noncompliance and a lower score for corrected events of noncompliance.

So in anticipation of this, I took a look at who's in material noncompliance now. So right now we have 158 tax-credit properties in material noncompliance.

MR. OXER: Out of how many?

MS. MURPHY: 1,800.

MR. OXER: Okay.

MS. MURPHY: So it's a pretty small percentage of properties that are actually in material noncompliance.

So --

MR. CONINE: That's small?

MR. OXER: It's probably --

MS. MURPHY: 1,800 properties, it's 158 -- well, it is what it is.

MR. CONINE: That's just over --

MS. MURPHY: It's a number.

MR. CONINE: That's large to me.

MS. MURPHY: Okay.

MR. CONINE: That's just over --

MR. OXER: Go ahead.

MS. MURPHY: It's a hundred and --

MR. CONINE: It's just over 8 percent.

MS. MURPHY: Okay. So if the owner of one of those properties applied for funding, they would, in accordance with the rules, be notified you're in material noncompliance; you have five days to correct the issue.

Now, mind you, they've already had six months to correct this issue, because of the notices they were given and the corrective-action periods, so they were already on notice; they know they're in material noncompliance.

Sixty-seven of them, if they would just fix the issues, they would no longer be in material noncompliance, and their application would move forward, without it ever coming to your attention.

Of the 158, 73 of them are in material noncompliance, because they've gone through a foreclosure.

So they have an issue that is material and should come before this board to explain the circumstances of what happened there.

This leaves 18 properties this change would actually affect. And there are some of them that even after they correct their score, they will still be over 30 points. And some of them may have a good story to tell, and come

before the board and explain how they meet the criteria for reinstatement.

Some of these properties are in the 300s. Their score is so high that even after they corrected everything, their score will be -- still be well over 100, 200 points. Those owners -- that shouldn't go away after a year.

I'm proposing that they stay with them for three years, and if they apply for funding -- although most of those people have told me they never want to participate in our programs again -- but if they change their mind and they decide they do want to come for funding, then I think it's appropriate that, at the staff level, that application is terminated, and it comes before this board, and they explain how they meet the criteria for reinstatement.

So I understand their anxiety. We offer training. We offer technical assistance. There is -- once you correct your issues, your score does drop. But for a three-year period, if your problems were so severe that even after you correct them, you're over 30, I think it warrants coming before this board.

MR. OXER: Is there a typical characteristic that puts them in material noncompliance? Is there anything consistent amongst all of those?

MS. MURPHY: Well, the foreclosures are big.

That's --

MR. OXER: Foreclosures, yes.

MS. MURPHY: So you're out of the program. You're no longer participating. Definitely, I see the reoccurring thing with uncorrected physical-condition violations.

That's what a lot of those people are in material noncompliance for. Once they correct it, they will drop down below the 30 points.

Otherwise, I look for patterns, and then, I mean, those -- there are people who -- some of the people they're finding their noncompliances, they won't allow us to monitor, you know, that that's -- that's why they're in material noncompliance.

So these are really pretty significant issues that if even after you're corrected, your score is above 30, I think it should -- I'm recommending -- staff recommends that that stay with them, and that if they meet the criteria for reinstatement, then they should request reinstatement of their application, and they should come before this board.

MR. CONINE: Patricia, I'm confused on if we're into the one-year system that has been suggested, and they apply for a project -- a new project in year two, let's say, why wouldn't our system still catch them then, if they had a material noncompliance over 30?

MS. MURPHY: Because the points would -- right now the system is that the points drop off after one year.

MR. CONINE: Right.

MS. MURPHY: Like you miss last round on --

MR. CONINE: But wouldn't that be a fresh application and a fresh look at material noncompliance in year two?

MS. MURPHY: For example, we had an applicant who I had a long history of noncompliance with, went through the administrative penalty process, the threat was thousands of dollars in penalties to finally get them to comply.

MR. CONINE: More than one-year process -- is that what you're saying?

MS. MURPHY: They complied, it dropped off after a year, and they got another award. They technically met our criteria. I had signed off on the previous participation, but it really made me realize, Oh, this is a little loose.

MR. OXER: Well, this comes under the heading of not considering, because there was some discussion before about Texas experience versus Texas history, the history of that particular candidate in this program.

MS. MURPHY: That conversation was in the QAP discussion about developer experience. And so this public comment is specifically in response to the compliance

monitoring rules in Section 60.124.

MR. OXER: Okay. So --

MR. CONINE: But you're saying, even though you went back and -- even though the more-than-one-year period of time to resolve that issue, they then applied for another deal, either before that, or after it was resolved? Or was it resolved?

MR. OXER: It was not resolved; it was just dropped off? Or did they --

MS. MURPHY: They finally resolved it.

MR. OXER: After a year.

MS. MURPHY: After -- no. After eight years of being out of compliance, something like that?

MR. IRVINE: This is the situation where somebody has gone years and years and years --

MS. MURPHY: Yes.

MR. IRVINE: -- with piled-up unresponded-to compliancy issues, and now they decide they want to come forward and make an application.

And the way that our current rule works is, if they go ahead and clean everything up, they're good to go in a year. And what Patricia is saying is -- and I agree -- is that they should be tagged with that for three years.

And if they are so darned good that they really

think that, notwithstanding that checkered history, they should get an award, they should come forward under our waiver process and say, you know, We're going to show you that we're acting in good faith; we're doing everything within our control. We don't present a risk, and it's in the state's best interests to make an award.

MS. MURPHY: And, Kent, the other thing is that the corrected date -- for example, if you have a unit leased to an ineligible household -- we put you on notice, you know -- the corrected date is the day a new household moves in.

So sometimes the new household moved in in 2008, and they've never bothered to respond to our notices, saying, you know, Is there an ineligible household in that unit; please, send in the paperwork; we show you're out of compliance; please, respond.

They never bother to respond, until they want more funding. Then they respond. And it immediately drops off, because it was corrected back in 2008.

MR. CONINE: Why isn't the corrected date the day the ineligible tenant moves out?

MS. MURPHY: The corrected dates are defined by the IRS, so it's the date the unit's eligible for credit again.

MR. CONINE: Right.

MS. MURPHY: It's eligible for credit once an eligible household moves in.

MR. CONINE: Okay.

MS. MURPHY: So it's your decision, but I recommend that you adopt the rules as presented.

MR. CONINE: Thank you --

(Pause.)

MR. OXER: All right. I want to have Justin --

(Discussion.)

MS. MURPHY: None of Justin's properties are in material noncompliance.

(Laughter.)

MR. MACDONALD: I'm glad that that's still true as of this morning.

MR. CONINE: Good job, Justin.

(Discussion and laughter.)

MR. MACDONALD: And sort of an illustrative example that I think addresses -- or sort of outlines my concerns: I completely agree, if somebody has been totally nonresponsive, not fixed anything, not made any effort, they shouldn't be in the program anymore.

My concern is with these three-year points. If I have a physical inspection -- there's, you know, a sofa in front of a window and a pot of oil sitting on the stove,

which are technical violations, even though they happen all the time, or tenants run a TV cable across the room, because they didn't like where the outlet was -- I could very easily end up with a score of 20 on the property.

I go back in, I fix that stuff, take pictures of it: My score drops from 20 down to 10. Well, if that happens three years in a row, all of a sudden I've got a score of 30, and I'm kicked out of the program, even though I've made my best efforts to correct these items.

So my issue is not punishing people that are nonresponsive, but it's punishing people who do make the effort and do get everything corrected within the time period. And that's where I have a concern.

MR. OXER: Okay. Patricia, your turn.

MS. MURPHY: The issues that Justin described would not constitute major violations of the uniform physical condition standards.

MR. OXER: They don't essentially constitute material noncompliance.

MS. MURPHY: That is correct. What would constitute the point that the scoring item that's 20 -- no 30 points uncorrected, and 10 points corrected -- is if your property scores below a 70 on UPCS inspection. And I assure you Mr. MacDonald's properties do not score below 70.

MR. MACDONALD: They could if there were enough minor violations to add up, I think, to form a pattern.

MS. MURPHY: Those items we specifically exclude --

MR. MACDONALD: Okay.

MS. MURPHY: -- in compliance monitoring rules for consideration when we score.

MR. MACDONALD: Okay.

MS. MURPHY: I think that's the block to egress the smoke detectors. Through public comment, we have specifically, through the years, brought those items out.

MR. MACDONALD: Okay.

MR. OXER: So things you can fix while you're there --

MR. CONINE: Yes. I --

MR. OXER: -- basically get --

MR. CONINE: The issue for me is where the tenant puts the couch in front of the window, for instance, and that's just something that's hard for an owner or manager to control. They ought to be penalizing the architect, not the owner, you know, because he's the one that designed the stupid unit that way.

And so, you know, I'm just having a hard time -- and I agree, you're talking about the egregious. And --

MR. OXER: They were talking about --

MR. CONINE: -- I just want to make sure we're talking about the egregious before --

MR. OXER: Yes. It's the fifth sigma out on the -- on this, where, you know -- I mean, everybody that's going to go make these corrections and straighten this out, you know, and you get 10, 20 -- okay.

But if you've got 300 sitting on your point score for six or seven years, that says something entirely different than the things that it says about you, Justin.

MR. MACDONALD: Absolutely.

MS. MURPHY: And for those that, even after you correct everything, your score is over 30, there is a process for reinstatement. Right. There's one on the consent agenda, to move forward, where staff is recommending that you, you know, use that portion of the rule to say, We shouldn't hold this accountable; this doesn't fit in this case.

MR. CONINE: Yes. But you may trip and fall in the next marathon, and I'll be --

(Laughter.)

MS. MURPHY: I have an excellent staff that knows all this better than I do.

MR. OXER: And good shoes, we hope, too. So --  
So what it really gets down to is you're saying,

rather than give them the one-year, they get the three years, and they get to come ask us to get back on, as opposed to getting on automatically.

MS. MURPHY: That is my recommendation.

MR. OXER: Any other questions from the board?

(No audible response.)

MR. OXER: Any comments?

(No audible response.)

MR. OXER: All right.

MR. GANN: I'll move staff's recommendation.

MR. OXER: Motion by Mr. Gann for --

MR. CONINE: I think I already moved it.

(Discussion.)

MR. OXER: Okay. All right.

MR. GANN: Seconded.

MR. OXER: All in favor?

(A chorus of ayes.)

MR. OXER: All opposed?

(No audible response.)

MR. OXER: Motion carries.

Justin, just keep the pots off the stove. Okay?

MR. MACDONALD: We'll do our best.

MR. OXER: All right. I'd like to -- Cameron, you're going to be up next, but I want you to sit tight for

a second.

I have representatives from two -- I actually have Representative Don Jones, who -- or from -- or Representative Jose Menendez, represented by Don Jones and -- let's see -- Tom Holloway, representing Representative Charles Schwertner -- so if Mr. Holloway and Mr. Jones would come forward?

(Pause.)

MR. OXER: Both mikes are live, so pick one.

MR. JONES: I'm used to being on the other side, back there behind him.

(Pause.)

MR. OXER: Go for it.

MR. HOLLOWAY: Good morning, Mr. Chairman, members of the board. My name's Tom Holloway, and I serve as chief of staff for State Representative Charles Schwertner.

I'm here today to speak briefly with you regarding the definition of a central business district in the 2012 qualified application plan.

Due to a pre-existing condition -- I'm sorry -- a pre-existing commitment, Representative Schwertner regrets he's not able to address you here today in person, and with your permission, I'd like to read a brief statement from the representative into the record.

"Chairman Oxer, Board Members, and Director Irvine: As state representative for House District 20, I'm proud to represent Williamson County, one of the fastest-growing counties in the nation.

"Under the board's proposed 2012 draft qualified allocation plan, a central business district is defined as 'the area designated by a city with a population of 50,000 or more as that city's central business district or downtown area, and includes one or more commercial buildings of ten stories or more.'

"A portion of the city of Round Rock is located within my district. With nearly 100,000 residents, the population of Round Rock is roughly double the population required by the proposed guidelines.

"Round Rock has made significant efforts to revitalize their CBD, recently adopting a comprehensive downtown master plan, the focus of which is to encourage development of businesses and supportive housing.

"The use of these housing credits within a central business district provides cities like Round Rock with a valuable resource with which to establish a shared sense of community.

"The proposed ten-story commercial building requirement for a CBD to meet TDHCA's definition will

disqualify Round Rock and countless other Texas communities whose populations fall between 50,000 and 1 million.

"These communities whose populations exceed 50,000 deserve fair consideration for this worthwhile program, regardless of the presence of a ten-story building within the CBD.

"It is my hope that TDHCA will consider the reasons that medium-sized communities with CBD do not have ten-story buildings. When finalizing a definition for CBD, I would encourage you to allow communities with 50,000 residents and a defined CBD to fall within TDHCA's definition of a central business district.

"Sincerely, Representative Charles Schwertner."

MR. OXER: Any questions?

(No audible response.)

MR. OXER: Any comments?

(No audible response.)

MR. OXER: Thank you, Mr. Holloway.

Mr. Jones?

MR. JONES: Yes, sir. Mr. Chairman, thank you, first, for allowing me to speak to you this morning. Like Representative Schwertner, Representative Menendez has got some other commitments down in San Antonio this morning, and he asked me to read this letter of record. I believe everybody

has a copy.

First, I'd like to thank all of you for your service, coming here the day before a three-day weekend; special thanks to any veterans on the dias as well as in the audience. Thank you for your service.

And we also want to thank you for what you do for the state of Texas, in terms of providing affordable housing to so many working families, seniors, citizens with disabilities.

But once again we've got some -- an issue or concern with the -- with some of the language, and I'd like to read this into the record, if I could, please.

It's addressed to Chairman Oxer and says, "Once again, I am compelled to address my concerns regarding the department's struggles with applying the letter and intent of legislation passed in Senate Bill 264 during the 78th Session in 2003, dealing with quantifiable community participation. Please, allow me to offer guidance that hopefully will clarify this issue for the 2012 QAP.

"Quantifiable community participation, as it applies to Section 2306-67-10-B1b of the government code is clear in both statute and intent. As the second-highest-ranking criteria, as established in the section, a letter of support from an on-record neighborhood

organization should be given the appropriate level of points for scoring purposes of the application.

"There 's no equivocation in the statutory language that any attempts to technically assist the creation of a new organization for the purpose of securing such a letter of support is neither provided for in statute nor extended by intent to the rule-making authority of the department.

"Further legislative intent of the statute was to ensure that a bona fide neighborhood organization, as defined in Code, was given appreciable consideration in a determination of whether a development will be placed in their immediate community boundaries.

"There was no intent to penalize an application in the case where such a neighborhood organization did not exist, based on a good-faith effort of the applicant to determine that fact.

"If no group exists, as defined by boundaries in statutory definition of a neighborhood organization, then the application should be awarded the same number of points as granted that letter of support.

"Finally, the defining term in this section is quantifiable. The intent of this language was to ensure that a neighborhood organization in opposition gave substantiative evidence of why the placement of the development would not

be in the best interests of the community.

"There should be no need for the QAP to further define quantifiable beyond the obvious rejection of discriminatory objections. If there are concerns in staff evaluations of letters of intent and content, then that should properly be raised to the board for final determination.

"A legitimate letter of opposition should result in the loss of the points otherwise awarded to a supported application.

"Frankly, the seemingly perennial changes by the department since Attorney General Opinion Number GA0208 was issued, refuting the TDHCA's effort in 2004 regarding this and other statutory matters regarding the QAP, continue to create unnecessary confusions and challenges to the QAP process.

"I would urge the board to direct staff to concentrate on what the statutes require and cease attempting to interpret, year after year, the law beyond those statutory requirements.

"I do agree that this section of the Code needs to be revised, and in fact both I and other legislators have prepared legislation in the past few sessions to do just that.

"Unfortunately, these efforts continue to meet with opposition from a number of fronts, and no one seems

to be able to agree on language that will satisfy the need to properly include the community in the process and meet the concerns of applicants.

"I will continue to work with you and the staff in the upcoming session, but suggest that in the meantime the department should not continue attempting to rewrite the current statute in the rules of the QAP.

"Sincerely yours, Jose Menendez." And, Mr. Chairman, again thank you for the opportunity to read this into the record. We have been dealing with this for a number of years now, since 2003, when the law -- when the current statutes were put into Code.

It's a matter that needs to be addressed and needs to be fixed. There's -- Jose is definitely committed to doing that. I think he's spoken with several of you already about this. But it's one that he feels very strongly we need to -- we don't need to make it continuously unsettled and unclear for the process.

I'm available for any questions you might have.

MR. OXER: Any questions? Yes?

MR. CONINE: Don, that's about as clear as mud for me. Can you just give me, in layman's term, what we're doing in this QAP that doesn't meet the intent of -- or Jose's interpretation of the intent of the statute?

MR. JONES: Well, we've seen -- in the past ten days, I've seen different cycling versions of the -- of what the staff has proposed. At one point in time, there was suggested language that was going to reduce the points for the community -- for the neighborhood organization below the priority point or that the statute provides, in 6710.

A number of suggestions and efforts to -- and there have been instances in the past, in the past couple of years certainly, where a neighborhood organization or a property owners' association or whatever was created simply for the purpose of getting that letter of support, or at least ostensibly that's the way it appeared.

It's -- you know, Mr. Conine, you were the only member of the board, I believe, that was here back in 2003.

MR. CONINE: It's all my fault. I know it.

MR. JONES: No. Actually, it's not. I think I can speak reasonably clearly on the intent of that language --

MR. OXER: It certainly precedes me; I've been here six months. Okay? So --

MR. JONES: I -- as some of you know, I was a staff author, a staff drafter, of the language that went into the bill back then. And, of course, Representative Menendez was part of the committee that pushed this and moved this through. That was the last Sunset bill. So I -- you know, the intent

of the letter is to refocus on what the established criteria is in statute.

MR. CONINE: Okay. I'll ask that, what their interpretation of this letter would be, when they make their presentation here in a few minutes.

MR. OXER: And then -- I admit that I'm new at this. Okay. So there were a couple of instances that occurred where it appeared that an agency -- a community agency had been created for the purpose of supporting this, and you look it, and it wasn't necessarily people in the community, as it was -- not necessary an arm's-length transaction from the developer, if you understand me. So --

MR. CONINE: Oh, we've had all kinds of iterations that have evolved since 2003.

MR. OXER: Right.

MR. CONINE: And I think --

MR. OXER: Well, we're --

MR. CONINE: Not to speak negatively about the statute, but the statute is not clear in a lot of these areas that have had iterations.

MR. OXER: My question is, would Representative Menendez give some thought to doing a wholesale rewrite?

MR. JONES: Absolutely. I've got several versions that have already been drafted.

MR. OXER: Then we need to talk.

MR. JONES: Back in 2007, he was -- again, as some -- many in the room will recall, he was the chairman of the subcommittee on housing for urban affairs.

And we worked hard. That was the last time that any large amount, certainly, of housing legislation was passed. That was in Senate Bill 1908.

And in the interim following that, we worked very hard with the stakeholders, with the agency, to develop a -- some resolutions to this. We actually drafted language in -- leading -- going into 2008 -- or I'm sorry -- to the 2009 session.

The economy turned south, and all the issues that were attendant to that, relative to housing -- the stimulus money that was provided for the different programs and like that -- made the 2009 session virtually impossible to do anything. Nobody -- everybody was worried about everything else. But --

MR. OXER: You got reprioritized, is what happened.

MR. JONES: Yes, exactly. And at last session I know that there was -- because we provided some of the language to Chairman Gann, who filed some language, trying to address some of these.

I believe there was also some in the bill that was finally passed. In the Sunset bill, of course, the governor vetoed. But as far as rewriting 6710 and some other elements within the QAP, portions of the bill -- or of the statute, absolutely, that's something that he's committed to and very ready to assist with.

MR. OXER: Yes, because this essentially gets to the -- to what I believe is to the heart of one of the three fundamental pieces of looking at these: Is there a need for the housing, does the community embrace the project, and do the numbers work?

MR. JONES: Exactly.

MR. OXER: And after that it's all details.

MR. JONES: Exactly. You've just simplified the QAP down to seven or eight pages. I know that --

MR. OXER: You got that on record over there, so we can --

(Laughter.)

MR. JONES: I know that Kent has worked on that in the past two or three years. And, you know, I can tell you, from going and looking at best practices in other states, that there's some states that don't have any language at all in statute, relative to the QAP, other than just go out and do a QAP.

MR. OXER: Figure it out?

MR. JONES: Exactly. Unfortunately, this got into -- this became a major issue back in 2003, because there -- frankly, there were some developers out there that were completely ignoring the interests and the will of the neighborhoods and the community. And there was nothing in the QAP that allowed for them to have a significant, meaningful voice.

So when you talked about the need for the housing, the needs to meet the community needs and interests, you hit it absolutely right on the head. And that's what we'd like to help work with.

But in the meantime, we've still got to get the 2012 and ultimately the 2013 before we can do anything about it.

MR. OXER: Well, I've got to give a big shout-out to my vice chairman over here, Mr. Gann, who said, Here's the three things you really need to worry about. So he's the one that told me that over there.

MR. JONES: Mr. Gann, thank you. You put it in a nutshell quite -- if I'd been -- known what you were looking at and pointing at, that's what we were trying to do back in '03, was to put it in that small of a nutshell.

MR. OXER: Mr. Keig, did you have a comment?

MR. KEIG: You made a reference to the attorney general's opinion -- or the representative did -- GA0208?

MR. JONES: Yes, sir.

MR. KEIG: Are you familiar enough with that opinion to give me a short summary of what it entailed?

MR. JONES: Yes, sir. I also had a hand in helping then-Urban Affairs Chairman Robert Talton prepare the -- his request for the opinion.

There were -- when the bill was passed in 2003, going into -- it became effective on September 1, 2004 -- or 2003 -- the department prepared a QAP that I don't want to say ignored a lot of the new statutes, but it certainly made it so beyond the intent and, in fact, the letter of the new statutes.

Chairman Talton then made several arguments to the governor's office about it to -- first to the board and to the department. And then, once the QAP was approved, he made those same appeals to the governor's office, that it was not following the letter and intent of 2003's legislation.

The governor's office -- the governor signed the QAP anyway. It went forward. The chairman, in his role as chairman, asked for an AG opinion on several issues, particularly dealing with 6710 of the Code -- of Subsection 6710.

And the opinion came back that, in fact, the QAP in several instances did not follow. And as a result, the QAP had to be reworked and redone. It caused a great deal of consternation, I know, in the -- on the applicant's side, because there was a lot of confusion out there as to what, you know, we're following and what's been signed by the governor.

And all of a sudden, it's -- you know, that's been basically withdrawn or overturned, and we had to start over.

And the -- essentially, the same thing happened in 2005's QAP; only this time, the chairman -- Chairman Talton was able to convince the governor's office that it needed to be reworked. And they -- the governor sent it back for some fixes.

MR. KEIG: Do you recall specifically, with regard to neighborhood organizations, what was approved and then had to be reworked, if anything?

MR. JONES: Off the top of my head, I could -- have not refreshed my memory on the whole opinion.

MR. CONINE: It was primarily the batting order of the, at that point, nine requirements that the legislation required us to put in descending order. And the issue was whether we could insert something in between the nine that we felt, as a board or a staff, that might be as important

as, say, Item Number 4.

And that was the AG -- that was the opinion that the AG then says we had to keep the top nine, the top nine; anything else we wanted to put in there had to come below that.

MR. OXER: In terms of point scoring?

MR. CONINE: Yes.

(Pause.)

MR. CONINE: That's the one-minute version.

MR. IRVINE: But the issue that's in play here --

VOICE: This is an eight-year, you know --

MR. IRVINE: Yes. But the issue that's in play here is not where QCP falls in the ranking of our scoring items; it's the range of potential points that you can get for QCP, you know, with opposition at one end, strong support at the other end, and the question really is, how do you deal with the situation where there simply is no public opinion one way or the other?

MR. JONES: Exactly. And, again, going back to the 2003 legislation, intent at that point in time was to make sure that where a legitimate neighborhood organization existed, that they be taken into account, and they'd be -- they'd have a seat at the table, if you will.

It was recognized then -- and believe me, if I'd

ever known that Chapter 2306 of the Government Code would be indelibly imprinted in my mind, that might have told my -- recommended differently to my boss then.

But it's -- the issue was making sure that they were -- had a seat at the table. We also recognized that small communities, rural communities, smaller areas don't have a neighborhood -- it's just not part of the culture.

And we erred in not addressing that then; I agree that that portion of it was not clear. But certainly the intent -- and I know that Representative Menendez has spoken to that intent, both before the board here in past QAP discussions as well as on the floor, in discussions.

I believe it was in 2007 when the issue of state representative and senators' letters was odd, but believe me, it did start one of the larger furors and battles one evening on the floor of the House, when the Senate proposed doing away with those letters in their entirety.

That actually was when we changed the law to read -- instead of senate and representative, it was changed to senate or -- senator or representative, to let the senators basically step back from it, if they so desired.

But the intent --

MR. OXER: I think we'd have been happy on that if they'd just put it in and leave it.

MR. JONES: Leave no letters, you mean?

MR. OXER: No. Just put -- whoever was going to send their letter, send it in and not retract it later.

MR. JONES: Well, as my -- probably as my --

MR. OXER: Of course, then there'd --

MR. JONES: As my colleague here can probably me attest, I think that getting 150 members to not change their mind at some point in time is a real challenge. So I won't -- I'm not sure how we'd ever address that statutorily. I'll leave it somebody else to try that one.

MR. OXER: As we've commented before, if this was easy, anybody could do it. Right?

MR. JONES: Yes. That's why you all are up there, getting paid the big bucks. Right?

MR. OXER: Yes. My tuna-fish sandwich is what it pays me. So -- all right.

MR. JONES: Once again, we want to thank you all for your service and for what you do not only for us in San Antonio, in helping us meet our housing needs, but across the state. It is a huge challenge. And it seems like everybody, we swim upstream on this one, for any number of reasons.

MR. OXER: Well, the -- and, you know, to put it all in context, it would be different if we just set the QAP,

and it worked, and we were going to deal with that. But we're -- we live in an evolving world that has continuously changing financial and environmental habitat, you know, for whatever -- whatever's going on, it continues to change.

So we will continue to have to try to make the pieces fit, stitched together at the edges. So bear with us. The good news is that whatever happens, it won't be cast in concrete, because we'll always have next year. So -- although I would recommend --

MR. JONES: That's what we all say on the 139th day, about midnight that night.

MR. OXER: We're hoping it won't be like that.

(Laughter.)

MR. JONES: Mr. Chairman, again, thank you very much.

MR. OXER: All right. Well, we appreciate your comments.

And, Tim, I would give some thought to thinking and get -- did you have the prior history on this? We ought to give some thought to engaging Representative Menendez and see what we can do if we're just -- let's go --

MR. JONES: I don't know if Tim has put me on speed-dial yet, but I know that Michael has me on -- I think it's the one with the skull and crossed bones or the forehead

target, I'm not sure which.

(Laughter.)

MR. OXER: Well, I think everything -- as you put something in place and you add something to it, and you add a piece to it, and, you know, it's like remodeling a house.

You know, you tack a few things on. At some point, there comes a time when you need to scrape it clean, start with a fresh foundation, and go up from there. So --

MR. JONES: We've got a great opportunity, I think, coming up next session with -- when we go back to the Sunset bill, and we're going to work very hard to help fix that for you all and make it viable legislation, not only in terms of that but anything.

Anything -- there's other issues that we know that need -- that you all will need some statutory assistance with.

And he didn't engage nearly as much as last session on housing. We weren't, of course, on urban affairs this time.

And -- but he's never lost his passion for it. So --

MR. OXER: Well, speaking for myself on the board here, and recognizing that we had a two-year window to go through another Sunset process, my inclination is to go big or go home, because if we don't go big, we'll probably be sent home on this next one. So anything we can do to straighten this out, it's a great time. Let's fix all of

it.

MR. JONES: Well, 264, as Kent recalls, was -- started out just a few pages and grew to about 60, and Senate Bill 1908 did the same.

MR. OXER: Sounds like the QAP, doesn't it, Tom?

MR. JONES: They took a two-page bill from Senator Ellis and turned it into a 72-page bill that dealt with a lot of things, and that was a lot of the administrative stuff that the agency needed done to clean up a lot of just, you know, problematic areas. But we're ready to go to work.

MR. OXER: Well, we appreciate it. We're going to need the help, I'm confident. So we appreciate your comments.

MR. JONES: Thank you very much.

MR. OXER: Thanks to both of you.

MR. HOLLOWAY: Thank you, sir.

(Pause.)

MR. OXER: Okay. Item 4(a) complete, then. All right.

VOICE: Well, Cameron --

MR. OXER: Cameron's on 4(b).

Is that correct, Cameron?

MR. DORSEY: Right.

MR. OXER: Okay. All right. We have -- there

will be -- let's see if we've got some more here. We'll see what you've got to say, Cameron, and then we've got a number of requests for public comment.

VOICE: How about a five-minute break?

MR. OXER: I'm going to give us a five-minute break.

VOICE: Okay. After Cameron?

MR. OXER: Yes. This looks like it's going to take a while, so let's take a break right now. We'll break till 10:30. It's 22 after -- break till 10:30; be back in your seat, please.

(Whereupon, a short recess was taken.)

MR. OXER: All right. We're on Item 4(b).

Cameron, good morning.

MR. DORSEY: Good morning. All right. Cameron Dorsey, the director of housing tax credits.

Chairman Oxer, board, 4(b) is the repeal of the 2010 housing tax credit program qualified allocation plan and rules, under Chapter 50, and the approval and adoption of the 2012-2013, two-year QAP for publication in the register.

I wanted to start off by just noting that Teresa Morales was incredibly helpful throughout this process.

She's insanely organized, and thank God for that, because my desk is a mess.

VOICE: Yea, Teresa.

(Applause.)

MR. OXER: You mean, there was actually not a paper bomb that went off in your office. Right?

MR. DORSEY: Right.

MR. OXER: Okay.

MR. DORSEY: The other thing I wanted to just touch on briefly before I get into the specifics here, there's a lot of stuff outside the QAP that really impacts the efficiency and effectiveness of the process.

The application is a big piece of that, and how the application is structured, and how massive it is. We're doing a lot this year to streamline that application, effectively eliminating two volumes of the application, trying to eliminate a significant amount of duplication, so that, you know, there's less tendency to have inconsistency between different tabs of the application.

And one other thing we're doing is we're working right now on automating our data entry process, so when we receive all of the Excel application files, that'll be effectively, automatically input into our application database.

And that will enable us to get the pre-application log out much faster, and the same thing with the application log. And Racquel Morales and Jason Burr have kind of managed that whole deal, and it's going to have a big impact. So thank you to them as well.

All right. Getting right into it, we received 33 -- we received comments from 33 people/organizations. Our reasoned response is 49 pages, which I believe is about 20 pages longer than last year.

We received a lot of comment, went through all of the comments diligently, and tried to give every comment its due consideration.

I'm going to go ahead and walk through some of the more major changes, some of the changes that you all either have already heard some comments on or will -- I expect that you will hear some comments on.

There were a lot of other more minor changes as well that I'd be happy to address, if they come up or you all specifically want some info.

So starting on page 4 of the reasoned response -- and I believe page 3 is the QAP -- the definition of high-opportunity area, you all have heard a lot about this definition over the past couple of meetings.

And we've really tightened this definition up this

year, trying to make it a really targeted, meaningful definition. We are recommending that the 15 percent poverty rate that is a qualifier -- that was a qualifier in the October-approved draft QAP be modified a little bit to allow an up to 35 percent poverty rate in Regions 11 and 13.

This is to respond to some of the concerns about the -- just the lack of census tracts that would qualify for this as a high-opportunity area in those regions.

Let's see. We also removed the growth factor. We had a lot of -- the growth factor was 50 percent growth from 2000 and 2010. Unfortunately, the whole concept was based on growth at a census-tract level.

Census tracts are a function of population to begin with. So when population grows, the Census Bureau throws out that census tract and creates new ones, which means that gaging growth over a time period is exceedingly difficult. So we went ahead and are recommending removal of that.

This item is really significant for a couple of reasons. One is you're allowed to get a boost if you're in a high-opportunity area, and the second is you get development site location points for this item, and it is the highest location-point item.

Part of the recommendation that, I believe, you'll hear quite a bit of public comment on is that we, in the

location point item, differentiate between elderly and non-elderly, so that a non-elderly transaction in a high-opportunity area achieved four points, and an elderly achieved two points. I can go into detail on that, if you all have any questions, but that's the staff recommendation.

A second item, the credit amount -- as you all know, statute was modified to allow the board to move to the \$2 million cap in the prior year's QAP up to 3 million.

We received a significant amount of comment on this, and so we are going ahead and recommending that change, with the rest of that section pretty much mirroring last year's, except for a couple of technical changes.

The 30 percent boost in eligible basis -- we're recommending the addition of one boost item here. It's for developments that are not qualified elderly developments, that are not located in a QCT, and that receive effectively a substantial amount of local funding.

When I say a substantial amount of local funding, that's basically, if you qualify for the highest-point item under the unit of local government item for local funding, then that's -- we'll help you get to achieving this boost.

Let's see. Another change that we had recommended was a change in the way site work was dealt with. In prior years, we had just a threshold per unit, and when I say

threshold, I didn't mean that you couldn't go above it; it just meant that if you went above it, we expected a little bit more due diligence to be done in site work per unit.

In the October QAP, we recommended moving that to 12 percent of the -- basically building cost. And just based on public comment and some concerns about confusion and just how clear that was, as well as some concern that that actually required you to go do diligence at a lower level than the previous \$9,000 a unit, we recommended moving back to the \$9,000 per unit, based on public comment.

We have received quite a bit of comment on the letter that is required when there is no zoning. We -- in the October draft, we recommended that basically if there was no zoning, that you get a letter from a municipality or county, stating that there was no zoning and that the transaction met all other local requirements.

Based on that being a little bit vague and just I know how uncomfortable I would be writing a letter based on a conceptual plan like that, we tried to tighten that language up.

And so it now states that the letter state that the development will not be prohibited by any ordinance of that municipality regarding zoning or permitted land uses. It's a little bit tighter, a little bit more specific.

Let's see. On the leveraging of private, state, and federal resources scoring item, this was an item that was changed pretty significantly this year, to make it a really more significant, more important item.

In prior years, it was you just had to have a little bit of funding, and in this year it really changed to if you're gaining some savings -- if you're getting a favorable interest rate on your primary financing, then presumably that would allow you to leverage additional debt and request less credit, and we could use the credit more efficiently.

We've made several changes to this, because it was a pretty new item. We got lots of public comment, lots of good comment. We tried to make several modifications to clarify, add a little bit more flexibility, and add in some just really clear options for what would meet this criteria. So that's been done.

Going back to some of the comment that was made just before our little break there, on the quantifiable community participation, this is a tough item, you know. I've had quite a trial by fire, over the last two months in this position, but I had the opportunity to watch from afar some of the craziness with QCP in prior years.

And the reason it changes every year is really because we get a lot of appeals every year, which is indicative

that people don't understand what they need to do. And we don't want to have folks confused. We don't want to have appeals. We want people to be clear on what the expectation is.

So we try to tweak it every year, and the difficulty is, you know, evident from just the changes over the years.

With respect to the letter that Mr. Jones read into the record, we've gotten public comment that basically a -- when there is no neighborhood organization, you get six points under this item -- or I'm sorry -- 12 -- sorry -- 16 points under this item. The maximum points for a letter of support is 24. And so that differential is cause for concern.

What we have done is we've included another point item that's a lower-scoring item that basically says, hey, if there's -- if you're -- if there's no neighborhood organization or what-have-you, but you're able to go get other types of community support from civic organizations, et cetera, then that's really what we want, is community support, and that allows you to get six points.

So if you add six and 16, then you can get to 22.

But you're still two points lower than the folks that got the neighborhood support.

We had some concern with moving that to 18 -- the 16-point item to 18 -- just that it might water down statute,

which pretty clearly says it's for -- the points are for neighborhood support -- neighborhood organization support.

So I think conceptually it's a change that makes a lot of sense. We just had that short concern.

Also, with respect to some of the comments about the technical assistance, we've -- we tried to just allow some basic technical assistance. The intent is certainly not to just open it up to developers creating neighborhood organizations that have no purpose other than to support their deal and then get points.

But just the reality that, you know, folks may not have a neighborhood organization but have a real opinion, and they're confused as to how to go about, you know, getting that opinion voiced and heard.

In previous years, we had that they couldn't provide technical assistance, and there's all this kind of -- you can imagine what would happen in that type of circumstance, when you're -- they're talking with the developer and they're asking questions, but the developer can't respond to the questions. It's kind of a funky dialogue like that. So that's, you know, just some general feedback on that.

On the other comments with regard to the central business district, the central business district definition

is not -- there's no requirement to be in a central business district. We are certainly not trying to say you do not qualify if you are not in a central business district.

The point of this item was really to incentivize -- well, to reward those folks that went through the pain of doing a deal in a central business district where doing a deal was hard.

And that is, you know, where you're required to go vertical, you're required -- the land costs are higher, you know, that type of thing.

So you can get a boost for being a central business district, with a population over 50,000 and with -- if it's within a central business district that has a ten-story building, as well as you can get points for being in that type of location.

The other thing is -- about that item is it's -- you know, it's about how far do you have to drive to work when you -- if you live in downtown Round Rock, you know, businesses might be there in downtown, but you can live outside of downtown a little bit, where the land costs are a little bit cheaper, and you can do a deal there and still have access to jobs downtown fairly easily.

That's as opposed to larger areas like Dallas, Houston, et cetera, where you have to travel further distances

and that type of thing. So it's incentivizing deals in central business districts, where there are a lot of jobs and where the alternative is to live far away. So that's just some feedback on that one.

I guess I'll cut it off there and let you all take some public comment. Staff's recommendation is to approve as presented in the board book and with the repeal of the existing Chapter 50.

MR. OXER: Okay. Cameron, why don't you just stay there, please.

We have -- I guess we have more than a couple coming up. So I'll come them up in the -- and if you have a comment to make, if you need to respond to these, that's why you'll still be there.

All right. I have Bill Schlescinger, Barry Palmer, Michael Hartman, and Audrey Martin. So we're in a different room than our normal room, so it doesn't take you as long to get from the far back up to the front to -- so, but be getting close to the mike, so we can use our time efficiently.

Mr. Schlescinger, good morning.

MR. SCHLESCINGER: I'm Bill Schlescinger, co-director of Project Vida, which is a Presbyterian church-sponsored community-development organization in El

Paso, Texas.

We have one 36-unit project on the ground, and its cash flow is good. We're in compliance. We'd like to do another one. And that was my self-interest in this 36-unit rule. This is regarding Item 38 in your book; it's on pages 21 and 22.

This is something that there were a number of comments on, all in favor of retaining the 36-unit rule. John Henneberger was one of the commenters.

What I began to see is that El Paso is a unique situation. We've got a whole region which is basically one county, one city. As I was listening to testimony from around the state, what I was hearing was there are a number of communities that feel that they can't compete effectively, because there is a sinkhole in the middle of their region that's absorbing most of the projects.

They don't have either the size of housing authority or the logistical support or other things to do. Creating an incentive or maintaining the incentive for the 36-unit rule means that there's a better chance to spread those projects around.

You talked about community need for these projects. And, clearly, more communities need these things than are able to get them. If you incentivize a smaller-unit

development, you begin to be able to move those projects out of just the areas of where you've got room, land, and developer skills to do 100-unit, 200-unit project.

The reason the communities need this is not just for the housing; it's also for the ripple effect. And you've heard similar testimony from other places, where if you put one of these projects in -- and we've seen it in El Paso -- you begin to build a change in the apartment mentality in the area. You begin to create a different pattern, a different capacity.

Many communities need that. And a lot of the communities that need it can do it very well with a 36-unit project. They don't need and probably couldn't sustain the larger-size project.

There's a reason to incentivize this. Staff's response was basically, We can't figure out why we would do this. I think there are really good reasons to do it, to maintain it, and I would ask that you continue it.

There is a downside, and I want to be clear with you about I understand that. Administrating a project is administrating a project. If you have 1,800 projects right now, and you incentivize smaller ones, you're going to expand your base. It's costing more administration.

But I think it's really worth it, in terms of the

impact on more communities, with more access. Thank you.

MR. OXER: Any comments?

(No audible response.)

MR. OXER: Thank you for your time.

Any questions?

(No audible response.)

MR. OXER: Just for the record, the cost of administration, if the projects are ten units or 1,000 units apiece, that's the obligation this agency carries.

MR. SCHLESCINGER: Thank you.

MR. OXER: Barry?

Mike, if you want to come up and take the other mike, because that way we'll keep Cameron on the side, if you can -- if you need some -- an answer on it.

MR. PALMER: Barry Palmer, with Coats Rose. I have just one comment on the QAP. I think the staff has done an excellent job in working through the QAP comments. And I'm in favor of a lot of the revisions.

One change that's been made this year is on the rehabilitation cost on rehab deals. Right now, the minimum rehab cost is 15,000 a unit, and in the 2012 QAP the staff recommendation is to increase that to 25,000 a unit.

And I would ask that the board consider carving out of that increased rehab cost projects that are less than

20 years old. And the reason for that is there are a large number of tax-credit projects that were done as new constructions in the mid-'90s, and we are seeing those come to us now that have completed their 15-year compliance period.

They need some rehab and renovation, but they don't necessarily need \$25,000 a unit's worth. And right now, with credit prices being as high as they are, we're seeing that some of these projects are financially feasible to be redone and renovated, using the 4 percent tax credit and tax-exempt bonds, rather than coming in and apply for the scarce 9 percent credit.

But those projects may be feasible at 15,000 a unit of renovation, and not at 25,000 a unit of renovation.

And because they're, in many cases, only 15 or 16 or 17 years old, there's not the need to do the extensive renovation that 25,000 a unit would require. So that's my advice.

MR. OXER: So you're recommending more of a step-wise scale on this.

MR. SCHLESCINGER: Right. We originally suggested to staff that the 15,000 remain in place for 4 percent deals, and the 25,000 only apply to 9 percent competitive credits.

Staff's response was that there's no logical reason to make the distinction. So our proposed alternative

distinction would be that if rehab is 20 years old or less, that it only be required to do 15,000 per unit.

MR. CONINE: Wouldn't it make sense, Barry, if you -- if you've got a finite resource, to apply it to those projects out there that actually need the 25,000, as opposed to using up part of the credit on between 15- and 20-year projects that don't need 25,000?

MR. PALMER: Well, and that's why we had suggested the -- that this only apply, the 15,000 a unit, on 4 percent deals. We're not utilizing the bond cap now. Very few bond deals are being done.

And here's a way where we could renovate some properties, keep them in the program for an additional 15 years, because if they came back in and were resyndicated as 4 percent deals, they would have to sign on for an additional 15-year compliance period.

And it wouldn't use up any of the competitive 9 percent credits. So we are really only asking for this for the ability to do 4 percent deals at 15,000 a unit.

MR. OXER: Thank you.

Any questions?

(No audible response.)

MR. OXER: All right.

MR. HARTMAN: Mr. Chairman, members of the board,

Michael Hartman from Roundstone Development. I'll try and be as brief as possible. I think that the staff has done a great job on the QAP -- and just a couple of items.

The first one regards readiness to proceed. The way it was drafted in October, you could score three points under Item A, two points under Item B, and two points under Item C, for a maximum of seven points.

Item C is giving one point to a development that had previously been submitted once, and two points to a development that had been previously submitted twice.

The idea, as stated by staff at the time, was, well, you know, they've kept this deal going. They've worked it. They've gotten it farther along. So, therefore, you know, there should be some reward for that, and we agree with that.

Unfortunately, somebody else disagreed with that, and staff has taken their recommendations, and now you can score four points under Item B of Number 11, which essentially negates the provision that was put in for rewarding you for bringing back a deal for a second or a third time to try to get it done, because now somebody can score points -- maximum points even without Item C. So I would ask, respectfully, that those points be reduced on B back from four to two.

The second thing, one of my recommendations

was -- is that in scoring Item 5 and scoring Item 12, the scoring is partially based upon being below a market rate of interest.

And we don't define that number. And that number does move year to year, so I don't think you can put it in the QAP. But I would recommend, to give clarity and to take away subjectivity, after the governor signs the QAP, that the staff come up with a number that's going to be their benchmark, because otherwise you're going to have subjectivity. You're going to have a lot of confusion and a lot of disagreement.

And I think it's going to end up coming back to you in the end, with more appeals of people who get denied under that by having a less-than-objective benchmark there.

The only other thing that I wanted to talk about was that, with regard to QCP, I support Representative Menendez, and I would think that if you do not have a neighborhood organization, that you should be able to get 18 points under scoring Item 2.

Really, when that was put in -- and I was around for the whole thing -- it was more to -- where people who had opposition wanted to have a voice. So I think if there's no opposition -- or there's not a group around that has organized themselves into opposition, that you should get

the same points as somebody who does have the support.

And the only other thing is -- and you're going to hear it from other people, but I also support changing from the 150 percent to the hard million-dollar cap. So thank you.

MR. OXER: Okay. Any questions?

(No audible response.)

MR. OXER: Thank you, Michael.

Good morning.

MS. MARTIN: Good morning. I'm Audrey Martin with Realtex Development Corporation, and I'd also like to echo the previous comment, that staff has done a really great job in responding to a really large volume of comments.

And so I really only have one issue that I wanted to talk about today, and it's related to scoring Item Number 5, for commitment of funding from units of general local government.

The proposed final QAP has language that sets out what units of local government are eligible to contribute funds that are awarded points. And the current language sets out that the unit of local government must have its headquarters in the same county as the proposed development or in an adjacent county to the proposed development.

And what I think this is going to cause is some

situations where those units of government that have bigger service areas than just one county or one city -- you know, councils of government that may cover 16 counties, for example -- will be precluded from making contributions that are counted for points in their legitimate and outlined service areas.

And so maybe one particular example is the North Central Texas Council of Governments has a 16-county service area, but they're headquartered in Arlington, in Tarrant County.

So with Tarrant County and the adjacent counties, six counties would be their eligible area for which they could provide funding to tax-credit developments. And that would exclude more than half of their 16-county service area.

So what I would suggest is a change from using the word "headquarters" to using the words "service area," in order to define the units of government that will be counted for this scoring item, with the intent being that contributions made by units of local government are counted if they are made within the currently outlined legitimate service area of those units of government.

MR. OXER: Good.

Any questions? Kent?

MR. CONINE: How do you get around somebody

deciding that they want to skip some counties to then pick up a county somewhere else that now is in their defined service area?

MS. MARTIN: Well, I think --

MR. CONINE: Without being contiguous -- you know what I'm saying?

MS. MARTIN: Yes. Well, I think -- I'm not totally sure. I think one idea could be that there could be a requirement that the service area was in effect as of some date certain, like one year before the date of the beginning of the application acceptance period, for example.

MR. CONINE: Well, here, I'll just give you an example. Southeast Texas financed a deal in Wichita Falls. That's not quite their service area.

MS. MARTIN: Right.

MR. CONINE: So we've got to figure out a way to create the local interest -- and I don't know whether contiguous is the right way to get there or not, but --

VOICE: Well, you could certainly --

MS. MARTIN: But Southeast Texas does have a defined service area, and they have -- I mean, there are certain counties that are already outlined as their service area.

And so I think that -- I think using the word

"service area" actually accomplishes that goal, because you can't skip up to Wichita County. The counties are what they are.

And if you put a one-year look-back, then, you know, maybe that achieves the goal of preventing unusual annexations, we'll say.

MR. OXER: Strange maps show up in this building regularly.

MS. MARTIN: Sure. Right.

(Laughter.)

MR. OXER: Okay. All right. Any more questions?

(No audible response.)

MR. OXER: Good. Thanks, Audrey.

All right. The -- David Koogler, Gloria Naul, Justin MacDonald, and Barry Kahn -- and by the way, both mikes are hot, so whoever's up, the next one take the other mike.

(Pause.)

MR. OXER: Good morning, David.

MR. KOOGLER: Good morning. My name is David Koogler, and I'm with Mark-Dana Corporation. Thank you for this opportunity. I'd also like to thank staff for all of their hard work. I hate to keep making comments, but I guess I can't avoid it.

(Laughter.)

MR. KOOGLER: Just a couple of things -- the main thing I wanted to comment on is a change in the scoring for the high-opportunity areas. In this most current draft, there was a distinction made between the elderly and non-elderly developments. Elderly developments, if they're in a high-opportunity area, get two points, and everybody else gets four points.

I think this is a very significant change. I'm concerned that elderly developments starting at a two-point deficit, it may just mean that none get done this year.

I understand there's a concern that too many are getting done, but my view is there's a need for that housing.

And if there's a market study that supports demand for that housing, I don't see a problem with that housing being developed. And it should be encouraged in a high-opportunity area.

So I think, without really thinking through the ramifications of a change like that, I think whatever the points that are awarded -- I don't mind if it's two points for everybody or four points for everybody or one point for everybody, but I think it should be the same, and that whether or not an elderly development gets done or a family development gets done should be determined on whether there's a need for that. And that's what the market study's for.

And then, other than that, I just want to say that I do support and think it's appropriate to change the scoring of the quantifiable community participation, increasing that 16 to 18. I think that would solve other problems as well.

I don't think you would see as much gamesmanship being played in forming neighborhood organizations in areas if you could get there by showing other community support.

And I do feel that -- and especially after hearing Representative Menendez's comments through his letter, that it wasn't the legislature's intent to penalize areas that did not have a qualified neighborhood organization. It was their intent to give a voice to qualified neighborhood organizations, but not necessarily at the expense of areas that don't have them.

If you develop in Montgomery County, for example, there are very few neighborhood organizations in that area.

And so if you're competing in Region 6, it's very hard for a project in Montgomery County to compete with a project that's in Harris County, which is covered with neighborhood organizations, because you're at -- in the past, you were at a six-point deficit -- now you're at a two-point deficit, which is better.

But if you've seen, one point can mean the difference between an award and not an award. And that's

all I have for you today. Thank you.

MR. OXER: Good timing.

Okay. Any questions?

(No audible response.)

MR. OXER: Thanks.

Ms. Naul?

MS. NAUL: My name is Gloria Naul, and I'm with Solis [phonetic] Development in Irving, Texas. And we have a long history in the development of senior health-care projects, including skilled nursing, assisted living, memory care, and also continuing-care retirement communities. So my heart's with seniors.

Participating in --

MR. OXER: We'll all eventually be there sometime.

MS. NAUL: I know. Participating in affordable senior housing is a natural evolution for us, and very complementary to our existing platform. So we're excited about participating in the upcoming round, and we're relying heavily on our team of consultants and attorneys to help us understand the program.

But we have two concerns regarding the latest draft of the QAP. First is the development location. That's on the high-opportunity point, Section 16A. It gives senior housing a two-point disadvantage from all other developments.

So we're requesting that senior developments be given the same four points as other developments, of course if they meet the definition of the high-opportunity areas.

Secondly is the second tie-breaker. The wording has been changed to be based on tax credits per bedroom. Now, we're requesting that the language be changed back, where it's based on net rentable area.

So I don't know. We are thinking maybe this is just an oversight, but since the number of bedrooms is always lower for senior developments than for family developments, it's a very unfair disadvantage for our senior projects.

So we're only asking that the playing level be -- that the playing field be level for all of the developments. And I want to thank you so much for your consideration on these two matters. And we're really looking forward to being a part of the affordable senior housing program. Thank you.

MR. OXER: Good. Thank you.

Any comments? Questions?

(No audible response.)

MR. OXER: Thank you for bringing that.

I have a question, Cam?

MR. DORSEY: Yes?

MR. OXER: If there's a deficit or an advantage

that's given to other projects on a bedroom basis, if they get four points or they're at a two-point deficit, is there anything that the seniors get that would potentially offset that?

MR. DORSEY: On the bedroom issue, that's -- this is the second tie-break factor. The first tie-break factor is tax credits per capita, or something like that, in a census tract, which carries out God knows how many decimal places -- it's going to be hard to get to the second tie-breaker.

If we did get there, there's -- I mean, it kind of is what it is. We got the comment that this -- that, you know, really what you're looking at is how many people you're ultimately serving in a deal, and so kind of equating that to bedrooms, you know, makes sense.

We didn't think it was a significant change that we had too much concern about. So we went ahead and made it, based on the public comment received.

MR. OXER: So this is actually a couple layers down in tie-breakers --

MR. DORSEY: It's the second tie-breaker.

MR. OXER: Okay. How often is the second tie-breaker used in this last round?

MR. DORSEY: Well, in the last round, the

tie-breakers were different. So I think it actually did get used a couple times, but now that the tie-breakers are changed, I'm not sure that we'll see it get used all that much.

If it does, I mean it is still an issue, certainly. And I think it's probably correct to say that deals with, you know, less bedrooms might have more difficulty, just because, you know, there's some costs that don't go away, no matter what.

MR. CONINE: Could we take a per-person available in the -- typically occupying the unit as a --

MR. DORSEY: We could make some type of assumption, like 1.5 persons per bedroom type of thing, that --

MR. CONINE: Right.

MR. DORSEY: -- you know, which is how you calculate the gross rent.

MR. CONINE: That might be the way to do it --

MR. DORSEY: Yes.

MR. CONINE: -- or a better way to do it, to make it a little more level playing field. We'll think about that.

MR. OXER: Yes. That needs to be considered, but the -- and like I said, I've been here six months, and this has flopped both ways twice already.

MR. DORSEY: That's right.

MR. OXER: So -- and knowing that we're going --

MR. CONINE: Hang in there, J. Paul. It won't be the last time.

MR. OXER: I know.

(Laughter.)

MR. OXER: I'm just trying to get the cinch down tight enough on this thing I can stay on it. Okay? The -- and I think it's worth putting into the record that there have been numerous iterations of this. We're through at least -- this is, at least, the fifth iteration of the new version of the QAP that would be posted for comments, which when changed, would constitute the sixth iteration this year. Right?

MR. DORSEY: I'm not sure about six versus five, but it's a lot. Yes. It's definitely a lot. And we've had to --

MR. OXER: It's more than the two from last year.

MR. DORSEY: This particular item was -- you know, has flip-flopped between this kind of concept, which we've heard public comment about, credits per unit, and credits per net rentable area, and all have different -- I mean, smaller units are disadvantaged under some of them; you know, four-bedroom units are disadvantaged under other ones. I mean, so it's, you know --

MR. OXER: So I don't have to -- we're trying to match up those zebras and giraffes out there, I can tell.

MR. DORSEY: You know, I don't have a -- I don't think staff has a really strong desire for one over the other one; we're just trying to respond to -- you know, they all make sense in some sense. So if the board wants to go a different direction, we're certainly amenable to that.

MR. CONINE: Well, just the math would level out if you did the one-and-a-half per bedroom, on top of the bedroom. So you end up with three people in a two-bedroom unit --

MR. DORSEY: Right.

MR. CONINE: -- and --

MR. DORSEY: That's right -- which is how the gross rent is calculated, so that we could probably write that out pretty easily.

MR. CONINE: The square footage thing -- everybody lies about square footage. And then you get --

MR. DORSEY: Square footage is tough. Yes. Square footage is really tough, because, I mean --

MR. OXER: And then you're measuring the closets or the stairwells or -- you know, it's like --

MR. DORSEY: Well, people get --

MR. OXER: There's got to be an easier metric to put on this, I assure you. So our office of metrics and measurements is going to be busy. So -- all right. Thanks.

Justin?

MR. MACDONALD: Thank you, Mr. Chairman. Once again, my name is --

MR. OXER: Hold on a minute.

Barry, you're up next.

Thanks.

MR. MACDONALD: My name's Justin MacDonald, developer from Kerrville, Texas. First, I would like to thank staff and this board for taking so much time to listen and work with the affordable housing community on this QAP. As you mentioned, we've been through several more iterations of this than we have in past years. And I, for one, really appreciate that cooperation, and hope that, at least in some form, it sets a model for future years' cooperation.

MR. OXER: It'll just take a little longer to recover from the bruises; that's all.

MR. MACDONALD: That's a fact. There's really only one item within the QAP working draft that I want to speak to you about today, and it's the same one that the last couple of speakers have mentioned, with seniors' properties in high-opportunity areas only receiving two points as opposed

to four.

I feel like that's an inequity, and that developers who tend to serve senior markets more than family markets, such as myself, not be penalized for serving those folks, especially since that's one of our largest-growing demographic groups within the state and the nation as a whole.

As you mentioned, we're all headed that direction at some point or another.

So I would ask you to reconsider that, and either make everybody two, make everybody four, make everybody zero, but make them equal, if you would, please.

And then, also, I think you are going to hear recommendations from TAP a little later on, and I do want to be on record as supporting those recommendations as well.

MR. OXER: Fair enough.

MR. MACDONALD: Thank you.

MR. OXER: Questions?

(No audible response.)

MR. OXER: Good. Thanks.

Barry?

MR. KAHN: Good morning. Again, I want to echo thanks to the staff and the TAP recommendations.

I'd like to speak about this development location selection Number 16, which has to do with the high-opportunity

points, and my only -- essentially, we -- at the last board meeting, I brought up the issue that there's a certain part of the population that's being excluded with high-opportunity area.

And, for instance, in Harris County, which is where we develop in the city of Houston, due to the I credits, we've gotten a slew of senior deals.

If you have a four-point differential on seniors, then everybody's going to be doing seniors, because they're easier to get approval for in high-opportunity areas.

I'm not opposed to seniors and family being the same point structure, but I would like to see that point structure staying at two or maybe even being reduced to one, because high-opportunity areas are getting the benefit of the 130 percent boost. And at least, this way, they get a little bit of distinction, but you aren't discouraging a certain class of housing.

And so I did work with staff; I did work with the city of Houston, as well as Harris County. We came up with something for high-opportunity -- I mean, for the 130 percent boost, and if we could close the gap here on the points, I think it'll level the playing field for people trying to do family as well as elderly.

Secondly, I've got something that's been raised

to staff by Harris County to clear up an ambiguity in the QAP with zoning.

And the language currently in the revised QAP for new construction, where there is no zoning, is an affirmation from the unit of local [indiscernible] government, that the department will not be prohibited by any ordinance of that municipality regarding zoning or permitted land uses.

Well, counties don't have ordinances. So what Harris County would like is some clarity on the issue, so that they can have the input -- you know, whatever input -- and the language would then read instead, Or local housing policy formally adopted by the governmental body, if any.

And I believe they've submitted that information to staff, and from what I understand, staff's not opposing it. They're open to it. But it's at this point a choice of the board. And, again, I'd like to thank everybody for their efforts. Any questions?

MR. OXER: Any questions?

(No audible response.)

MR. OXER: All right. Thanks.

All right. Donna Rickenbacker, you have time ceded by Mr. Rickenbacker -- Sarah Anderson, Neuer Chuma [phonetic], and Bobby Bowling. I'm sorry. Actually, Bobby's going to have some time ceded, so Donna

Rickenbacker -- Donna, good morning --

MS. RICKENBACKER: Good morning.

MR. OXER: -- Sarah Anderson and Bobby Bowling.

MS. RICKENBACKER: I don't think I'll take five minutes. I thought I was going to be speaking on a couple of different items. Donna Rickenbacker, Mark Heed.

First, I want to take the time to thank Tim, Tom, Cameron, Teresa, and the rest of staff for all the work that they've done this year on the 2012 QAP. It's been a long process, multiple redrafts of the QAP, but I sincerely believe that staff did consider all comments, recommended changes presented to them over the last several months with an open mind.

They've added a lot of ideas and differing viewpoints on the direction of this program. But I think ultimately we have a QAP that's balanced and in the best interests of the program as a whole. Thank you all very much.

One comment that I'd like to make is in keeping with some of the other speakers, with respect to the development location points and the change that staff is recommending to you all in this draft of the QAP by reducing the amount of points to senior developments located in high-opportunity areas.

And let me give you an example of the impact on this, with respect to Region 11, which is the Valley. The Valley has not seen a senior application awarded in over ten years.

Primarily -- first of all, you've got to make it work financially down in the Valley for a senior community.

But then for so long, up until this year, they've been up against the rehab reconstruction developments.

This year, finally, new construction is pretty much on par with reconstruction rehab developments, except in very limited circumstances. So, finally, seniors are being given an opportunity to compete down in the Valley. But this has not been the case for so many years.

So when you look at the QAP and you try to adjust for a perceived oversupply, potentially, of a type of housing, please, recognize what it does to other areas of the state, where there's still a tremendous need for senior housing.

I also took a look at and tried to respond to staff's concern with respect to potential oversupply. And what my research is finding is that the 55-and-over population is growing twice as fast as any other population group.

And I've found that the existing age-restricted LITEC developments here in Texas are performing very well and have high occupancy rates.

So all I'm asking is -- and I agree with some of the other speakers. Whether it's four points or two points, please -- I think all developments located in high-opportunity areas should be afforded equal points in that point category.

And then one last comment: I was thinking when one of the speakers was speaking to the tie-breaker, how about, instead of the amount of tax credits per unit, tax credits as a percent of the total development cost may be a better way to adjust for the fact that you're going to have less units in a senior community, and you're going to have less occupants of a unit in a senior community as well.

So you may want to consider that. Those are my comments.

MR. OXER: Good. Thank you.

Comments? Any questions?

(No audible response.)

MR. OXER: Do you have an opinion on the point impact of taking them both to four or reducing them both to two?

MS. RICKENBACKER: Well, I think staff has done a tremendous job in recognizing and incentivizing developments to go into high-opportunity areas. And I think that that's just good policy, no matter what kind of

development that is.

So I would prefer that it remain at four points. You're incentivizing developments in high-opportunity areas, and so I prefer keeping it at the four-point differential.

MR. OXER: Okay. Thank you. Thanks.

Sarah?

MS. ANDERSON: All right.

MR. OXER: Bobby, you're up.

MR. BOWLING: Okay.

MS. ANDERSON: My name is Sarah Anderson, and I am actually here today representing the Texas Affiliation of Affordable Housing Providers, TAP. We've been before you several times, and we have submitted -- probably for each version that's been available, we have submitted comment.

(Laughter.)

MS. ANDERSON: So I'm probably happier than anybody in this room that we are done, hopefully. We're down --

MR. OXER: Can you quote it by memory yet?

MS. ANDERSON: I probably could.

We're down to three items at this point. We've submitted several over and over again; we -- I think we've

taken the hint that perhaps those will not be taken into account, but we still have three left.

You've actually heard -- people have already spoken on the three, but I'm just going to cover them very quickly. The first has to do with -- the last meeting, we had two pieces of language on the table for you to choose from, regarding how much money could be requested in each subregion.

There was the 150 percent of what's available or TAP's suggestion of a million dollars for any region that did not have -- that had less than a million dollars in it, that you could apply for a million dollars.

Mr. Conine sort of picked one and said, Let's try it. Let's see how public comment comes in. So you went with the 150 percent of what's available language. I'm hoping that public comment has tipped it towards our direction.

I think we probably got more comments than that, so we'd like to request that you go with TAP's language instead of what was in the current draft.

The second has to do with what Audrey Martin was talking about, was this language about local government and who can give money in their service area.

We've actually given language to Cameron that is very similar to what Audrey spoke about. I think the only

difference we would say is rather -- going back and forth with staff, that rather than saying the service area of the unit of local government, that it be their jurisdiction.

And, again, we would suggest that that be something that would have been in place a year prior to the application funding round, so that you don't have what I think staff's issue was, where folks jumping around the state that they weren't really local.

This jurisdiction -- it is implied that it's local. You're going to have local representation. Jim Shaw can tell you that he has county officials on his board that represent each of the counties. So we believe that that language will get us where we need to go.

The third -- I'd like to go back over the quantifiable community participation. You heard from Don Jones this morning, and you've heard from some other people.

I was in the room when this language was created.

I was staff at the time. And I can tell you that we struggled with what to do with the QCP. And it was, frankly, split down the middle, whether or not you incentivized how -- you know, whether there had to be a neighborhood organization to get points or not. It could have gone the other direction.

So as you're -- you know, I feel like we're standing on precedent that staff set prior to having ten years

of the legislators telling us, That wasn't what we intended.

You have very slowly, incrementally narrowed the gap between areas that don't have neighborhood groups and those that do. So intent-wise, you're heading the same direction that the legislature has told you they intended.

And I would say, don't stand on the fact that it's always been this way. If the legislature's telling you that they intended negative comments to be what really was going to be taken into account and that they didn't intend to penalize areas that didn't have neighborhood groups, I would encourage you to do what you were saying, Mr. Oxer, and scrape it and take what they're saying that it should have been, and allow areas without neighborhood groups to be on the same footing as those with. And those are our comments.

MR. OXER: Okay. Any questions?

MR. CONINE: Can you get there with the 18-point suggestion?

MS. ANDERSON: Yes.

MR. CONINE: Because that still requires --

MS. ANDERSON: You still have to get the extra letters --

MR. CONINE: Yes, right. Somebody --

MS. ANDERSON: -- but going at 18 would get you there.

MR. CONINE: Okay.

MR. OXER: So the issue on the 18 points versus the 16 was a matter of whether or not doing that would circumvent the intent of the legislation -- of the statute?

MS. ANDERSON: Right. And, you know, we made it up -- I mean, you've seen what the language is. It was difficult. Staff made it up when we did it, and it was 49/51 that it went that way. So --

MR. OXER: I think we're making most of this up as we go. So there's nothing new about that.

MS. ANDERSON: Yes. So I certainly wouldn't stand on precedent on this one, and I would listen to what the legislature is telling you, personally.

MR. OXER: Well, I can suggest to you that we will listen to the legislature. They're going to have an interesting comment about whether or not we get to stay here --

MS. ANDERSON: Absolutely.

MR. OXER: -- next time around. So, yes, we'll be listening to them.

Any other comments?

(No audible response.)

MR. OXER: No?

MS. ANDERSON: Okay. Thank you.

MR. OXER: Thanks.

Bobby -- hold on a second, Bobby.

MR. BOWLING: Yes, sir.

MR. OXER: Bill Wenson is following, and then it'll be Bill Wenson, Mahesh Aiyer, and Cynthia -- you're back up -- Cynthia Bast. So -- okay.

Bobby?

MR. BOWLING: For the record, I'm Bobby Bowling, a developer from El Paso. I wanted to start out by thanking staff for doing a great job in taking all these comments in and making a lot of changes.

The original comment letter I had had 12 issues, and I think, on about half of them, I was very pleased with what staff came forward with, especially particularly with the one I specifically brought forward in the October board meeting, with the poverty level issue.

So I really thank and commend staff for having an open mind on that. I think what you're proposing is very fair with Regions 13 and 11.

One kind of off-the-boards comment that I want to make that I didn't put in my comment letter -- in listening to Barry Kahn on what he had to say about the county zoning issue, just sitting there listening to him, I would ask that you -- if you're going to tweak the language in the way that he requested, that you make that tweak specific to the city

of Houston.

He used the term "in accordance with local housing policy." I would rather you not make that available -- or that language be required in a letter from the 254 counties in the state of Texas, because a lot of the counties may think they have a local housing policy -- it's just going to make the process more difficult for us in getting that letter.

Some of the counties might say, Well, we have one of those; I thought we had one of those; we should get one of those; it's this project -- you know, in accordance with that.

So I'd rather that just be specific to the -- if he's had conversations with the city of Houston and this is their desire, make that language specific to alleviate their concern, but not all counties without ordinance-making authority.

I want to just speak on three of the items that I forwarded to you, and I don't want to be duplicative. I want to bring just items that no one else has spoken about.

And page 11 of the reasoned response, Item Number 14, there's an item with regard to mandating fire sprinklers.

And I think that gets into the issue of the QAP delving into what the building code is and what the interpretation is of the building code by the local building official, and I think

that's a bad idea for TDHCA to get involved in.

I think that's a Pandora's box that shouldn't be opened and a slippery slope that TDHCA shouldn't go down. TDHCA has never gotten involved in local building code issues.

My specific instance -- and they did tweak from the original rule publication, and they made a change to not require fire sprinklers in single-family. But in our local jurisdiction, duplexes and quadplexes in our local jurisdiction are deemed to be under the single-family residential building code.

And so what I'm building is mostly quadplex and duplex townhomes, less density. It works with our development model. We usually put out tax-credit project at the beginning of a single-family subdivision, and we're trying to make that blend in for the neighborhood as much as possible. So we like to take advantage of the single-family building code there, too.

There's been a lot of studies done. I'm really involved in NHB and TAB, and there's been a lot of studies done that show that it's really a smoke detector that saves lives, not a fire sprinkler.

People usually die from smoke inhalation; they don't usually die from -- you know, if they did, you know, tragically burn in a fire, it's that they were probably already

dead from smoke inhalation, and the smoke detector didn't save their life. So that's my comment on that.

The second comment I have is Item Number 42 on page 25 of the staff reasoned response; it has to do with the commitment of development funding by unit of local government.

And I'd just like to ask that the tweak there be that the per-unit subsidy that we're getting from the unit of local government only be required for the low-income units.

If we're doing a mixed-income development -- say, I'm doing 150 units, and 50 are market rent and 100 are low-income. Well, I have a fighting chance of getting subsidy for those 100 low-income units from my local government, but there's no way, like HOME funds or any other HUD dollars aren't going to allow me, even by rule, to have funding for those 50 market-rent units.

So I'm asking that the scoring criterion just be exactly the way it is, except for the only per-unit numbers that you're taking into account is on the low-income portion of an application, the low-income unit.

And then --

VOICE: What page was that on?

MR. BOWLING: That is page -- it starts on page 25, I believe, and it's Item Number 42.

VOICE: Okay.

MR. OXER: Great. Thank you.

MR. BOWLING: And the final comment I have is the leveraging of private, state, and federal resource item; that's Item Number 48, beginning on page 32 of the staff response. And, Mr. Chairman, I think I have another two minutes.

MR. OXER: You do.

MR. BOWLING: Okay. And I'll wrap it up. The item there is a very -- you know, kind of revolutionary way of looking at that point item. It's vastly changed, and even the reasoned response goes on for quite a bit.

And my request there is similar to the TAP comment letter that was presented, is that because this is such a new item and there's so much more substantively changed language in there, that this item be moved, at least for this first year, back to a one-point item, instead of a seven-point item, because a seven-point item is basically a make-or-break deal.

I mean, two competitive applications, seven points -- this is going to mean the difference between somebody getting a deal or not. And then I think you're going to be in the unenviable position, as a board, of arbitrating a lot of disputes over this, as it comes forward.

So I'm just asking, as you go forward with this item, maybe you have some caution, and a one-point item is probably not going to be a make-or-break deal, and you can work through the different variables that, I think, are going to be coming forward from this.

I think you're going to have a lot of rulings and judgments to make as to what, you know, a lot of the different variables that are in there as parameters may or may not be and whether they qualify.

So I'd love to answer any questions, if you have any?

MR. OXER: Good. Thanks.

MR. BOWLING: Thank you.

MR. OXER: Kent, anything on it?

MR. CONINE: No.

MR. OXER: Anybody else?

(No audible response.)

MR. OXER: Thanks, Bobby.

Mr. Wenson?

MR. WENSON: Good afternoon. My name is Bill Wenson. Most of you -- I don't think any of you know me. And I'm going to talk about Item Number 25, rehabilitation cost per unit.

I'd like to spend 15 seconds and talk about myself,

just so you understand my perspective on this. I started managing affordable housing in '78, out of college. I was an on-site manager for a Section 8 coop -- ended up managing 14 of those.

In '88, I started managing some of the first LIHTC projects in the country, when the compliance manual was one page, and it was a little difficult trying to figure that out at that time.

I moved my office --

MR. OXER: Has it gotten any easier?

MR. WENSON: No.

MR. OXER: Just checking.

MR. WENSON: Yes. In 1990, I moved my office to First and Congress here and was co-founder of the first Texas equity fund. And ever since then, I've been doing syndication work, development work, and management work.

I'm a partner in probably 52, 53 rehab projects, and anywhere from as old as 1969 to the mid-'90s.

Now, with that said, I'd like to say that I agreed with everything that Barry had to say, that I think we should be looking at \$15,000 a unit for 4 percent deals. There is not one rule that can fit every project. And so we need to look at them in a different light.

Now, the thing that hasn't been brought up is,

under the qualified contract program that many LURAs have in them right now, we have 15-year deals that are coming out of their initial compliance.

A lot of these projects, if they don't get a qualified contract, they are allowed to opt out of our program.

We stand to lose thousands of units from the low-income housing tax-credit program because the \$25,000 rule makes many of them infeasible for us to come back in and try to resyndicate.

I just issued seven letters of intent on seven projects that were built from 1994 to 1996. I've had to rescind all of them because of this rule. I can make work under the 4 percent program, at \$15,000 a unit; I cannot make them work at \$25,000 a unit.

Many of the owners are going to opt out of this program, and we're going to lose a lot of affordable housing.

In addition to that, if we lose these units out of the program, there's no monitoring anymore. These projects will become in disrepair, because there's nobody to oversee them anymore. There's no syndicators anymore. There's no TDHCA anymore.

So I think we need to relook at this and, as Barry said, look at any projects that are under 20 years old -- don't use the 9 percent credit, because that's a finite resource,

and we don't really want to, you know, involve -- and try to change that. I understand that.

But there are no bond deals getting done. We can get them done, and we can keep units in the program. Thank you.

MR. OXER: Kent? Any comments?

MR. CONINE: Is it your testimony that if you take a 15-year-old 9 percent deal, that rents and expenses have elevated to a point that it can now underwrite at a 4 percent transaction?

MR. WENSON: Yes. Absolutely. One of the things that's changed drastically in this 15 years are interest rates, too. I mean, you know, we were doing deals back then at 7 percent. We can do deals now at 4, four-and-a-quarter. So there's a substantial difference in the financing structure.

MR. CONINE: Got you.

MR. WENSON: Okay. Thanks.

MR. OXER: You're in town here, so you can --

MR. WENSON: Yes, sir.

MR. OXER: So you can -- we can engage your input into this, if we needed some more --

MR. WENSON: My office is in Bee Cave.

MR. OXER: Got it. Okay.

Mahesh, good morning.

MR. AIYER: Good morning. Mahesh Aiyer, Comerica Bank. Thank you so much for giving us time this morning to comment on the QAP. I want to comment specifically on the -- some of the lender provisions in the QAP, as it relates to below-market finance.

I think, historically, the lender community in Texas has not generally been engaged with policy comments as a whole, although over the last three years, I think, we've had a pretty good conversation with TDHCA and staff and gotten to the TCAP and exchange program, I think quite successfully, with that type of dialogue.

The only thing I'll say with respect to the below-market financing is, for those of us in the lender community, just wanting to make sure we have a lot of clarity as to what's expected to be able to comply with that provision.

We're going to get asked for application letters here quite rapidly, and we want to be able to do the best shot we can on application letters and all the way through closing.

We're fairly confused at the moment. We're not exactly sure what the provision means, how it's going to be applied. You know, there's also some sense of -- and we know the staff and the board is going to be very fair in its

application, but at the same time, we need a fair amount of clarity.

We don't know if there's -- you know, we want private capital to be included, and always have a sense of inclusion, and not necessarily feel like there's a chance we might be excluded, relative to other sorts of governmental funding.

We have plenty of capital. I think over the last four or five years many of us have gone from a securitized platform to a balancing approach to being able to do more permanent loans.

And so we're really looking for a lot of clarity on this and a general application on how it's going to get done. And so we are hoping and would expect -- I told Tim at the TAP luncheon a few weeks ago that we would engage in more dialogue, and that's exactly what we'd like to do, to have a better understanding of what's expected.

MR. IRVINE: And are you talking specifically about rate?

MR. AIYER: Yes.

MR. IRVINE: Okay.

MR. AIYER: That's -- bingo. That's it.

MR. IRVINE: And my big bugaboo on rate is, you know, if you do a number and the market changes, then your

number is no longer below market. So what we probably need is for the best minds in the room to come together quickly to talk about some key measure --

MR. AIYER: Sure.

MR. IRVINE: -- plus an appropriate spread, you know, like the ten-year plus X basis points or something like that.

MR. AIYER: We would very much like to engage in that discussion.

MR. CONINE: Yes. I was just trying to get the rates down a little bit. You know, I'm trying to give the developers in the room a little more leverage to deal with their bank than they have had in the past.

MR. AIYER: I think the concern is not so much from a global issue, like going back three years ago, when things got fairly squeezed and rates got up high, I think you probably get a great deal of buy-in and adherence in saying, Look, make some more deals feasible, when rates got to eight-and-a-half percent, to come in at seven, and make something workable, that's possible, and that's a good idea.

But in a very low interest rate environment, to apply it when virtually all deals are feasible except for two situations, where the sponsor is just really so weak that no one wants to finance the sponsor, even though the underlying

project might be worthwhile, and two, there's just some structural issue with the underlying project that wasn't known early on that's known later.

I don't think there's really an issue with a lot of deals getting done at the moment. I think everyone -- I'm sure staff would echo that there's virtually no deferred fee or very little deferred fee on most of the deals getting done today.

So it's not so much the issue today. I think we're okay with trying to apply it in a high-interest-rate environment. Our concern that this gets locked in for the next two years and we apply it in a low-interest-rate environment, trying to do a five-and-a-half percent permanent loan is a lot more challenging. That's our concern.

MR. IRVINE: I understand.

MR. OXER: Good. Thanks for the input.

MR. AIYER: Thank you.

MR. OXER: Any questions anymore?

(No audible response.)

MR. OXER: Hold on, Cynthia. Before you start, the -- following Cynthia will be Diana McIver, Sarah Andre, Jim Shaw, and Christina Sanchez.

Cynthia, good morning.

MS. BAST: Thank you. Cynthia Bast of Locke Lord.

I have been asked to represent Southeast Texas Housing Finance Corporation and Capitol Area Housing Finance Corporation with regard to the selection criteria for funding by a unit of local government.

Both of these organizations are multi-county and multi-city entities that represent a variety of locations.

And both of them have been in the business of financing these kinds of loans for developers very successfully for a number of years.

We have two issues to present. The first is to echo the statements from Ms. Martin and Ms. Anderson with regard to the organization needing to have its headquarters in the county where the development is located or the contiguous county. That doesn't work for this multi-jurisdictional governmental bodies.

And I'd like to specifically respond to Mr. Conine's question, because in the statute, when a housing finance corporation or a housing authority that serves multiple jurisdictions is created, there's actually action by the local governmental bodies to create that entity.

So they are the ones that are sponsoring this entity and establishing its jurisdiction. They can't go out and willy-nilly change their jurisdiction to go gather up other developments to make loans.

What has happened in the past is they have, under statutory permission, engaged in interlocal agreements, where the other jurisdictions allow them to operate outside of their normal service area to provide a loan there.

So if what you're wanting to do is to bring this to the local unit of government, then if you prohibit that interlocal activity and just say their service area, their jurisdiction that is created by statute, then that should work for your purposes.

The second issue is a concern with regard to the commitment fee. The 2 percent fee all-in is not sufficient for these lenders' costs with regard to providing these loans.

We have worked on a number of these loans with multiple lenders all over the state, and typically what we see is a fee of about 4 to 6 percent. The problem arises when, in addition to that 4 to 6 percent, the lender starts tacking on additional fees.

And that's when it gets really expensive, and we want to avoid that. So we would offer that a 4 percent fee, all in, would be reasonable for the lenders.

Now, a conventional lender may charge a 2 percent fee, but they're getting market-rate interest. And in this case, these lenders are only allowed below-market interest, and therefore it's not reasonable to ask them to take

below-market interest and a 2 percent fee.

I would also note that TDHCA charges a 4 percent commitment fee for its tax credits. So there's some consistency there in making that a reasonable number for these unit-of-local-government loans. Thank you.

MR. OXER: Good. Good timing.

Any questions.

(No audible response.)

MR. OXER: Diana, good morning.

MS. MCIVER: Good morning. Diana McIver, DMA Development. I would like to speak to just a couple of issues. One is very near and dear to my heart, because I've been working with staff on it.

I have to admit the irony of -- I really thought we could work out something on high-opportunity with growth, and what irony that the state grew so fast we created all those census tracts, so now we don't have the data for growth.

I would like to commit to figuring this out in the coming year, because I think that high-opportunity is really valuable category for the state to incentivize.

The difficulty with it right now -- and you will be maybe surprised, maybe not so surprised -- but Walter Moreau and John Henneberger and I are all on the same page that the current definition --

(Laughter.)

MS. MCIVER: See, they are surprised -- that the current definition of high-opportunity is really not necessarily high opportunity.

For example, those of us that live in Austin consider Miller Airport redevelopment high-opportunity, a fabulous place to live. It doesn't qualify, under the definition. So we really do need to work on this over the coming year.

One fix for this year, since you have the four categories, would be to allow someone to simply qualify in three of the four categories, instead of forcing them to have the area median income and the low poverty, plus one of either closer transportation or good schools.

So if we could do three of the four, I think you would at least go a step further towards allowing some areas to compete and qualify that wouldn't otherwise.

The other thing -- and you've heard it ad nauseam today -- but really, truly, when it gets to the points part of high-opportunity, I believe it is very bad public policy statement for us to say that the seniors in our country -- those veterans, those who have fought in our wars, those who have lived through the depression, the really backbone of our society -- is not worthy of living in a good

neighborhood.

And when you treat it in cost and other areas, if you want to encourage family housing, that's fine. But when you get to a category of living in good neighborhoods, you really need to treat seniors and families alike. Thank you.

MR. OXER: Good. Thank you.

MS. BAST: Questions?

MR. OXER: Any questions?

(No audible response.)

MR. OXER: I believe we hear you.

Good morning, Sarah.

MS. ANDRE: Good morning. Sarah Andre.

I -- just everything she said. That'll be my comment.

(Laughter.)

MR. OXER: And then some. Right?

MS. ANDRE: Yes. And then I'm done.

No. Actually, I'm here to speak about Item 50.2, which is the definition of a central business district. And I've read through the comments that have been made throughout this process. I've read staff's response, and I've heard staff's response today.

And I think, when you look at central business district in the vacuum of the boost, the logic and the

definition make sense. You're rewarding projects -- or not even rewarding projects, but evening the playing field for projects that are in these expensive metro areas.

Downtown Dallas, we've seen some incredibly expensive projects. And those could go in any of our metro-area central business district. And we've cited things like height and the wrap-around garage and the parking and all those things.

But then when you get to Item 16 in the selection criteria and you can get four points for being in a central business district, defining it as a city of 50,000 or above with a ten-story building just doesn't make sense.

There are so many wonderful communities in Texas that have central business districts that just can't meet those criteria, some of which -- you know, I'll name a few.

Kerrville, frankly, even though that's a -- you know, maybe a rural community, it's got a central area, and it would be a high-opportunity area. It would be a great place for anyone to live, because of your proximity, your closeness to services, to employment, transportation, all those things.

Galveston is a city that can't meet this. They're 45,000 or 47,000, something like that. They're just right under that. And they, you know, have got to rebuild after all the storms that have come through, and they can't meet

this. So they lose out on those points.

And, you know, I believe we heard today from someone in Round Rock, and Round Rock certainly has a central business district that it's trying to encourage, but it doesn't have a ten-story building, because that's out of character for that community.

So I think that definition has got to be tweaked, or we will lose a lot of opportunities. That's it.

MR. OXER: Thanks.

Any thoughts?

(No audible response.)

MR. OXER: Okay. Ms. Sanchez?

MS. SANCHEZ: Hi, good morning.

MR. OXER: And let me ask -- hold on just a second.

Jim Shaw?

MR. SHAW: Mr. Chairman, I'll pass.

MR. OXER: Okay. Did you cede your time or just -- choose not to?

MR. SHAW: Cynthia Bast covered my comments.

MR. OXER: Thank you for that.

All right. Ms. Sanchez?

MS. SANCHEZ: Thank you. I had two items to speak with you about, and one of them has already been covered very eloquently many times this morning. So I'll just say

that -- I'm sorry. Christina Sanchez, and I'm with National Church Residences, by the way.

I just want to go on record as supporting the previous speakers regarding the differential in points for elderly and non-elderly developments that are in the high-opportunity area.

I had a whole bunch of reasons to give you about why we think that would not be a great idea, but I think they've all been given to you in one way or the other. So if you'll just make sure we're on record for supporting an even playing field on that, I'd appreciate it.

The second item I wanted to talk to you about, I think, has been brought to your attention once before, in the written comments that you may have received, and that has to do with the definition of supportive housing.

Our organization has a track record of developing some very successful permanent supportive housing across the country and have received national recognition for developing these types of facilities.

So we wanted to encourage you to strongly look at the definition of supportive housing and change it to include services that they would be able to receive on -- either on-site or off-site services that are health-related and other types of services that would help

foster the opportunity for successful independent living by the people that reside there.

I think that staff mentioned in the written comments that they had crafted this definition to support previous applications and also concern about violation of an IRS rule with respect to providing continuous-type medical or behavioral-type support services.

And while I don't want to take up time to speak to that specifically today, I can tell you that we're doing it quite well by partnering with other people. It's not so much that we're providing the services directly; we are partnering with others.

And I think a lot of other states have a recognized division for this and why those services are so important.

And I would just ask that you consider looking at this, so that we can perhaps move forward -- the people that reside in these communities.

MR. OXER: Good. Thank you.

MS. SANCHEZ: Thank you.

MR. OXER: Any comments?

(No audible response.)

MR. OXER: Okay. Last three: John Henneberger -- John -- and then Stuart Shaw and Walter -- you'll be the -- Mr. Henneberger, good morning

again.

MR. HENNEBERGER: Good morning again. My name is John Henneberger, with the Texas Low-Income Housing Information Service.

I'm here to offer a different view on this issue of the elderly high-opportunity points. I have great respect for the people who have spoken before me and the work that they do. They're some of the best developers in the state.

But this gets down to a fundamental question about the problem we face with the QAP, and that is that, in essence, everybody wants every point. And it's increasingly important that everybody gets every point, in order to be able to get their deal funded.

High-opportunity areas speak to the question of quality schools. This has nothing -- elementary schools, junior high schools -- this has nothing to do with the appropriateness of the site for elderly housing. Nothing.

Do elderly people deserve to live in high-opportunity areas? Do veterans deserve to live in high-opportunity areas? Absolutely. And we need a criteria that encourages all of our developments to be located in high-opportunity areas, where possible.

But we've brought before this board, repeatedly over the course of the last year, studies from the University

of Texas and others which have shown that the market is getting skewed toward segregated elderly units -- 100 percent elderly units -- not integrated intergenerational housing, but 100 percent elderly units -- in some markets.

In other markets, they're completely under-served. You know, I sympathize again with the people who say, Don't penalize us.

But at the same time, I look at this as don't penalize people who are willing to do what is the hardest thing in affordable housing to do today, which is to bring a family intergenerational development for elderly and non-elderly people into a community of high opportunity, where the neighbors are going to oppose it because of NIMBYism where there's going to be fierce pressure on everybody not to do that deal.

And in essence this initiative is an attempt to put two points toward trying to do what is the hardest development deal to do and, I would argue, one of the most critically important deals to do.

I'm not arguing to shut down 100 percent elderly units. I am arguing that, as a policy matter, this board needs to look at the question of what it's producing, needs to look overall at the skewing in some markets toward doing elderly units, because they're basically easier and more

financially viable to do.

And I don't -- this may not be the way to do it. Maybe these points are just too problematic or whatever. But at some point we have to get to that issue.

And one final thing is, you know, I do want to say that -- like everyone else, I'm in awe of what your staff does. It's remarkable. I wish they had been able to do a few more things on the consumer thing, like small-unit developments and some other things as well.

But I am very grateful for the progress that's been made this year. It's a better QAP than it was last year. Thank you.

MR. OXER: Thanks very much for that. We're getting there. Okay.

Mr. Shaw?

MR. SHAW: Stuart Shaw of Bonner Carrington. I live in Austin, Texas. I wanted to speak to the tie-breaker on ties.

I think we're going to have a lot of ties this year. I think we're going to have a whole lot of ties. We had ties last year. And it seems to me that the scoring comes down to about one point sometimes.

And so I'm afraid we're going to have five ties, at various levels -- eight ties, four ties. I'm not in favor

of dumbing down our developments by, you know, something that says, well, whoever has the least amount of tax credits per unit.

I've never tried to spread them, but we're trying to do sustainable communities that are going to stand the test of time, and aren't going to be somebody's ministry in five -- in 15 years. They're actually going to still be in good shape. That's what we're trying to do.

And I don't know what the answer is. But I don't -- I take it that nobody likes the affordable housing needs score, where we went into communities that didn't have other -- didn't have, you know, a certain amount of affordable housing.

I liked it. It's a great tie-breaker, because if you look at the list of all the communities in the state of Texas, you know, there are various ratings, and encourage us to go where we haven't gone before.

And so I liked the needs score. I wish we had that. I think it would be a great answer. There may be other good answers. I don't like the answers we have right now to breaking ties. I think it dumbs us down. But I like affordable housing needs score; I'm going to submit that to you.

On the local government funding, I'm not sure what

the legislative intent was, but every legislator and representative we talked to -- and we always get support -- but every one of them we talked to says, You know what I want to see? I want to see that city council support you.

It's a no-ticky, no-washy deal. No support from the city council, I'm not going to support you. Same constituents.

And so was it funding from cities that don't have the money, just like the state doesn't have the money? Is that what we're supposed to be getting? We're not. They're not going to be able to give it to us. They can't; they almost never can.

Or is it really their moral support? And I would just submit to you that it's their moral support that -- again, I challenge you to go back and look at the -- what the legislative intent was, and I hope that the legislature will rewrite that, because everyone I talk to, they're not asking us to go get money from somebody who doesn't have it.

They're asking us does that community support you as a developer, as a sponsor, and does it support this development? And if it doesn't, I'm not going to support it. That's what they tell us.

And then, finally, in the high-opportunity areas,

I'm just asking you not to -- let's let the market determine this. Don't penalize seniors.

I would just submit, in our own business, we try to keep the KISS principle. In government, I know, we've got all these unintended consequences of layer after layer, year after year, ad nauseam, of, you know, QAP language. I wish we could start over and make every one of these things be defended.

I don't think that our legislated ideas about -- or our QAP ideas about intergenerational particularly work well; I'll be glad to show you all what we've done. I do think seniors do work well, and I hope you won't penalize senior deals in high-opportunity areas. And I like going into high-opportunity areas. Thank you.

MR. OXER: Good. Thank you.

Any questions?

(No audible response.)

MR. OXER: Walter, good morning.

MR. MOREAU: Walter Moreau, the director of foundation communities. I didn't plan to speak because I thought the -- I believe the staff have done an excellent job.

I just wanted to be on the record on two points, that I like the seven points for leveraging. I think there's

opportunities for developers to get those points. All the points are carefully calibrated to meet the statute on how many can go into each category.

Likewise, I think the incentives for CBD downtown deals really are for real big-city downtowns, and if you open up that definition to more and more cities, then that -- those incentives get diluted. Thanks.

MR. OXER: Good. Thank you.

Okay. Any questions from the board?

(No audible response.)

MR. CONINE: Can we --

MR. OXER: Yes, soon. His stomach is growling over there, I can tell. So -- okay. We're going to take a lunch break, because we're going into executive session for some things.

This is going to give you some time to prepare some response, Cameron.

MR. DORSEY: Oh, I've got it.

MR. OXER: I figured you did.

(Laughter.)

MR. OXER: You're back over there cocking and loading, and I can tell. But we're going to executive session. We'll be back -- let's get back here -- it always takes us a few extra minutes, so make it at 1:30.

(Whereupon, at 12:05 p.m., the meeting was adjourned, to reconvene this same day, Thursday, November 10, 2011, at 1:30 p.m.)

MR. OXER: All right. Welcome back. We're within a couple of minutes, so -- okay. We continue on --

MR. IRVINE: At 1:30, the board concluded its executive session and resumed in open session at 1:33. No action was taken in executive session.

MR. OXER: Correct. Since we pulled 4(u) off of the agenda, to be considered here --

VOICE: 1(u).

MR. OXER: 1(u) -- sorry -- we need to reconsider that now. Okay. In that case, entertain a motion?

MR. KEIG: I move to adopt staff's recommendation on 1(u).

MR. OXER: Motion by Mr. Keig to adopt staff recommendation.

MS. BINGHAM: Second.

MR. OXER: Second by Ms. Bingham. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

MR. CONINE: Aye.

MR. OXER: One opposed, Mr. Conine, being the contrary type, which is all right. We like to see things

opposed occasionally. So motion carries.

All right. Continuing on Item 4(b), we've had commentary, so, Cameron?

MR. DORSEY: Well, I can do this a couple of different ways. You guys can start firing stuff my way, or I can kind run down each issue one by one, or I can just kind of hit some of the high notes.

MR. OXER: Do it one on one with the ones that were brought up by the speakers.

MR. DORSEY: Okay. I'm going to try not to leave anyone out. I apologize if I do. There were -- that was a lot of stuff. So --

(Laughter.)

MR. OXER: You noticed that, too, huh?

MR. DORSEY: We heard about the point item. We removed the point item for smaller deals; it was 36 units or under.

The reason for the removal was really more related to, you know, just kind of stripping out some of the point items that we didn't feel had a specific, you know, kind of statutory requirement or policy direction behind them.

And this particular one, you know, we didn't see the need to incentivize one size of deal versus another size of deal. You know, 36-unit deals are definitely hard to do,

but I don't know that that, in and of itself, necessitates an additional incentive to do them.

You know, last year the only deal that REA recommended not moving forward with was a 36-unit deal. They're very difficult to do, but I don't know that that's a reason to incentivize them.

On the rehab costs --

MR. IRVINE: Excuse me. Before you move off of 36, started to say, it would probably be better if we just discussed them as he went through them. It seems to me that --

MR. OXER: Yes, let's do that.

MR. IRVINE: -- if there is an incentive, the incentive is to make rural smaller deals more competitive. So --

(Pause.)

MR. DORSEY: Anything else on that? Okay.

MR. OXER: Anything else, Kent?

MR. CONINE: No.

MR. DORSEY: Okay.

MR. OXER: Okay. I think there were a consensus there.

MR. DORSEY: Okay. We had several folks comment various aspects of the rehab thresholds. You know, we had moved it from 15,000 up to 25,000.

The reason behind that was really just historically, you know, we have a big portfolio. We have a lot of rehab deals. We see the level of rehab being done, and we had some serious concerns about some of the rehabs we were seeing.

We do require property condition assessments, but those have value to a certain point, and then, you know, it's really difficult to verify, just based on those, whether sufficient rehab is being done. We've kind of stretched the purpose of those beyond their kind of original purpose.

The idea of excluding bond deals -- we just didn't see necessarily a need to do it. I think what Mr. Conine said, you know, kind of made sense to us: If we're doing deals and we've got a limited resource, let's hit the ones that really, really need it.

If you all were so inclined, you know, I would -- if you wanted to have kind of a carve-out for bond deals, I would suggest, you know, that it's 4 percent deals and that are less than 20 years old, because a lot of bond deals are ones that create an issue.

We see a lot of bond deals that are Section 8 rehabs. There is not a market incentive in a lot of cases to go and do a really, really high-quality rehab. So -- any other questions on that?

(No audible response.)

MR. DORSEY: Okay. Moving on, the readiness to proceed -- this one was -- we built in --

MR. OXER: Cameron, hold on a second.

MR. DORSEY: Yes.

MR. OXER: Pardon me, but --

MR. DORSEY: Sure.

MR. OXER: So your staff recommendation is to move that from 15- to 25,000.

MR. DORSEY: Staff recommendation would be to stick where we're at, but if you guys were so inclined to want to make that kind of exception for those types of deals, I would -- I gave you some kind of language to consider.

VOICE: But that is 25-.

MR. OXER: I got it jotted down.

VOICE: It is 25-.

MR. DORSEY: It is 25-. Correct.

MR. OXER: I got it. Okay.

MS. BINGHAM: Mr. Chair, can I ask, too, would it be possible, as Cameron's going through them, that if he, after review, would change -- like if staff is supportive of their original recommendation, that he go ahead and say that as we're going through them one by one?

MR. OXER: I would hope that you'd do that anyway.

MR. DORSEY: Okay.

MS. BINGHAM: Thank you. I probably just wasn't listening.

MR. DORSEY: So on those first two, we would recommend staying where we're at, but if you're so inclined, I gave you some alternatives.

On the readiness to proceed, this is a scoring item that where if you do some addition due diligence -- you know, you've already contracted with, you know, your engineering firms and et cetera -- then you get some additional points for that.

One component of that is if you've submitted an application in a prior year, you get an additional point, and if you submitted an application in two prior years and you haven't gotten an award, then you get two points for that.

MR. OXER: Is that for the same project? Is that --

MR. DORSEY: For the same project -- that's right. We have some criteria in there -- effectively the same project.

And the -- that section had a maximum score. And previously, in our prior recommendation from October, you could only get the maximum score if you had done a deal -- or had submitted that application in a prior year.

And we have modified that so that you can actually get the max score if you haven't submitted an application in a prior year, but you have to have done some other stuff.

And, basically, the concept is, you know, you don't have to have submitted an application in a prior year to have done some additional due diligence that warrants, you know, additional consideration.

MR. OXER: But you did the things that got you to be shovel-ready when you got the award.

MR. DORSEY: That's the idea.

MR. OXER: Okay.

MR. DORSEY: Let's see. On the below-market rate, this is a tough one, on the leveraging of private, state, and federal resources.

This is a pretty new item, and, you know, there's an incentive for, you know, your primary financing that has an interest rate that's at least 150 basis points below market.

And it's, as it's conceived now, we would rely on the lender to effectively get comfortable enough to certify that that's -- that the interest rate they're providing is, in fact, 150 basis points below market.

I think there's a little bit of distress out there about that, and I understand that. You know, in talking with some of the lenders over lunch -- or during the lunch break,

it sounded like, you know, what -- at least some of the conventional lenders -- they would prefer the concept of, in a high-interest-rate market, being able to get a better rate, rather than, you know, in a market where we're already -- you know --

MR. OXER: If you're effectively at zero, they'd have to be paying you to take the money. Right?

(Laughter.)

MR. DORSEY: Right.

MR. CONINE: None of them are at zero, I promise.

(Laughter.)

MR. DORSEY: Right. So that was something that they put out there, you know, I think to kind of address that issue. You could do something where you left it to the department to publish a rate that we were going to use as a benchmark on a certain -- you know, before the cycle started, or you could do something like that. It's going to be a tough item any way you go.

MR. CONINE: Did they -- is it the 150 basis points that's giving them gas?

MR. OXER: Is it a fixed amount over it could be a percentage below the market?

MR. DORSEY: No. Well, I mean, a conventional lender provides the market rate. I mean, that's what it is.

In order to get it below market, it -- you know, I think it's -- I think they're kind of distressed about the whole idea of what that is.

And especially, you know, if the rate's 7 percent right now and that's what they can give, then that's market.

They can't -- there's no way they can get down to five-and-a-half. We could go to 50 basis points instead of 150 or --

MR. CONINE: We could get the prices off of -- I mean, Fannie Mae has products and Freddie Mac has products for affordable financing all day long that they're published every day.

I mean, it -- you can get as sophisticated as you want to, or you can get as loose, which is -- we left it kind of loose. And I still have a little bit of gas, because you guys talked me into 150 versus 100 basis points. So, you know, I could easily see going to 100, if that makes them -- if that creates a comfort --

MR. OXER: What they're saying is, essentially, that it's hard to get the 150 below market.

MR. DORSEY: What's that? I'm sorry.

MR. OXER: What they were saying is it's hard to get that much below market at this point.

MR. DORSEY: That's one element of it, along with

a concern about just -- yes -- in this particular market.

MR. CONINE: And the 150 basis points on the debt saves a -- creates additional leverage. It saves a ton of credits.

MR. DORSEY: Right.

MR. CONINE: I mean, that -- and that's what we were after.

MR. DORSEY: Sure.

MR. CONINE: One hundred would just be less of that, but if it gives the lending community a -- you know, again, as Cameron said, this is our first rattle at this, to try to figure something out.

If the 100 makes it a little more palatable, then I certainly could go along with that and see how it goes the first couple of years.

MR. OXER: Through this round -- this --

MR. CONINE: Yes. And you can always modify it next time around.

MR. OXER: Yes. That's one of the things about this. I expect to be doing it again this year -- next year.

MR. DORSEY: Okay. All right. So I've got here what Mr. Conine --

MR. OXER: So are you suggesting, Kent, that we take it to 100?

MR. CONINE: I probably will when I make a motion here in a few minutes.

MR. DORSEY: Okay.

MR. OXER: Well, we're going -- rather than bulk all this, we're only going to look at it one at a time, so we can make sure it's --

MR. CONINE: Well, we have to --

VOICE: Well, we'll have --

MR. CONINE: We'll have to make a motion to recommend what staff has given us.

MR. OXER: Right.

MR. CONINE: So I'm just making a list.

MR. DORSEY: I'd guess Tim and I are making bullets, so we can --

MR. OXER: I hope so.

MR. CONINE: I'm making a list. Go ahead.

MR. OXER: Checking it twice?

MR. CONINE: No.

(Laughter.)

MR. DORSEY: So one of the -- the next comment I have on my paper here is moving from 150 percent of what is available in a subregion as the max award amount to what TAP's recommendation was, which is, if you're in a subregion that has a million or less than that, that the max credit

request and award would be a million, rather than doing the 150 percent.

You know, it's one of those things where we've only got so much available within a region. I think the idea of moving to a million is really that if you're in a region where you've got \$500,000, then a million is more than 750,000, and they'd like that.

If -- you know, I think we could go either direction. It's, you know --

MR. OXER: Is there a compelling argument in either direction?

MR. DORSEY: Not particularly. I mean, I think we need to move in that direction of where not everyone can be requesting \$2 million whenever there's not even remotely close to that within that subregion. This gets us partway there. We'll see how it works. We could, you know, look at it again later.

MR. OXER: What do we do -- let me -- on the areas where's there's -- even if there is this 50 percent bump or a fixed million, and there is an application that requests more than is available in the entire region?

MR. DORSEY: If an application -- if the highest-scoring application in a subregion requests, say, \$1 million, and there's only \$500,000 available, they would

probably be one of the first-in-line subregions to win in the statewide collapse --

MR. OXER: Statewide collapse.

MR. DORSEY: -- or rural collapse, as it may be, because they would be effectively 100 percent underfunded, going into that collapse. So there's kind of a strategy there on the part of applicants, you know, playing that game.

MR. KEIG: I need some clarification.

MR. DORSEY: Sure.

MR. KEIG: Are you saying to stick with the 150 percent or go to the million?

MR. DORSEY: I'm saying that I don't have a -- I mean, either one gets us to where we want to go. It seems to me that 150 percent makes the most sense, just because it's a function of what's available in this subregion, and it's clearly connected to that funding amount.

MR. KEIG: And, of course, I think that 150 is too much.

MR. DORSEY: Right.

MR. KEIG: I like the 120, but that's my comment.

MR. DORSEY: Being able to request double what -- there will be quite a few subregions that are probably very close to or right at \$500,000 in available money in that subregion this coming year.

So going to a million enables -- will probably enable in quite a few places double what's available in that subregion. So --

MR. OXER: But when they do so, because on -- the preliminary distribution on the allocation formula, it puts somebody over here -- whatever everybody else has. The one region has \$400,000, \$500,000, and even if you bump it up, that means the difference that you bump it, even though the original allocation had 500-, it comes from one of the other regions.

MR. DORSEY: Definitely.

MR. OXER: Okay.

MR. CONINE: Robin Hood.

MR. OXER: Sir?

MR. CONINE: Robin Hood.

MR. OXER: Yes.

(Laughter.)

MR. OXER: As long as I don't get the arrow in our back. Right?

All right. Does anybody else have any comments or any thoughts on the percentage as opposed to 150 versus --

MR. KEIG: It's just I'm going to vote down, if there's a motion that goes to the million.

MR. OXER: I'll put you down for a no, then. Okay?

(Laughter.)

MR. DORSEY: All right. On the local funding under the unit of local government item, we had several people talk about the term "headquarters."

I think headquarters is probably the most definite way to make sure that what we're trying to achieve, which is someone's not going across the state -- I think this is probably the most definite way to achieve it.

However, I think Ms. Bast mentioned the terminology "statutory jurisdiction." And I think if we swap to statutory jurisdiction, that would make a lot of sense, and I'm -- I think, in chatting with Tim and Tom, we could make that part of our motion, staff recommendation.

MR. KEIG: Is that going to be statutory jurisdiction or some other form of --

MR. DORSEY: Statutory jurisdiction.

MR. KEIG: But Texas --

VOICE: Well, I heard a term multiple jurisdiction. I heard somebody --

MR. KEIG: Well, I heard that, too.

MR. DORSEY: There is -- state statute defines how these housing finance corporations, for example, get created and how they can define their jurisdiction. And it requires them to get a resolution from the local government

in order to add that county or what-have-you to their jurisdiction.

So I think, when we talk about statutory jurisdiction, it's specifically referencing the fact that there is a statutory process for defining your jurisdiction.

MR. IRVINE: The statute does not specify what the jurisdiction is; it specifies the mechanism for defining a jurisdiction.

MR. DORSEY: Right. That's right.

MR. IRVINE: And what we're really saying, I guess, Ms. Bast, we're talking about your jurisdiction as defined in accordance with the statute.

MR. DORSEY: Right.

MR. OXER: Good on that. Next? Keep going.

MR. DORSEY: I'm writing what Tim said down.

MS. BINGHAM: Cameron, while you're doing that, so going to that, is that going to require additional work, like is that something that has to be verified or -- I mean, was the issue that it's -- that headquarters was a little vague or nebulous and that statutory jurisdiction is going to be clear?

MR. DORSEY: I'm not concerned from a process issue.

MS. BINGHAM: Okay.

MR. DORSEY: So --

MS. BINGHAM: That's fine.

MR. OXER: So when they make an application for this, to say that they're within the statutory jurisdiction of this entity, it's their obligation to demonstrate it to you, not for you to back-check on them.

MR. DORSEY: We --

MR. OXER: Do both?

MR. DORSEY: That's right. That -- I mean, that would be the case. It depends on what direction we want to go. We're probably going to end up getting a letter from that lending entity or the entity providing the funding, and -- you know, so they would effectively be certifying to, Yes, this development is within our jurisdiction.

MR. IRVINE: Actually, that's a point I wouldn't mind clarifying, because there are a number of things where we really do rely on local certifications, and I don't want to be in the business of verifying the underlying issues behind those local certifications, and I don't want to have challenge issues based on those underlying issues.

A certification on its face, unless I've got reason to believe it's just flat-out fraudulent, I want to be able to rely on it -- trust people.

MR. OXER: The first time.

MR. CONINE: Do you want to talk about the fee issue now, or are you going to wait till later?

MR. DORSEY: We can talk about the fee issue right now. The 2 percent, you know, origination and other lender fees is what the max is right now. The argument was effectively, you know, because they're providing a below-market-rate loan, they need to charge more fees up front.

I mean, we want a below-market-rate loan just front-loading some fees to -- I mean, it's -- you know, that kind of defeats the whole purpose. The purpose is --

MR. OXER: It's adding points to the loan.

MR. DORSEY: -- to have the support of local government, not for -- to provide them a mechanism to make money.

MR. CONINE: Okay. And then the way it's written, clarify for me exactly, once again, how it's written now. The --

MR. DORSEY: It says --

MR. CONINE: -- total of the construction loan, permanent loan, and any third-party loans has to be 2 percent or --

MR. DORSEY: No.

MR. CONINE: Okay.

MR. DORSEY: It doesn't say that. It says that the funding -- if the funding is provided in the form of a loan under the point item for having local funding, that -- the original fee associated with that funding cannot be more than 2 percent of that loan amount.

MR. CONINE: Okay. That's what I thought we had intended --

MR. DORSEY: Yes.

MR. CONINE: -- when we put that in there.

MR. DORSEY: Yes.

MR. CONINE: Okay. All right. Thank you.

MR. IRVINE: And that's true origination fee exclusive of actual out-of-pocket costs, or is it an all-inclusive?

MR. DORSEY: I believe the language says --

MR. CONINE: No. It's just origination.

MR. DORSEY: -- including other --

MR. IRVINE: It's just the original fee. I mean, like if there are other customary costs that get passed on --

MR. CONINE: It doesn't pay for the shysty lawyers.

MR. IRVINE: Yes. That's where I was going.

MR. DORSEY: I think it says other substantially similar lender fees. And I think the idea was there you can't

just call the same fee something else. But, yes, it is effectively origination fees.

MR. IRVINE: Fees origination costs.

MR. CONINE: Right.

MR. DORSEY: High-opportunity area -- so, you know, the vast majority of the comment on this item was with regard to the scoring item that allows you to get points for being located in a high-opportunity area.

And as drafted, it would allow you to get four points if you are non-elderly or two points if you are elderly.

I think, you know, the reason we put this in there is to kind of acknowledge the reality and the difficulty of doing a family deal in a lot of areas of the state.

And we're not trying in any way to discriminate against elderly. The point is that a general population deal gets to serve everyone, and so a development that is able to serve everyone and that is located in a high-opportunity area and that's more difficult to get located there, it makes sense to incentivize them a little bit more.

You guys definitely heard a lot of pretty overwhelming concern with that item. I think, from the staff recommendation standpoint, it -- you know, I think sticking with what we've got makes a lot of sense. But if you all would like to make a motion to change that, you certainly

can.

MR. CONINE: Do you have any thoughts about lowering the points from -- instead of saying two and four, maybe it's one and three, how that affects the other points in the --

MR. DORSEY: We could certainly do that. There are several point items in this scoring item. Central business district gets you four points -- for being located in a central business district.

This particular one, high-opportunity area, gets you either four or two. And then there are a couple more that get you one point, that we wanted to not have as incentivized as high-opportunity area and central business district.

MR. OXER: Okay. And for purposes of capturing on the record, can you define high-opportunity area?

MR. DORSEY: Yes.

MR. OXER: Just read that into the record. We're trying to get points to get there; we need to know where we're going.

MR. DORSEY: "A development that is proposed to be located in an area that includes, at a minimum, subparagraphs (a) and (b) of this paragraph along with either subparagraph (c), (d), or (e)."

So you have to have -- I'm going to --

MR. OXER: Paraphrase.

MR. DORSEY: -- help you, because -- you have to have both of the items I'm about to say: in a census tract which has a median income that is above median for that county, as designated in the Housing Tax Credit State Demographic Characteristics report for the current application round, as of the day of the application-acceptance period; and -- this is the second one you have to have -- in a census tract that has a 15 percent or less poverty rate, as designated in the Housing -- you know, State Demographics blah, blah, blah, or for Regions 11 and 13, with a 35 percent or less poverty rate.

And then of the next ones, you have to have just one of these, in addition to those two that I just stated:

Within a half mile of an accessible transit stop for public transportation, if such transportation is available in the municipality or county in which the development is located; or an elementary school attendance zone that has an academic rating, as of the beginning of the application-acceptance period, of exemplary or recognized, or comparable rating if the rating system changes, by the same date, et cetera.

E was actually deleted, so --

MR. IRVINE: It was the growth one.

MR. DORSEY: It was the growth one.

MR. OXER: Okay.

MR. DORSEY: So we would suggest going with staff's recommendation, but you all can certainly go the other direction.

MR. OXER: Okay.

MR. DORSEY: On the second tie-breaker, go back to net rentable area. I talked a little bit about this briefly when it came up. I do think I should clarify what I said, though.

If you're in a census tract where there is no other development, then clearly -- and there are two deals in census tracts with no other developments -- then it could be pretty easy to end up going to the second tie-breaker, you know.

I left that out of my thinking when I spoke the first time around. So in those cases, you would end up going to the second tie-breaker, and the unit's per-bedroom could matter.

I already talked about the units per bedroom issue.

I would suggest going with staff's recommendation, not changing what staff's recommendation is.

MR. OXER: What was the --

MR. CONINE: Of course you would.

(Laughter.)

MR. OXER: Yes. What was it? I --

MS. BINGHAM: Rentable square feet, I think. And then --

MR. CONINE: Yes. Mine was do one-and-a-half per --

MR. OXER: Per bedroom.

MR. CONINE: -- people per bedroom, and do it on a per-people basis.

MR. OXER: All right. Does that level this out?

MR. CONINE: Which is another, you know, level down.

MR. DORSEY: Let me just mention to that: That sounds like a fine idea, but for efficiencies or SROs -- just one person, because obviously there's no bedroom.

MR. CONINE: You're saying a married couple can't live in an SRO?

MR. DORSEY: Well, I mean, if you want to do 1.5 on that, that'd be fine, too. But you would need to come up with something for that, because there is the bedroom --

MR. CONINE: No. I think a 1.5 -- I think I read in here that the SRO and one-bedroom would be the same -- would be counted like the same, in the bedroom definition.

MR. DORSEY: That's right. Well, in other areas, they're treated the same.

MR. CONINE: So my assumption would be a one-and-a-half per bedroom, that would be one-and-a-half for an SRO.

MR. OXER: So an SRO would get a 1.5.

MR. DORSEY: Okay. If that's included in your motion, I'll understand it now.

MR. CONINE: Most people living in an SRO are going to have somebody in there half the time anyway.

(Laughter.)

MR. OXER: Cameron, please, continue and get us out of this we're in.

(Laughter.)

MR. OXER: Interesting crowd he's been running with recently, so --

(Laughter.)

MR. DORSEY: On the zoning issue, you know we heard, in areas where there is no zoning, there's a requirement for a letter that states that there is no zoning. And then there's an additional piece on the end of that. Let's see. I've got it right in front of me --

MR. CONINE: Could you bracket Harris County like --

MR. IRVINE: It's basically -- yes, Harris --

MR. DORSEY: We could bracket Harris County, yes.

MR. IRVINE: Houston or Harris County, we want a letter that it's consistent with --

MR. CONINE: All right.

MR. DORSEY: And all -- all others, we would just require the no-zoning letter, and that's it.

MR. CONINE: In the nation of Harris County, yes, okay.

MR. OXER: Or People's Republic thereof --

MR. DORSEY: All right.

MR. KEIG: Are you about to move on?

MR. DORSEY: If you --

MR. KEIG: Well, I'll just ask the attorneys -- I mean, do we have to do something like they do in the statute if we're going to carve out Harris and Houston and do the population over X amount?

MR. PENDER: Jeff Pender, deputy general counsel.

I thought about that earlier, and I don't think it applies to rules. I've seen rules in many other agencies, TSAHC being one of them, where they actually discuss regions in the state.

We have rules that reference regions.

So I don't think it's necessary to really concern ourselves with whether or not we can point out Houston or Harris County.

MR. KEIG: It's clearer when you say the name of

the city or the county, isn't it?

MR. DORSEY: Yes.

MR. PENDER: Yes, as opposed to the city, you know, with 3 million people or whatever.

MR. DORSEY: I don't think --

MR. KEIG: When another city ends up getting bigger that does have zoning and goes over the amount, then it becomes an issue we'll have to go back and fix it later.

MR. PENDER: Right.

MR. OXER: Gee, I thought we were going to be finished with this, this time, you know.

MR. KEIG: That's all legal mumbo-jumbo, I think, you know, on my account.

MR. DORSEY: We heard about the sprinklers -- the fire sprinklers. The reason that's in there is it's a health and safety issue. A lot of times, there is no clear local building code that we could look to.

So, you know, staff felt that it made sense to require fire sprinklers in all units except those that are single-family.

MR. CONINE: I just had a meeting with the Frisco fire chief about a month ago, and he's going the opposite way. He's seen so many problems develop with fire sprinklers that he's certainly got second thoughts about the issue.

MR. OXER: Well, unless they're an industrial facility, where you can test the system on it. They don't get used often enough to test --

MR. CONINE: Maintenance and everything.

MR. OXER: -- in maintenance. Add to Mr. Bowling's point, it's the smoke detectors that protect the lives, and it's the sprinklers that protect the property.

MR. DORSEY: I can definitely say that I am not a fire-sprinkler expert, so --

(Laughter.)

MR. CONINE: We'll fix it when we get to it. Go ahead.

MR. DORSEY: All right. On -- going back, Mr. Bowling's comment with regard to the unit of general local government funding -- point item -- we have thresholds for the amount of funds per unit that allow you to access the points. And he mentioned the idea of limiting those to just the structural -- it's based on the low-income units only.

You know, the whole idea is that they support the development as a whole. We didn't see a need to carve out just low-income versus non-low-income units on this item.

We were looking for support of the development in whole. And, you know, the thresholds are -- there's no magic behind the thresholds for just looking for some

substantial funding based on --

MR. CONINE: But put yourself in his shoes for a minute, and you're talking to that mayor and you're going to ask him for the market-rate units?

MR. DORSEY: Well, I don't know that I would frame it like that. I would say I --

(Laughter.)

MR. CONINE: I wouldn't recommend it anyway. Most mayors are smarter than that, Cameron. Come on.

MR. DORSEY: Well, I mean, you know, I need \$500,000 to access the level of points I need to be competitive. But, you know, I understand -- I can understand the concern.

MR. CONINE: Okay.

(Laughter.)

MR. CONINE: Tom's over here, laughing at you, by the way. Go ahead.

(Laughter.)

MR. OXER: From here on out --

MR. DORSEY: He likes that he's not sitting here.

MR. GANN: That's right.

(Laughter.)

MR. OXER: From here on out, it's all going to be your fault, Cameron, instead of Tom's fault always, you

know.

MR. DORSEY: We heard another suggestion on the leveraging of state -- you know, federal or private resources, you know, moving it back down to just one point, based on the fact that it's a new item, and we're not sure, you know, how things are going to go.

It's a big amount of funding. We're asking people to do -- to go out there and, you know, work to get this stuff; it makes sense to me. You know, I get some of the concern behind it, but you've got to do some, you know, legwork to get this funding. So it makes sense to get points for it.

Any questions there?

MR. KEIG: No. I see some -- and it doesn't even necessarily need to go on the record. I see some people falling asleep out there, so --

(Laughter.)

MR. OXER: Stick with us, folks. You're going to be happy you did.

MR. DORSEY: Let's see.

MR. OXER: And for the record, for those of you who are going to sleep, like Walter said, we've got coffee. You guys can run down to the cafeteria. Okay?

MR. DORSEY: I talked a little about the central business district definition earlier, so I'll leave it at

that, unless you all have any other questions about that.

Supportive housing, we heard some comments about the definition there. You know, I think this definition has been worked on over an extended period of time with groups that have an interest in making sure this definition, you know, is substantive and makes sense.

I think we would recommend staying with what we've got here. It does not preclude any organization from providing, you know, services related to health or other things, provided that those meet Section 42 requirements. It just isn't specifically included as -- it's not specifically called out in the definition.

So the AHNS is a tie-breaker. You know, the AHNS score, the reason we removed it is because it -- you know, we really want to relook at it over the next year and build some meaning into it.

It seemed to, in some -- at times, the same areas always were incentivized. And I think, also, we -- the first tie-breaker option is the deconcentration tie-breaker. So, you know, it's -- the AHNS score is supposed to do something kind of similar, so it would be having two similar tie-breakers in a row.

That's all I've got. Let's see. The -- I think I need to go over to the QCP one. On the QCP one, I think

I conveyed some of the concerns with the statute earlier, but we've heard quite a bit of comment on the subject.

I think staff would be prepared to recommend moving from 16 to 18 and a reversion back to prior-year's language with regard to technical assistance.

MR. OXER: Okay.

MR. CONINE: Okay.

MR. OXER: Can you just repeat that? You will go 16 to 18 --

MR. DORSEY: When there is no neighborhood organization --

MR. OXER: Okay.

MR. IRVINE: And then not allowing for technical assistance, since it becomes irrelevant, if you get 18 points for no organization.

MR. OXER: Right. I think we're all okay on that. Is that it?

MR. DORSEY: That's it.

MR. OXER: Okay.

MR. DORSEY: Unless you guys had any other items that I missed that you wrote down or something.

MR. CONINE: Cameron, everybody pretty much dodged the discussion of the \$2 million cap going to \$3 million cap. Can you explain the benefits, you know, to the state

for, I guess, raising it to 3 million and reducing the potential awardees from 25 down to 16?

MR. DORSEY: The reason we increased it from 2 million was we felt that was -- those types of issues were embedded in the discussions that led to the statutory change.

And so that's the basic reason for the change from 2 million to 3 million.

MR. IRVINE: Well, I think it was also extensive comment in support of taking advantage of this legislated change.

And I think that a large factor behind the legislated change is, you know, while it's great to have it spread it around as much as possible, we did not want to foreclose the possibility that, you know, if developers are involved in a couple of deals, and those are truly the best and most competitive deals, that they could go forward and absorb more of that cap.

MR. OXER: We had considerable comment from legislators and the governor's office with regards to this, as I recall.

MR. DORSEY: Yes, I believe so.

MR. OXER: Okay. Any other comments?

MR. CONINE: I'm ready for the motion.

MR. OXER: You want to retool the pieces in there

to say what we did to each one of them?

MR. CONINE: Yes, I think so.

MR. OXER: Okay. Say it in --

MR. CONINE: I'll make a motion, Mr. Chairman, to get rid of the last QAP, and that's -- there's a particular number, I guess, associated with that.

MR. DORSEY: Yes. Chapter 50, it's the 2010 QAP.

MR. CONINE: Okay. Thank you. And approve the staff-recommended QAP in our book, with some of the following changes.

MR. OXER: Modifications.

MR. CONINE: Yes. The QCP going -- the points going to 18 instead of 16 and going back to the prior-year technical assistance language.

MR. DORSEY: Okay.

MR. CONINE: You got it?

MR. DORSEY: Got it.

MR. CONINE: I like the idea of the 4 percent bond -- using a 4 percent tax credits and bond cap on rehabbing deals, if we can get more of those. And I think going to a \$15,000 per unit, under those applications, would be sufficient on projects less than 25 years old. That way you pick up everything from 1990 pretty much forward.

MR. OXER: '96.

MR. CONINE: And leaving the 25 on the 9 percent program.

MR. OXER: Right.

MR. CONINE: Okay?

MR. OXER: Yes.

MR. CONINE: I think we ought to adjust the market interest rate -- below-market interest rate --

MR. OXER: To 100 points?

MR. CONINE: -- to 100 basis points --

MR. DORSEY: On the --

MR. CONINE: 150.

MR. DORSEY: Private, state, and federal?

MR. CONINE: Yes.

MR. DORSEY: Okay.

MR. CONINE: The service area for the third-party financing can go to the statutory jurisdiction language; let's try that and see how it works.

MR. DORSEY: Okay. I'm just going to read the language Tim stated: jurisdiction as defined in accordance with statute.

MR. CONINE: Yes. I think we ought to equalize the elderly and the family projects in the high-opportunity areas at four points. Again, if it ends up being skewed too much to the elderly, let's make the change after the fact,

not before the fact. Let's see how it goes.

MR. DORSEY: Okay.

MR. CONINE: If you look at our overall allotment from around the state, we did 36 applications, and only 13 of those were elderly in this last session. So I don't think we're too skewed to elderly at the present time.

MR. DORSEY: Okay.

MR. CONINE: I like the idea of the second tie-breaker going to one-and-a-half people per bedroom and doing it on the per-person basis.

MR. OXER: Yes.

MR. CONINE: The zoning language for Harris County, if you can just, you know, take care of them on their particular issue.

MR. DORSEY: Okay. So it'll just be the --

VOICE: Call off your --

MR. DORSEY: -- no-zoning letter for everyone, except Harris County has the additional language. (Perusing document.) Tom, do you have that language?

VOICE: Got it.

MR. OXER: We got it, Cameron.

MR. CONINE: The --

MR. OXER: I thought the language was good.

MR. CONINE: Eliminate the requirement for fire

sprinklers in the QAP. If the local code requires it, the local code requires it. If not, it's not.

MR. OXER: It's not a QAP evaluation point.

MR. DORSEY: Okay. So remove it altogether?

MR. CONINE: Remove it altogether.

MR. DORSEY: All right.

MR. CONINE: And the points on the third-party financing going toward the low-income on a per-unit basis instead of the whole project.

MR. DORSEY: Uh-huh.

MR. CONINE: That's all I had, Mr. Chairman.

MR. OXER: And on the 150 percent bump, I think we'd like to change it to 120 percent.

(Discussion.)

MR. CONINE: No. I think we want to keep it at 150.

(Discussion.)

MR. CONINE: No. Let's keep it at 150.

MR. OXER: Okay.

VOICE: Okay. So that's a motion; we need a second.

MR. OXER: All right. Hold on a second.

MR. CONINE: Oh, yes. That was the motion.

MR. OXER: Now, did that take into -- there was

no change to the readiness to proceed in what you had suggested in this, in terms of having done the legwork up front to get the points, rather than the application on the year before.

MR. DORSEY: I didn't recommend any change. And I didn't hear Mr. Conine --

MR. OXER: Right.

MR. DORSEY: -- speak to it.

MR. OXER: So -- all right. So motion by Mr. Conine, accept staff modifications as modified in his motion.

MR. KEIG: Second.

MR. OXER: Second by Mr. Keig. All in favor?

(A chorus of ayes.)

DR. MUNOZ: Discussion?

MR. OXER: Any discussion?

DR. MUNOZ: I have a question.

MR. DORSEY: Yes, sir.

DR. MUNOZ: Why -- given that often elderly projects are easier to sort of execute, why not a four-three point, four point non-elderly and three point elderly?

MR. CONINE: I don't know that I would agree with the supposition that elderly projects are easier to execute.

I mean, if you have multifamily zoning available to you, it becomes, you know, your decision whether or not you want to try to build a family project.

Obviously, the triangle is tons wider. You get more folks that have families that can rent from you than in the elderly population, which is -- gets pretty narrow at the top. So --

DR. MUNOZ: Yes. But when you start talking about low-income families, you know, the desirability and the receptivity of those projects often face a challenge that elderly projects will never have to confront.

MR. CONINE: And like I said, if it gets too skewed after the fact, you can see what kind of response you get and make changes in the following year QAP.

DR. MUNOZ: But for a year, I mean, there might be substantive disadvantage. You know, I don't -- I mean, the two points strike me as quite a bit.

But in order to just emphasize our awareness that non-elderly low-income projects often face specific greater challenges, why not have a differential that -- other than that parity at four-four.

MR. CONINE: That was just what -- that's kind of the way I see it. I look at them as essentially the same and until the development community proves that there is a disparity there, I don't think there's an -- you know, one reward -- one versus the other.

MR. KEIG: Mr. Chair, can I withdraw my second?

MR. OXER: You may.

MR. KEIG: Okay. I withdraw my second.

MR. OXER: Okay. It's a motion on the floor by Mr. Conine.

MR. GANN: I second it.

MR. OXER: Second by Mr. Gann. Is there any additional discussion? Would you like to make a comment, Mr. Keig?

MR. KEIG: Well, I think the doctor has some interesting points.

DR. MUNOZ: I'd offer, as a friendly amendment, I suppose -- I mean, to encourage your point of increasing the value but to distinguish a particular awareness of the challenges faced by low-income housing that's not specifically targeted to elderly, go from four-two to three-four.

MR. CONINE: Which one's getting three, and which one's getting four?

DR. MUNOZ: Non-elderly, four, and points for elderly, three.

MR. CONINE: I'll accept the friendly amendment.

MR. OXER: Okay. The -- all right. Let's see, for the recorder. Motion by Dr. Munoz to amend the motion by Mr. Conine to change the point scoring to three-four on

the elderly versus multifamily -- or --

DR. MUNOZ: It's elderly versus non-elderly.

MR. OXER: Elderly versus family -- okay. Second by?

MR. CONINE: Just a second.

MR. OXER: Second by -- well, no.

MR. KEIG: Actually, Mr. Gann seconded --

MR. OXER: No, he seconded the other one.

You second --

MR. KEIG: Second.

MR. OXER: Second by Mr. Keig. All in favor?

MR. GANN: Okay. I second --

MR. OXER: All in favor?

(A chorus of ayes.)

MR. OXER: Good. All opposed?

(No audible response.)

MR. OXER: Good. The amendment passes.

Now, with the original motion to accept staff recommendations with respect to the QAP, part 4(b) of the agenda, with modifications as added by Mr. Conine -- there's been motion by Mr. Conine and second by Mr. Gann. Is there any additional discussion? Dr. Munoz?

DR. MUNOZ: (No audible response.)

MR. OXER: You're satisfied.

Ms. Bingham?

MS. BINGHAM: Yes.

MR. OXER: Mr. Keig?

MR. KEIG: Yes.

MR. OXER: Mr. Gann?

MR. GANN: Yes.

MR. OXER: All in favor?

(A chorus of ayes.)

MR. OXER: All opposed?

(No audible response.)

MR. OXER: Thank you. It passes.

MR. CONINE: We're done.

MR. OXER: We finally got a QAP. All right,  
folks --

(Applause.)

MR. OXER: Now, if we can just get that response  
from the governor's office, we'll be more than happy.

(Laughter.)

MR. OXER: Well, let's see. We have more agenda  
here. So --

MR. DORSEY: All right. We've got -- Item 4(c)  
is presentation, discussion, and possible approval of  
repealing Chapter 33, which is the 2010 multifamily housing  
revenue bond rules, and adoption of the new Chapter 33, which

is the 2012-2013 multifamily housing revenue bond rules, for publication in the register.

Staff recommends approval, as presented in your board materials. There were no public comments received, and so there you go.

MR. CONINE: Move approval.

MR. GANN: Second.

MR. OXER: Okay. Motion to accept staff recommendation by --

MR. GANN: Mr. Conine and second by me.

MR. OXER: Second by Mr. -- okay. Any discussion?

(No audible response.)

MR. OXER: All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No audible response.)

MR. OXER: Motion carries.

MR. DORSEY: All right. One more for me?

MR. OXER: Yes.

MR. DORSEY: Item 4(d) is repeal of 10 TAC Chapter 1, Section 1.1 -- it's the definitions for housing program activities -- and adoption of a new Section 1.1, which is definitions and amenities for housing program activities.

Staff recommends approval, as presented in your board book. We did have a couple of changes in response to comment. One change was -- they were more clarifications than anything else -- one clarification to the definition of control and then a couple changes to the list of tenant services. Staff recommends approval as presented.

MR. OXER: Any conversation? Any discussion?

MR. CONINE: No public comment or anything?

MR. OXER: Let's see. Do we have anything on that one? I don't think we have anything on that one.

MR. CONINE: Are we done with those?

MR. OXER: Yes. We're finished with those. So no public comment.

MR. CONINE: Move approval.

MS. BINGHAM: Second.

MR. OXER: Okay. Motion by Mr. Conine to accept staff recommendation on Item 4(d); second by Ms. Bingham. Any conversation or any discussion?

(No audible response.)

MR. OXER: All in favor?

(A chorus of ayes.)

MR. OXER: All opposed?

(No audible response.)

MR. OXER: Motion carries. All right -- 4(e).

Brent?

MR. STEWART: Good afternoon. Brent Stewart, director of real estate analysis. This item is the presentation, discussion, and possible approval of final orderings adopting the repeal of 10 TAC Chapter 1, Sections 1.31 to 1.37, which are the 2011 REA rules, and adoption of new 10 TAC Chapter 1, Sections 1.31 to 1.37, the 2012 real estate analysis rules.

The only difference between this set of rules and the rules that you approved for publication at the September meeting is we added some clarification language as it relates to a phrase that's been used in the past, called direct construction costs.

The phrase was never defined. It was used in various places in the application materials and the QAP. So we've added some clarifying language that what we mean there is building costs, which are the costs related to vertical construction of the buildings, as opposed to some other interpretation of that term.

So that with that change, staff would recommend approval, as presented.

MR. OXER: Okay. We have public comment. Mr. Bowling?

MR. BOWLING: Mr. Chairman, I actually meant to

sign up to comment on the RAF, not the REA. And so that's Item 5(a). But since --

MR. OXER: You can go ahead.

MR. BOWLING: Since you called me up here, I just want to say that Brent Stewart's a great guy.

(Laughter.)

MR. OXER: Well, that should be easy. Okay. Any questions?

MR. CONINE: Move approval.

MR. OXER: Okay. Motion by Mr. Conine to approve staff recommendation.

MS. BINGHAM: Second.

MR. OXER: Second by Ms. Bingham. Any conversation, any discussion?

(No audible response.)

MR. OXER: All in favor?

(A chorus of ayes.)

MR. OXER: All opposed?

(No audible response.)

MR. OXER: Motion carries.

MR. STEWART: Thank you.

MR. OXER: Okay. Elizabeth?

MS. YEVICH: Good afternoon. Elizabeth Yevich, director of the housing resource center. And we are the

division which publishes the regional allocation formula, also known as the RAF or the R-A-F.

In response to public comment and several meetings and discussions we had with industry representatives, we have taken the following steps. And by we, I mean Tom Gouris and Cameron and I -- have worked, well, closely with the housing resource center to incorporate the suggested changes.

And they are as follows: We have removed revisions to the consideration of available housing resources section made at the October 4 board meeting; we've restored the housing tax credits to the resource section of the RAF; we have clarified in the consideration of the available housing resources section that both 4 percent and 9 percent credits are included, but that any forward commitments made from the 2012 ceiling would not be included as a resource in the 2012 RAF.

This will eliminate the confusion of possibly double-counting forward commitments as both an award and a resources during the same year.

We have also removed the funding adjustment cap of 5 percent and the adjustment limit. This will more accurately capture the resources allocated to each subregion.

Also due to public comment, we have clarified that a petition to change a development's application from the

urban to rural designation will apply only to the development's location and not to the entire area. This will aid in the consistency of the urban and rural designations.

And, finally, we have moved the adjustments for prior years' forward commitments for housing tax credits before the adjustment to the minimum subregional funding amounts. By taking the forward commitments before the adjustments, we account for the forward commitments in each subregion, but will ensure each subregion has the minimum of 500,000.

We are also committed to a series of round tables in the spring of 2012, regarding possible changes to the 2013 RAF. And we recommend approving the methodology as presented to date.

MR. OXER: I believe we have some public comment. Diana?

MS. MCIVER: Chair, board, Diana McIver, DMA Development. You've heard from me before on this issue. And I have to say that I have worked extremely closely with Tim and Elizabeth and Tom and Cameron on this issue, and I satisfied that they've got it right; believe it or not, I'm here admitting.

MR. OXER: Somebody mark this down on a calendar somewhere.

MS. MCIVER: And not only -- and it was done through removing the caps that Elizabeth just mentioned. I mean, I am such a doubting person that they actually -- I still thought Region 11 -- I don't even work Region 11.

I still thought Region 11 was just going to get the shaft under the way it was done this year, and they actually ran the math for me, and it really turns out within \$25,000. It is very, very close.

So we probably still have work to do in this coming year, but I have to say they really have nailed it. Congrats.

MR. OXER: We always appreciate good comments like this, so thank you, Diana.

(Discussion.)

MR. OXER: All right. Any questions from the board?

(No audible response.)

MR. OXER: Bobby, did you really want to --

MR. BOWLING: No. I just -- for the record, Bobby Bowling from El Paso. I agree with everything Diana said, and I really appreciate, as she expressed, that -- your staff working with us.

I spent -- I especially wore out Cameron and Tom Gouris on this for probably several hours over the last month, and I put some very specific comments, and we had a lot of

back and forth, and with you, too, Mr. Irvine, I really appreciate your availability to this and your openness.

And I think, like Diana said, this is a vast improvement over what was being proposed and what we've lived with for the last, you know, several years. So thank you very much.

MR. OXER: Yes. There's been a conscientious effort to make considerable outreach in this and the QAP, which I would like to think is evident to everybody out there.

MR. BOWLING: I agree. Thank you, Mr. Chairman.

MR. OXER: Okay. Thank you. Thank you for your comments.

Anybody, any comments?

MR. KEIG: Just a couple of corrections for you, is at the bottom of page 3, Number 6, we've still got "resource funding adjustment limit" reference there. And on page 4 at the top, Number 7 says basically that the resource funding adjustment is the allocated region's resource funding adjustment. It just kind of --

MS. YEVICH: You couldn't be more corrective.

MR. KEIG: Yes. Just publish the fix.

MS. YEVICH: We may change that administrative and clerical error. Appreciate it.

MR. KEIG: Thanks.

MS. YEVICH: Thank you.

MR. KEIG: I post the report in the --

MS. YEVICH: Yes, I know.

MR. KEIG: accounts. So --

MR. OXER: Kent, anything?

MR. CONINE: (No audible response.)

MR. OXER: All right. Entertain a motion.

MS. BINGHAM: So moved.

MR. OXER: Okay. Motion by Ms. Bingham to accept staff recommendation. Second?

VOICES: Second.

MR. OXER: Second by Mr. Gann. He's the closest one, so he gets it. So any more discussion?

(No audible response.)

MR. OXER: All right. All in favor?

(A chorus of ayes.)

MR. OXER: All opposed?

(No audible response.)

MR. OXER: Good job, Elizabeth. Motion carries. Okay. Let's see.

MR. IRVINE: HOME awards.

MR. OXER: Yes.

MR. IRVINE: Tom, would you like to present the HOME awards? Before Tom presents the HOME awards, I'd just

like to thank pretty much everybody in this room for -- we've just finished the rule-making section of the agenda, and it has been a total team effort.

You know, I'm so appreciative of each and every one of you that's taken time out of making money, building good affordable housing, you know, practicing law -- whatever -- to get on the phone with us, to come to Austin with us, to offer drafts, to say, Hey, you didn't quite get it right; let's keep working at it, even when we're tired.

And it's a deeply appreciated thing. And the reward is probably before the holidays we will begin the process of going through it all again and take that fresh approach and really keep working to make this the way it should be. So thank you.

MR. OXER: Okay. HOME award. Tom?

MR. GOURIS: Tom Gouris, deputy executive director for housing programs. We have a couple of HOME awards here that were a result of the actions taken by the board for forwards and the other regular -- a round transaction, Terrace at MidTowne.

At the last board meeting, these HOME awards -- these HOME applications were made in the last cycle, but were advanced to the 2010 -- I'm sorry. They were made in the 2010 HOME cycle, but they were being funded out of

the current round of HOME funding.

They total \$4.8 million, and so they'll be that much less in the next -- in the existing round of HOME funds for this coming year.

I can read through the numbers for you, for the record, and answer any questions you have about them. These are still -- they're forwards, and so some of them are still being underwritten, and if there are underwriting issues that come up, they will be subject to -- these awards will be subject to those conditions.

MR. OXER: Okay.

MR. IRVINE: The resolution already --

MR. GOURIS: Yes --

MR. IRVINE: And so --

MR. GOURIS: Okay. Great.

MR. CONINE: Move approval.

MR. OXER: Kent, hold on.

Diana?

MR. CONINE: Is she going to talk again?

MR. OXER: Ms. McIver, it's your turn.

MR. CONINE: You're not going to talk again, are?

MR. OXER: Did you want to talk on 6(a) on the HOME awards on Midlothian?

MS. MCIVER: Only if there are questions.

MR. CONINE: See there -- there's no questions.

MR. OXER: No question about it. All right.

Good. Any motions --

MR. CONINE: Move for approval.

MR. OXER: All right.

MS. BINGHAM: Second.

MR. OXER: Motion by Mr. Conine, second by Ms. Bingham, to approve staff recommendation. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No audible response.)

MR. OXER: Motion carries.

MR. IRVINE: Mr. Chairman, the only item staff is bringing under Item 7 is the SilverLeaf at Gun Barrel City, and I believe Cameron is going to be presenting the staff position regarding this waiver request.

MR. DORSEY: All right. So SilverLeaf at Gun Barrel City is a transaction that was awarded at the late July board meeting, through the 2011 9 percent cycle.

As a condition of its -- well, it's a requirement of the QAP to achieve zoning at the time you have to respond to the commitment and execute your commitment notice. That generally happens in early -- let's see -- early September.

And in this case, the applicant was not able to

get zoning by that date. They did end up getting zoning at the October 25 city council meeting, and so they do now have zoning, but they didn't at the time that it was required under the QAP.

They've asked for a waiver of this requirement in order to continue moving forward and have a valid tax-credit commitment.

MR. OXER: So do they have zoning now, or did they just --

MR. DORSEY: They do have the proper zoning to --

MR. OXER: It's just they were late getting it.

MR. DORSEY: They were late getting it. I will add that we did receive a letter from the city, indicating that there were some medical issues associated with -- the person responsible had some medical issues that they had to attend to and --

MR. IRVINE: There's a very apologetic and contrite letter --

MR. DORSEY: Yes.

MR. IRVINE: -- dated October 3 from the city that's in your board materials.

MR. OXER: Okay. We have some public comment. There are four. In order, we'll take Mike Sugrue --

MR. KEIG: Paul, shouldn't we have a motion first,

per the statute?

MR. OXER: Well, I guess if you have to follow the rules, I guess we might have to.

MR. KEIG: I move to approve the waiver.

MR. CONINE: Second.

MR. OXER: Motion by Mr. Keig to approve the waiver, second by Mr. Conine. The discussion now includes public comment.

VOICE: If necessary.

MR. OXER: If necessary. And since the waiver is now applied, is anybody of these four, Mr. Sugrue, Mr. Bienski, Ms. Palmer, and Mr. Boren, do you have an interest in speaking? You got what you wanted; do you still want to talk?

MR. IRVINE: And I would hate to be the stick in the mud, but I would like for it to be on the record that the good cause for the granting of a waiver -- because that is a requirement --

MR. OXER: Right.

MR. IRVINE: -- when we're waiving a QAP requirement, I assume, is the medical situation as set forth in the city's letter and included in the board materials.

(Discussion.)

MR. OXER: So back to -- does anybody -- any of

the four, do you wish to speak?

MR. BIENSKI: Okay. I would like to speak.

MR. OXER: And you are?

MR. BIENSKI: Bienski.

MR. OXER: Please. And I understand why you'd like to speak. So --

MR. BIENSKI: Good afternoon, chair and board. I'm not sure how much good this will do now, but I'm Wade Bienski. I'm the executive director of Affordable Caring Housing, and we also submitted an application in that same region. We were number two, behind SilverLeaf at Gun Barrel City.

And pretty much I was just up here just to point out to you all -- you know, I'm sure that you all are aware already, but, you know, it does say in the QAP that there's no extension to the deadline, you know, to submit the final zoning approval.

I mean, there's lots of deadlines in the QAP that we all have to follow, you know, and there's a lot of times where we have applications that we submit that, you know, there's sometimes that we're docked points, because, you know, we don't follow what the QAP says, and that keeps us from getting, you know, a certain project at various points, you know, in the past few years.

So pretty much I would simply just, you know, request for the board to, you know, look at that QAP and, you know, uphold the rules of the QAP that, you know, we all must follow as applicants. So this is my only request.

MR. OXER: And I --

MR. BIENSKI: Because we're all in this, you know, for the same, you know, purpose --

MR. OXER: And this is a very competitive --

MR. BIENSKI: -- you know, to provide, you know, affordable housing to the needy. So, you know, if that one's not approved, you know, there's a lot of others that, you know, do follow by the rules that are, you know, in the QAP that, you know, would love, you know, to get those funds. So I just wanted to put in my two cents.

MR. OXER: Is there any comments from the board?

(No audible response.)

MR. OXER: Any discussion?

(No audible response.)

MR. OXER: I have a comment to make, just a notation, because on the May 5 board meeting that I was at, there was an applicant for a tax-credit project that was late by 12 hours getting their application in, and they were not allowed that latitude, because they had missed the date.

So while I understand the reasoning behind -- and

the reason that the waiver is being offered, there's a medical issue here, the consistency -- I'm trying to make sure that we are consistent.

This is a medical issue, something that is imposed on somebody perhaps that they didn't have any control over, where laxity in detail and not paying attention to the clock is something that we should all be able to do. So --

MR. KEIG: Mr. Chair, could I draw one --

MR. OXER: Distinction.

MR. KEIG: -- distinction? Is it -- I don't remember all the facts of the prior one back in May, but in this instance, the developer was trying to get the zoning -- rezoning done, and the person that had the medical need was the city manager, who was in control of the calendar. So it was somewhat out of his control to try to get that -- meet that deadline.

MR. OXER: Okay. Noted.

Is there any more discussion.

(No audible response.)

MR. OXER: Motion's on the floor. All in favor? And the motion is to approve staff recommendation? Or to -- no --

MR. IRVINE: No. It's not the recommendation; it's just to approve the waiver request.

MR. OXER: The motion is to approve the waiver request. So all in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No audible response.)

MR. OXER: Motion carries.

What else we got here?

MR. CONINE: The executive director's report.

MR. OXER: Okay.

MR. IRVINE: Mr. Chairman, I have nothing further to report other than that we are really moving forward to the last stretch, the home stretch, regarding our ARRA expenditures.

We will be closing out ARRA -- let's see -- TCAP -- how are we doing -- Tom, would you like to just provide us the quick numbers on the TCAP and exchange?

(Pause.)

MR. IRVINE: While he's fumbling for that, I will say that we're at 87 percent expenditure under the weatherization assistance program, which is absolutely phenomenal.

That was a \$327 million program that was thrown at us, and the community action agencies and the large cities that have administered these weatherization programs have

really risen to the challenge.

We've had a few large cities and a few small ones that have kind of struggled along the way and have voluntarily deobligated some funds. But that has pretty much been taken up by a few pretty exceptional folks, like the folks at Sheltering Arms and at the City of Austin that have stepped up and taken more.

That's been a very gratifying program. It's really neat, because it does a bunch of good things. It certainly creates jobs; these people are out there weatherizing. It certainly reduces the cost burden on the low-income families that are served.

And it helps every single one of us because, as we reduce energy costs, we reduce what we, the taxpayers, will have to be putting into new power generation. So weatherization's a really good thing.

I'm really touting that, because I know there was some discussion -- some pretty contested discussion -- about green aspects of the QAP and everything. And I just want to personally underscore one more time: Utility savings is the wave of the future. That's the way the world is pointed. Let's all go that way.

You know, I've got nothing else, and I'll turn it over to Tom and Theresa to update you on our tax-credit

assistance and exchange programs.

MR. GOURIS: I'll just mention the tax-credit assistance program, very quickly, is over 90 percent expended.

We have until February to actually finish the expenditures there. The deadlines for our subrecipients are -- have occurred and are -- have been extended for a handful of folks.

We have full confidence that we will be fully expended by the February deadline. Of more immediate urgency is the exchange program, which also has some very good news to report, and I'll let Theresa discuss that.

MS. SHELL: Hi. Theresa Shell, your exchange administrator.

As of last night, 573 million had been funded, out of the \$594 million. That's 96-1/2 percent. So that's, on average, \$6-1/2 million a week. This last week, it was over 9 million.

Monday morning, there were 22 draws in house, at \$11.6 million. So we are very quickly going through the remainder of the funds. There's about \$21 million remaining.

MR. OXER: It sounds like your pencils are on fire over there.

(Laughter.)

MS. SHELL: Excel, yeah. No pencils for this one.

MR. GOURIS: Electrons.

MS. SHELL: Yes, electrons. As of last night, 50 deals are 100 percent funded, and 69 are 90 percent or more, and 20 are between 64 and 89 percent.

We did have a final-draw deadline of October 10, and we had 37 transactions that requested an extension. So we are working with those folks that needed a little extra time to get in all their supporting documentation.

We do not anticipate having draws submitted after December 1. That's a -- there may be some supporting documentation; it needs to be submitted at that time. And we're going to really work and really push to get that in as soon as possible, just because there's five different systems that talk to each other, inside-outside -- it takes forever.

So construction update: 77 deals are 100 percent complete. That's 87 percent of the portfolio. So 86 are at 9 percent or better, and three are between 55 and 89 percent. That's about 3 percent of the portfolio.

They're little transactions -- well, two are little; one's huge. And the two little ones, they're getting done quickly, and the large transaction, which is now the -- it's here in Austin -- it's coming along just fine.

So I don't anticipate --

MR. OXER: So it's all on schedule to --

MS. SHELL: Yes, sir.

MR. OXER: -- be a goal.

MS. SHELL: Yes.

MR. OXER: Okay.

MS. SHELL: All the transactions are anticipated to hit the 12/31 placed-in-service, as well as the funding deadline.

MR. OXER: Okay.

MS. SHELL: I don't have anything major to report as it relates to the watch list. The watch list that you have in your board book shows 13 transactions; that is now down to eight. So we are making a lot of progress on that, as they fund and finish out construction.

As far as final inspections through TDHCA, 31 have finished their final; 58 are currently in the process. And we're doing pre-watch list, pre-final construction inspections, meaning as deals get right towards the end, we're offering to send out a crew to take a look at the property, just in case, so that we streamline that process.

Cost certifications, 49 have been submitted; that's 55 percent. Thirty-nine are in progress. Six are in routing. Two have been issued 8609s, and we anticipate everyone will make the January 12 deadline.

The only thing I will say is we've been working

with the development community and the lenders and the GCs to get everything done, and they have done a wonderful job -- wonderful. I mean, truly pulled it together, and this has not been easy. It's been very difficult.

If you think about some of these transactions that have closed in December of last year -- and we're expecting them to be complete. So --

MR. OXER: You're talking about closed last December, being in service January 1.

VOICE: Right.

MS. SHELL: 12/31.

MR. CONINE: Now you know why it didn't rain in this whole year.

(Laughter.)

MS. SHELL: The only thing that I would ask is that we continue to push and continue to get the transactions completed and funded while --

MR. OXER: You certainly have our encouragement and whatever support we can offer, but I don't think we could even keep up with you. So thanks very much for your work.

MS. SHELL: All right. Great team.

MR. OXER: Yes, indeed. So compliments to the staff.

MR. GOURIS: Theresa has done a -- and Lisa on

the TCAP have done a fabulous job in getting -- herding cats is what it is sometimes. But everyone has been helpful, and it's been a really great success. So --

MR. OXER: Great.

MR. IRVINE: Well, they're hardworking cats, but Theresa's a big part of why the tax credit program is the best affordable housing program on the planet.

MR. GOURIS: That's right.

MR. OXER: Now, we do have a reputation in the state for having some good folks, and you're a big part of it for making this program work. So thanks for that.

MS. SHELL: Thank you very much, sir. It was a team effort. We have a great staff.

MR. OXER: That's a fact.

Okay. Well, let's see here. Michael, you got anything?

MR. GERBER: No, sir.

MR. OXER: Okay. Anybody else? Mr. --

VOICE: That's all I have, sir.

MR. OXER: Okay. All right. Would anybody care to make a comment -- any of the board? Leslie?

MS. BINGHAM: (No audible response.)

MR. OXER: Mr. Keig?

MR. KEIG: Not anything about board business.

(Laughter.)

MR. OXER: Well, you know, we give everybody else here that shows up in the audience an opportunity to say whatever they'd like to say, so I'm going to give everybody on the board an opportunity to say anything they'd like to say, as the last word. So --

MR. KEIG: I'm just teasing --

MR. OXER: Mr. Vice-Chairman?

MR. GANN: (No audible response.)

MR. OXER: Okay. Dr. Munoz?

DR. MUNOZ: Adjourn.

MR. OXER: Okay. Entertain a motion -- Mr. Conine, you've said plenty. So I wasn't --

(Laughter.)

MR. OXER: Entertain a motion to adjourn.

MR. CONINE: So moved.

MS. BINGHAM: Second.

MR. OXER: All right. Motion by Mr. Conine, second by Ms. Bingham. All in favor?

(Applause.)

MR. OXER: We stand adjourned.

(Whereupon, at 2:50 p.m., the meeting was adjourned.)

CERTIFICATE

IN RE: TDHCA Board Meeting

LOCATION: Austin, Texas

DATE: November 10 2011

I do hereby certify that the foregoing pages, numbers 1 through 211, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

11/21/2011  
(Transcriber) (Date)

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