

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF TRUSTEES MEETING

Capitol Extension Auditorium
1500 North Congress Avenue
Austin, Texas

Thursday,
October 10, 2013
9:00 a.m.

BOARD MEMBERS:

J. PAUL OXER, Chair
JUAN SANCHEZ MUÑOZ, Vice Chair
LESLIE BINGHAM ESCAREÑO, Member
TOM H. GANN, Member
ROBERT D. THOMAS, Member
J. MARK McWATTERS, Member

TIMOTHY K. IRVINE, Executive Director

ON THE RECORD REPORTING
(512) 450-0342

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
CALL TO ORDER, ROLL CALL CERTIFICATION OF QUORUM	7
CONSENT AGENDA	8
ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:	
EXECUTIVE:	
a) Presentation, Discussion, and Possible Action on board meeting minute summary for July 11, 2013	
LEGAL:	
b) Presentation, Discussion, and Possible Action on the adoption of an Agreed Final Order concerning Calvert Arms Apartments and Marlin Square Apartments (HTC 92096 and 94060)	
c) Presentation, Discussion, and Possible Action on the adoption of an Agreed Final Order concerning 2512 Thorne, 2904 Walnut, 1213 Pecan, 2503 North Wilson, and Mitay, Inc. Scattered Site (HTC 70046, 70054, 70083, 70084, and 92009)	
HOUSING RESOURCE CENTER:	
d) Presentation, Discussion, and Possible Action on the 2014 Regional Allocation Formula Methodology	
PROGRAM, PLANNING, POLICY, AND METRICS	
e) Presentation and Discussion on the Department Snapshot tool for the Community Affairs programs	
OFFICE OF COLONIA INITIATIVES/HOUSING TRUST FUND:	
f) Presentation, Discussion and Possible Action on the appointment of Colonia Residents Advisory Committee (C-RAC) members	
MULTIFAMILY FINANCE DIVISION:	
g) Presentation, Discussion and Possible Action Regarding Inducement Resolution No. 14-006 for Multifamily Housing	

Revenue Bonds and an Authorization for
Filing Applications for Private Activity
Bond Authority for the 2013 Waiting List

13609 Terrace View Grand Prairie

HOME DIVISION:

- h) Presentation, Discussion, and Possible
Action on a proposed Substantial
Amendment to the 2013 State of Texas
Consolidated Plan: One-Year Action Plan

RULES:

- I) Presentation, Discussion, and Possible
Action on proposed amendment of 10 TAC
Chapter 1, Subchapter A, General Policies
and Procedures, §1.21, concerning Action
by Department if Outstanding Balances
Exist
- j) Presentation, Discussion, and Possible
Action on proposed amendment of 10 TAC
Chapter 1, Subchapter A, General Policies
and Procedures, §1.3, concerning
Delinquent Audits and Related Issues
- k) Presentation, Discussion, and Possible
Action on proposed new 10 TAC Chapter 1,
Administration, Subchapter B, §§1.201 -
1.202 concerning Accessibility
Requirements and directing its publication
for public comment in the Texas Register
- l) Presentation, Discussion, and Possible
Action regarding a proposed repeal of 10
TAC Chapter 1, §1.19 regarding
Deobligated Funds and proposal of a new
10 TAC Chapter 1, §1.19 concerning the
Policy for the Reallocation of Financial
Assistance for public comment and
publication in the Texas Register
- m) Presentation, Discussion, and Possible
Action on proposed new 10 TAC Chapter 21
concerning the Minimum Energy Efficiency
Requirements for Single Family
Construction Activities and directing
its publication for public comment in the
Texas Register
- n) Presentation, Discussion, and Possible
Action on a proposed amendment to 10 TAC
Chapter 5, Community Affairs Programs,
Subchapter H, Section 8 Housing Choice
Voucher Program, §5.801, concerning the
Project Access Initiative, and

directing

its

publication for public comment in the
Texas Register

- o) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter A, §§5.2, 5.3, 5.8, 5.10, 5.12, 5.13, 5.17, 5.19, and 5.20, concerning Community Affairs General Provisions, and directing its publication in the Texas Register
- p) Presentation, Discussion, and Possible Action on orders adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter B, §'5.202, 5.210, 5.212, and 5.217, concerning Community Services Block Grant Program; the

repeal

of §5.209, concerning State Application and Plan; and the re-adoption of 10 TAC Chapter 5, Community Affairs Programs, Subchapter B, Community Services Block Grant Program, §5.208, concerning Designation and Re-designation of Eligible Entities in Unserved Areas, pursuant to Texas Government Code, §2001.039, and directing their publication in the Texas Register

- q) Presentation, Discussion, and Possible Action on an order adopting the repeal of 10 TAC Chapter 5, Community Affairs Programs, Subchapter C, §§5.301 B 5.311, concerning Emergency Shelter Grants Program (ESGP), and directing its publication in the Texas Register
- r) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter D, §§5.403, 5.407, 5.423 and 5.424, concerning Comprehensive Energy Assistance Program, and directing its publication in the Texas Register
- s) Presentation, Discussion, and Possible Action on orders adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter E, §§5.502. 5.503, 5.507 and 5.524, concerning Weatherization Assistance Program General; and the re-adoption of 10 TAC Chapter 5, Community Affairs Programs, Subchapter E, Weatherization Assistance Program General, §§5.501 and 5.528, concerning Background

- and Health and Safety, pursuant to Texas Government Code §2001.039, and directing their publication in the Texas Register
- t) Presentation, Discussion, and Possible Action on orders adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter F, §§5.602 and 5.603, concerning Weatherization Assistance Program Department of Energy; and the re-adoption of 10 TAC Chapter 5, Community Affairs Programs, Subchapter F, Weatherization Assistance Program Department of Energy, §§5.607 B 5.609, concerning Space Heater Requirements, Vehicle Procurement Procedures, and Grant Guidance on Leasing of Vehicles, pursuant to Texas Government Code §2001.039; and directing their publication in the Texas Register
- u) Presentation, Discussion, and Possible Action on an order adopting amendment to 10 TAC Chapter 5, Community Affairs Programs, Subchapter G, Weatherization Assistance Program Low-Income Home Energy Assistance Program, §5.701, concerning Allowable Expenditure per Dwelling Unit, and directing its publication in the Texas Register
- v) Presentation, Discussion, and Possible Action on orders adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter J, §§5.1003, 5.1004, and 5.1006 concerning Homeless Housing and Services Program; and new §§5.1007 and 5.1008, concerning Subrecipient Reporting Requirements and Subrecipient Data Collection, and directing their publication in the Texas Register
- w) Presentation, Discussion, and Possible Action on an order adopting amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter K, §§5.2001, 5.2004, 5.2006, 5.2008, and 5.2012, concerning Emergency Solutions Grants (ESG), and directing their publication in the Texas Register

REPORT ITEMS:

The Board accepts the following reports:

TDHCA Outreach Activities, September 2013

ACTION ITEMS:

ITEM 2:	HOME DIVISION:	12
	Report from the HOME Program Director	
ITEM 3:	MULTIFAMILY FINANCE DIVISION:	
	a)	
	Presentation, Discussion, and Possible	
	Action on Requested Waivers and	
	Consideration of Determination Notices	
	for Housing Tax Credits with other	
	Issuers, if all required waivers, if	
	Any, have been granted:	
	13412 Cypress Creek at Ledge Stone,	22
	Dripping Springs	132
	13413 Edison Square	144
	Port Arthur	
	13416 Wilmington House (pulled)	21
	Houston	
	13418 Cedar Terrace	151
	Galveston	
	b)	
	Presentation, Discussion and Possible	263
	Action on Extension Request relating	
	to Commitment Notices Issued under the	
	2013 State Housing Tax Credit ceiling	
	c)	
	Presentation, Discussion, and Possible	264
	Action on Awards of Competitive 9% Low	
	Income Housing Tax Credits from the	
	2013 State Housing Tax Credit ceiling	
	from the Waiting List for the 2013	
	Housing Tax Credit Application Round	
	PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR	265
	WHICH THERE WERE POSTED AGENDA ITEMS. PUBLIC	
	COMMENT MAY INCLUDE REQUESTS THAT THE BOARD PLACE	
	SPECIFIC MATTERS ON FUTURE AGENDAS FOR CONSIDERATION.	
	EXECUTIVE SESSION	131
	OPEN SESSION	131
	ADJOURN	292

P R O C E E D I N G S

1
2 MR. OXER: Good morning, everyone. I don't
3 have to call you to order, everyone is nicely here. I
4 apologize for the late start. We were getting some input
5 on a couple of items here before we get started.

6 We'll start as we do by taking roll.

7 Ms. Bingham?

8 MS. BINGHAM ESCAREÑO: Here.

9 MR. OXER: Mr. Gann?

10 MR. GANN: Here.

11 MR. OXER: Professor McWatters?

12 MR. McWATTERS: Here.

13 MR. OXER: Dr. Muñoz?

14 DR. MUÑOZ: Present.

15 MR. OXER: I am here. We're expecting Robert
16 but he's not here yet, so we'll wait for him. We have a
17 quorum and business. So we'll start by saluting the
18 flags.

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

21 MR. OXER: Michael, do we have any guests here
22 today?

23 MR. LYTTLE: Other than the good folks here, no
24 special guests that I'm aware of, sir.

25 MR. OXER: Great. Always happy to have

1 everybody here, but we always like to recognize any
2 legislators and their staff that are here.

3 With that, we'll move to the consent agenda.
4 Any Board member have any item that they would like to
5 pull from the consent agenda? We have a lot of rules that
6 are being published, and if I interpret this correctly,
7 Tim, much of this is to say simply that we're posting
8 those rules for publication in the *Texas Register*.

9 MR. IRVINE: Starting the public input process.

10 MR. OXER: Okay. So this is by no means the
11 end of the development of these rules, it's actually the
12 end of the beginning.

13 MS. DEANE: Mr. Chairman, some are being
14 adopted, there are some adoptions on the consent agenda
15 today.

16 MR. OXER: And those would be number 1(I) and
17 (j). Is that correct?

18 MS. DEANE: Let's see, (o) is an adoption, (p)
19 is an adoption, (q) is an adoption. There's several on
20 here that are actual adoptions. And we have one minor
21 addition to one of the rules that is being proposed that
22 Patricia Murphy will offer you in just a minute.

23 MR. OXER: Do we need to hear that first or do
24 we have a motion to proceed?

25 MS. DEANE: I think that you could hear that

1 first so that your motion would include that.

2 MR. OXER: Patricia, good morning.

3 MS. MURPHY: Good morning. Patricia Murphy,
4 chief of Compliance.

5 Item 1(I) regarding the proposed rule at 10
6 TAC, Section 121, concerning action by the Department if
7 outstanding balances exist, we want to make one other
8 clarification. On page 4 of your write-up in Section (c),
9 we would like to add an exception to the statement around
10 modifications if a request for a modification relates to
11 an interim construction loan. This ensures that the
12 Department will have the ability to remedy delays on
13 interim construction loans by allowing extensions as
14 needed in a single family context.

15 So instead of reading as reflected in your
16 Board book, the sentence at Section (c) should read:
17 Except in the case of interim construction loans, the
18 Department will not issue Forms 8609, amend applications,
19 LURAs or contracts, extend or renew contracts or modify
20 loan documents if fees or loan payments are past due to
21 the Department related to the subject of the request.

22 Any questions, concerns, comments about that?

23 MR. OXER: Are there any questions from the
24 Board?

25 What's the effective impact of this?

1 MS. MURPHY: So if you have an interim
2 construction loan and the due date has passed and you want
3 to pay the loan off, you need to modify the interim
4 construction loan to change the due date so you have to
5 modify the loan. But it's a circular thing if you we
6 don't put the sentence in there, you can't modify the
7 interim construction loan in order to change the due date
8 because it's past due.

9 MR. OXER: So you're giving them an option to
10 go back and straighten out the contract and get the
11 payment made. This is procedural, more or less.

12 MS. MURPHY: Correct.

13 MR. OXER: All right. Motion to consider?

14 DR. MUÑOZ: Just this one or the entire
15 consent?

16 MR. OXER: Are there others? Tom, do you have
17 a question?

18 MR. GANN: If we make a motion to accept the
19 consent agenda with the modification to 1(I) on the
20 modification change in Section (c), as presented, I so
21 move.

22 DR. MUÑOZ: Second.

23 MR. OXER: Motion by Mr. Gann to accept staff
24 recommendation on the consent agenda and including part
25 (I), second by Dr. Muñoz. Is there any public comment?

1 Apparently not. All in favor?

2 (A chorus of ayes.)

3 MR. OXER: Opposed, there are none.

4 DR. MUÑOZ: Mr. Chairman, just a followup point
5 to one of the consent agenda items (f), not to pull it,
6 but I did speak to the executive director about the
7 appointment of a Colonia Residents Advisory Committee and
8 their responsibility to help inform the decisions of the
9 Board, and I understand from the executive director that
10 it would be prohibitively expensive for some of the
11 members to come here once a year to speak to us, and so I
12 would just like to introduce the possibility, and I've
13 already mentioned it to Tim, of maybe a subset or a number
14 of us occasionally, once a year, going down there and
15 hearing directly from this particular advisory committee.

16 This is a topic, it's not the high dollar, 4
17 percent, downtown Dallas/Austin sort of deal, but these
18 Colonias affect a great many lives, we're all concerned
19 with that, but I think just substantively, but also
20 symbolically to occasionally go down there and hear
21 directly from some of these appointed members appointed by
22 us, apparently, might be a thoughtful consideration.

23 MR. OXER: Good point, and that's consistent
24 with our outreach process that Michael Lyttle has been so
25 good about organizing and arranging when we get scheduled.

1 So duly noted, Dr. Muñoz.

2 Anything else, Tim?

3 MR. IRVINE: No, sir.

4 MR. OXER: Okay. Let's go right into the fun
5 then.

6 MR. IRVINE: The first one actually is kind of
7 fun. Come on up, Jennifer.

8 MS. MOLINARI: Good morning, Chairman and Board
9 members. Jennifer Molinari, HOME Program director.

10 Item 2 is a report item only which is advising
11 the Board of the current status of our HOME single family
12 activities. Home single family activities that the
13 department administers include homeowner assistance,
14 homebuyer assistance, homeowner rehabilitation and
15 reconstruction, and tenant-based rental assistance, HOME
16 Program funds administrators, who, in turn, have direct
17 relationships with the clients.

18 I want to walk you through some of the HOME
19 funding history right now, which is from 2000 to 2011, the
20 annual HOME allocation was approximately \$40 million. In
21 2012, the allocation was reduced by 38 percent to about
22 \$24 million, and we received approximately the same amount
23 in 2013. That \$24 million funds HOME single family and
24 multifamily activities, as well as some other set-asides
25 and administrative expenses of the Department.

1 Traditionally, HOME single family funds have
2 gone through a competitive award cycle, similar to our
3 HOME multifamily funds. In 2010 we introduced a new model
4 known as the reservation model which funds each
5 administrator on a household-by-household basis instead of
6 making large contract awards to administrators. This
7 model makes sure that HOME funds are tied up only for
8 individual activities rather than in large contract
9 awards. It also promotes the development of new
10 administrators who may not have the capacity to take on a
11 contract but are interested in trying out the program on a
12 household-by-household level.

13 At this point I'd like to take you through the
14 write-up in your Board book under tab 2, and on page 1 you
15 will see a summary of the current status of the HOME
16 Program and on page 2 you will see some charts. The
17 charts are intended to demonstrate to you the progress
18 that we've been making and the increased production that
19 we've been experiencing on a month-by-month basis over the
20 past five years. It also shows you the difference between
21 a contract model and a reservation model in terms of when
22 we switched from contract to reservation.

23 There are three lines on each chart: the
24 dotted line represents the monthly activities under
25 contract awards, the log dashed is going to represent your

1 reservation activities, and then the solid line is a
2 combination of both activity types. Prior to January of
3 2011, the only activity was contract-based, so that solid
4 line is only going to reflect contract activities until
5 about 2012.

6 Again, this is a monthly snapshot, it is not
7 cumulative numbers over a period of time. That first
8 chart that you're looking at shows you the funds that we
9 have drawn from treasury for single family activities on a
10 monthly basis, the second chart is the number of
11 households we've approved on a monthly basis over that
12 same time frame, and the third chart is going to show you
13 the dollar value associated with the households that were
14 approved in the second chart.

15 The charts will show you that the HOME
16 activities hit their highest levels ever during 2013 and
17 in June of 2013 we had more production in the HOME Single
18 Family Division than we've ever experienced in the history
19 of our program, and that's quite a significant
20 accomplishment that I'd like to point out.

21 I'd also like to note that with this
22 reservation system we're seeing a greater geographic
23 dispersion of activities that are occurring because
24 instead of concentrating funds under large contract awards
25 in specific areas of the state, our funds are able to go

1 in a more holistic manner across the state. And right now
2 we're serving just under 200 counties across the state,
3 and quite a few of those remaining counties are actually
4 covered by participating jurisdictions, so we've got a
5 large coverage at this point.

6 So as you can see, our reservation system is
7 doing very, very well. A large part of the success during
8 2013 was the availability of deobligated funds from
9 previous contract awards, and this allowed for an ongoing
10 pool of available funds that we were able to rely on
11 during 2013. This will not be the case in 2014 because
12 all available contract funds have now been deobligated and
13 reallocated to our reservation system.

14 One of the issues that this has posed for us is
15 that right at the time that HOME funds are contracting at
16 the federal level, we also have less availability of
17 funds, so taken together, this means that staff is
18 projecting in 2014 that we will have less than half of the
19 funding available for single family activities that we had
20 this year. In general, this is a very good problem to
21 have because it means that our HOME funds will move more
22 quickly and get into the hands of the folks that need it
23 the most as expeditiously as possible. And we are also
24 committing and expending our funds at a faster rate than
25 we have in previous years which demonstrates a need for

1 the funds, particularly in our rural areas.

2 So I wanted to share this information with you
3 so that you have an awareness of the success of the
4 program and so that you can also know of the anticipated
5 demand and kind of what we're look forward in 2014 to
6 seeing, and of course, I also wanted to highlight the
7 success of the HOME Division, thanks in large part to the
8 tremendous efforts of a great staff.

9 So with that, I will answer any questions that
10 you have.

11 MR. OXER: Great. Thank you. Let the record
12 reflect that Mr. Thomas is here with us now. Good
13 morning, sir.

14 MR. THOMAS: Good morning, sir.

15 MR. OXER: Are there questions from the Board?

16 I have a couple, Jennifer. So you're using funds, if I
17 recall, Tim the conversation you and I've had before, some
18 of these funds have been left unused at the end of the
19 year.

20 MS. MOLINARI: So what happens is that with a
21 contract award, and they were typically about \$500,000, we
22 would have benchmarks in the contracts whereby an
23 administrator was to identify a set number of households
24 one year into the contract. If they were not able to
25 identify those households by that point, we have the

1 ability to remove those funds from that contract award and
2 place them into the reservation system, and this was what
3 we did to a tune of about \$10 million during 2013.

4 Many of those administrators, it's very
5 important to note, did not lose the ability to assist
6 their households, they simply went from the contract model
7 to the reservation model so that they could continue to
8 fund the households in their community.

9 MR. OXER: Has there been any reluctance on the
10 administrators' part to switch over to this model?

11 MS. MOLINARI: For large part, no. In the
12 beginning, I think that there was a lot of skepticism on
13 how the reservation system would work, but I think 2013
14 demonstrates that everybody is pretty much full onboard
15 with this model.

16 MR. OXER: It's easier to get the funds out but
17 the administrative costs per unit dollar put into the
18 program, does that go up or down with the reservation
19 program? Does it cost you more to administer each million
20 dollars worth of funds?

21 MS. MOLINARI: It does not. We perform the
22 same activities whether an activity is under contract or
23 reservation.

24 MR. IRVINE: And I would say that when there
25 were contracts where we were looking to take back the

1 contract funds and make available the reservation system,
2 there was certainly concern, and I think a big component
3 of the key to this success has been the intensive outreach
4 by Jennifer and her team at the local level to give people
5 the technical assistance to help them really understand
6 how the reservation system works, and it's just been
7 tremendously beneficial and it's just taking off like
8 crazy.

9 MR. OXER: What were the nature of their
10 concerns?

11 MS. MOLINARI: Initially it was the
12 availability of funds, so the reservation system is first
13 come, first served; as long as there is funding available,
14 you're able to fund households. I think administrators
15 were concerned that if they didn't have a contract award
16 when they identified a household, whether or not there
17 would be the funds available for that household.

18 MR. OXER: So was there any gaming of the
19 system before where they would reserve a block of funds
20 under the contract and then peel those away as they did
21 it, or essentially you're moving the bulk of the funds
22 back to TDHCA making them peel one house at a time, as
23 opposed to getting a block and then they do their own
24 peel.

25 MS. MOLINARI: Exactly.

1 MR. OXER: So you're making them compete
2 amongst each other.

3 MS. MOLINARI: Yes.

4 MR. OXER: That's good for the breed.

5 MS. MOLINARI: I think so.

6 MR. OXER: I like that.

7 MS. MOLINARI: I also like the fact, in
8 particular, that there is a greater geographic dispersion
9 of activities that are happening now. Two hundred
10 counties, right under 200 counties is pretty significant.

11 And that's for single family all types of activities, of
12 course, rental assistance, down payment assistance,
13 homeowner rehab, in that nature.

14 MR. OXER: So how many counties were served
15 before, ballpark?

16 MS. MOLINARI: I do not have that number in
17 front of me.

18 MR. OXER: Maybe 120, 150?

19 MS. MOLINARI: I don't have that number in
20 front of me. I can get that for you, though.

21 MR. OXER: It's just a point of curiosity. If
22 it's for geographic dispersion, we want to make sure that
23 the services and the opportunities that are provided by
24 the agency are available to every county, everybody, every
25 Texan out there.

1 Any other questions from the Board?

2 DR. MUÑOZ: Jennifer, how much less is it going
3 to be in 2014?

4 MS. MOLINARI: At this point it's a little bit
5 difficult to say. We are able to put \$5 million into our
6 general set-aside bucket and then there's another \$1.2
7 million available for persons with disabilities, and we
8 also have a contract for deed set-aside. Those are the
9 starting gate numbers that we have. Throughout the year
10 there will be some deobligated funds, some program income
11 that can come in and the Department will determine at that
12 time how to kind of reallocate those resources. So it
13 really is a little bit difficult to say exactly how much
14 less we'll receive.

15 DR. MUÑOZ: You had \$28 million for '13.
16 Right? Where do you think you'll be in '14?

17 MS. MOLINARI: In 2014?

18 DR. MUÑOZ: Half.

19 MS. MOLINARI: I would think actually a little
20 bit less than half; I don't know that we would have access
21 to more than about \$10 million or so.

22 DR. MUÑOZ: All right.

23 MR. OXER: And you expect all of that to be
24 used up?

25 MS. MOLINARI: Oh, yes.

1 MR. OXER: On reserves and exercised.

2 MS. MOLINARI: Yes.

3 MR. OXER: It would be nice to make sure that
4 our discussion in the Colonias included the contract for
5 deed discussion as well.

6 DR. MUÑOZ: I like where your head is at, Mr.
7 Chair.

8 MR. OXER: I get it right every once in a
9 while.

10 Sounds like you've been doing a spectacular
11 job, Jennifer. We appreciate that. I think I can speak
12 for all of us. Thanks.

13 Any other questions.

14 (No response.)

15 MR. OXER: Thank you. Good report.

16 MS. MOLINARI: Thanks.

17 MR. OXER: Go ahead, Cameron.

18 MR. DORSEY: I was just going to sit there for
19 as long as possible. To start, Michael Lyttle, you're not
20 allowed to call me Big Dog in your tweets today, unless,
21 of course, you guys want to add it to my official title.

22 (General talking and laughter.)

23 MR. DORSEY: All right. Item 3A is a series of
24 4 percent tax credit awards. Wilmington House, the third
25 one reflected on the agenda, has been pulled from the

1 agenda. We're probably going to hear about that one at a
2 future Board meeting.

3 The first transaction up is Cypress Creek at
4 Ledge Stone. This is a transaction, it's a new
5 construction development that would serve the general
6 population, 244 units serving 50 percent of AMI and 60
7 percent of AMI households. It's a development that would
8 be located on the north side of Highway 290 West between
9 Austin and Dripping Springs in Hays County, and the
10 financing principally includes \$22 million in tax-exempt
11 private activity bonds that would be issued by the Capital
12 Area Housing Finance Corporation, and about \$9.5 million
13 in tax credit equity that would be generated from the
14 staff-recommended credit amount of \$1,033,723 in tax
15 credits, and approximately 90 percent of the developer fee
16 is deferred in the applicant's model to round out the
17 sources of funds.

18 Staff, as I mentioned, is recommending that
19 previously stated credit amount, but we're also
20 recommending a condition that closing occur with 150 days
21 of the Board meeting and that the financing terms and
22 structure not change prior to closing. This is a
23 condition that would bring some consistency to this
24 transaction with other bond transactions that have a
25 slightly more typical type of bond reservation. This has

1 a little bit more of a unique reservation, it's carry-
2 forward, and they have a much longer -- well, there's not
3 a specific statutory constraint for 150 days like with
4 other bond issuances, and so this would bring some
5 consistency there in staff's estimation.

6 There has been a significant amount of public
7 comment which is included in the Board book. There's
8 support for the development, as well as opposition for the
9 development which I'm sure you will hear from folks on
10 both sides in a moment.

11 So once again, staff recommends \$1,033,723 in
12 annual 4 percent housing tax credits and with the
13 previously stated condition that closing occur within 150
14 days of the Board meeting and that the financing terms and
15 structure not change prior to closing, which is as
16 reflected in the Board materials.

17 MR. OXER: Are there any questions from the
18 Board?

19 MS. BINGHAM ESCAREÑO: Cameron, who have you
20 and your staff been in discussion with over this project?

21 MR. DORSEY: The applicant representatives,
22 Stuart Shaw and Casey Bump are the primary representatives
23 for the applicant that we've been in discussions with.
24 Representative Jason Isaac's office has also been in
25 discussions with staff through Michael Lyttle and Tim, and

1 a host of others that have local concerns, including the
2 county judge and other county officials.

3 DR. MUÑOZ: Cameron, I'm thinking specifically
4 the one in Dripping Springs, in our packet there were
5 quite a few letters in support and opposed.

6 MR. DORSEY: That's right.

7 DR. MUÑOZ: They talked a lot about the
8 density, the impact to schools, school enrollment. I
9 thought one letter referenced, or one email specifically
10 they don't have the money to purchase a fire engine that
11 could reach the heights of at least this development. I
12 don't recall that many for or opposed with that kind of
13 specifics usually.

14 MR. DORSEY: Yes. You know, we recently had a
15 TDHCA bond issuance, The Waters at Willow Run up in the
16 Wells Branch area, that had some very specific concerns
17 like that, and in that particular instance, the Board
18 found that it made sense to place some very specific
19 conditions that allowed the applicant a little time to
20 document affirmatively that EMS service would be
21 available, fire service would be available, those types of
22 things. That's certainly an option for the Board.
23 Typically those types of things are handled through
24 permitting processes and these types of things, and
25 typically they're more local concerns that are dealt with

1 through the building process, development process.

2 MR. OXER: So with respect to the change in the
3 structure which now you're requiring that the structure
4 remain fixed, the financial structure remain fixed between
5 the Board meeting and the time it closes within five
6 months, basically. Were that to occur, how does that
7 contrast with what we do now? If the financial structure
8 changes, is there an obligation for them to return to have
9 that considered by you or by the Board?

10 MR. DORSEY: Sure. In instances in which the
11 reservation is more of a typical reservation and has 150
12 days to close, that 150 days runs from the point at which
13 they get the reservation which is typically before you all
14 hear the issue. So this would be a little bit more time,
15 but we're using a date that makes sense to us.

16 In terms of the financing structure, not being
17 able to change, that is consistent with how other
18 issuances are treated. We have specific provisions that
19 deal with any change in terms, could cause them to have to
20 reapply if they don't close within that time frame. Also,
21 the underwriting report typically includes very similar
22 conditions concerning changes in terms that may affect the
23 financial viability that might warrant a reevaluation.

24 Specifically, whenever there is public
25 opposition to a transaction -- well, there's kind of an

1 abbreviated process that many folks with 150-day deadline
2 kind of reservations go through and that is they don't
3 close within 150 days but their financing terms have not
4 changed and there's no public opposition that we've
5 received, then they can certify to the fact that nothing
6 has changed and what-have-you, get a new reservation
7 instead of going back through the full application
8 process.

9 MR. OXER: So there's no statute of limitations
10 on what they're doing if they just say it hasn't really
11 changed, basically we're giving them an extension.

12 MR. DORSEY: Right. The statute of limitations
13 would be the same program year. We can do that within the
14 same program year, but once we convert to a new program
15 year, new rules, that type of thing, we don't allow
16 continued certification under rules that were in place.

17 MR. OXER: There is a statute of limitations
18 ultimately.

19 MR. DORSEY: There's always a statute of
20 limitations. Right.

21 MR. IRVINE: And one thing I think is critical
22 to the understanding of this particular transaction --
23 well, several things -- the application came in before the
24 effective date of legislation sponsored by Representative
25 Isaac that creates a threshold requirement on 4 percent

1 credits that are paired with private activity bonds that
2 there be a local resolution as to the acceptability of the
3 development moving forward, and because the application
4 was in before that, that provision did not apply, and I
5 think that there is simply an awareness of that and a
6 desire that to the extent that the transaction changes,
7 then if it changes and requires a new application, that
8 implicates the new statutory requirements.

9 MR. DORSEY: One of the big reasons we have
10 this kind of idea that you need to at some point come back
11 and let us know if anything has changed in these types of
12 things is once we approve a development, those units get
13 included in the market studies for any other applications
14 that come in and can affect our ability to move forward
15 with other transactions, and so to have kind of this
16 perpetually valid determination notice out there for an
17 extended period of time can adversely affect other
18 activities that might be going on in near proximity, close
19 proximity to whatever transaction.

20 MR. OXER: So what we're essentially saying is
21 if you're going to do it, do it, and if you're not, we're
22 going to cut you off the list.

23 MR. DORSEY: Yes, and you can come back and
24 apply and everything, but you know, we've gone back
25 through.

1 MR. OXER: If you can't do it, you can start
2 over.

3 MR. DORSEY: Right.

4 MR. OXER: Mr. Thomas.

5 MR. THOMAS: Good morning, sir. Good morning,
6 Board.

7 Cameron, help me, as the new guy, what is the
8 appropriate difference? I got the issues of fire and
9 policing, whatever, that those are issues that are
10 processed outside of our Board's jurisdiction, but what
11 does the staff look at when it comes to the issues that
12 have been raised in these letters and how does that impact
13 the staff's evaluation on whether or not to make the
14 recommendation to the Board one way or the other?

15 MR. DORSEY: When we receive comment where
16 there's support that we can evaluate for the assertions
17 made, we will evaluate that and consider that in the
18 recommendation, and we might even have staff-recommended
19 conditions. The problem is we don't have rules specific
20 to these issues because they typically are dealt with
21 through the local processes of getting permits in place
22 and those types of things. And we frequently receive
23 vast, vast amounts of public comment and it would be
24 impossible to go through -- where there's not specific
25 support provided for the assertions made, it would be

1 very, very difficult to go through and evaluate the
2 validity of each individual comment.

3 MR. THOMAS: Would that be true also about
4 economic viability issues of the project? So to the
5 extent that we're fiduciaries and stewards of these
6 dollars, if a question is raised about whether the
7 community can actually financially support that project,
8 is that something that we should be concerned about, or is
9 that something that the staff evaluates in helping us
10 understand how we should proceed?

11 MR. DORSEY: Any time there's any type of
12 extraneous issue that could affect the financial viability
13 of the transaction over the long term, our underwriting
14 group will absolutely go into more detail in evaluating
15 whatever that particular issue is. I think in this
16 particular instance they didn't identify some specific
17 external kind of factor outside of the specific financing
18 structure for this transaction that would cause a need to
19 evaluate.

20 MR. THOMAS: So the idea behind providing
21 affordable housing is the assumption that there are people
22 in the community and there is a sufficient number of those
23 people in a community who would meet the need. So where
24 we have specific questions that are raised in the letters
25 about the number of actual employers, the number of job

1 opportunities that exist, as well as the specific
2 breakdown of what levels of subsidization there is, how
3 did you evaluate that? It seems to me that that would be
4 something I want to understand a lot better from the staff
5 and would love to make sure that the staff has looked at
6 that so that I can vote appropriately.

7 MR. DORSEY: Definitely. I can give you a
8 little bit more detail on those issues specifically. We
9 require a third-party market study be submitted with every
10 one of these transactions. We have a robust set of rules
11 and requirements related to how that market study is
12 developed and how the demand calculations are performed.
13 So we get that market study in. Each market analyst that
14 provides that has to be on a list of approved market
15 analysts. We have an open, effectively, RFQ to ensure
16 that anyone performing market studies meets a basic set of
17 requirements and understands the rules and constraints the
18 Department has in place for market studies.

19 In addition to that, we purchase independent
20 data, that is a cross-section of different tables that the
21 Census Bureau provides, specifically to help us evaluate
22 whether or not there's demand in that market, independent
23 of even the third-party market study, to ensure that we
24 actually can confirm the conclusions of that third-party
25 market study.

1 MR. THOMAS: Thank you.

2 MR. OXER: Is there a qualification process on
3 the third-party market evaluation provider?

4 MR. DORSEY: I'm sorry?

5 MR. OXER: Is there a qualification process?

6 MR. DORSEY: Yes. Before they're actually
7 approved to perform a market study, they have to actually
8 submit a market study that they believe would be
9 compliant. We go through a process of reviewing that, I
10 believe we also review some other elements such as their
11 resume and those types of things to make sure they have
12 appropriate experience.

13 MR. OXER: Okay. Are there any of the
14 questions from the Board? I think we're going to take
15 these one at a time so we don't confuse each of the issues
16 here.

17 MS. BINGHAM ESCAREÑO: Mr. Chair, are you
18 looking for a motion?

19 MR. OXER: I believe so.

20 MS. BINGHAM ESCAREÑO: On the item Cypress
21 Creek at Ledge Stone, I move staff's recommendation.

22 MR. OXER: Great. Motion by Ms. Bingham.

23 MR. GANN: Second.

24 MR. OXER: Second by Mr. Gann.

25 Is there any public comment? Yes? Just making

1 sure you know, you guys are probably new at this, we try
2 to keep the front couple of rows here for people that want
3 to say something about each one of these, so we typically
4 start from the left and go this way, an since you're in
5 the front and on the far left, you get to go first.

6 And for the record, so that everybody here
7 knows, when you get up there sign your name in and state
8 it clearly so that she can hear who it is.

9 MS. ROBERTS: Hello, members of the Board.
10 Thank you for letting me speak. My name is Melissa
11 Roberts, and I'm a resident of Dripping Springs, and I
12 know that there's land inside of Dripping Springs city
13 limits that has sewer and water accessible to it and is
14 ready for apartments. The city would prefer apartments be
15 there.

16 MR. OXER: Can I ask you a question? Can you
17 speak on behalf of the city or are you speaking as a
18 citizen?

19 MS. ROBERTS: No, I cannot speak on behalf of
20 the city, but I do talk to John Thompson, the city
21 planner.

22 When I asked Stuart Shaw why he would not build
23 directly in the city to truly help Dripping Springs and
24 the jobs around it, and I also asked Jim Shaw with Capital
25 Area Housing, they said that they could not get investors

1 to back the bonds inside the city limits. Well, then I
2 asked why. It's because there's lack of jobs, there's no
3 transportation, there's not enough development for these
4 apartments. There is space, though, for apartments.

5 Stuart Shaw, you cannot build in Travis County.

6 Correct? That's correct. So why did you pick our spot?

7 Because we're right across the line into Hays County.

8 The investors are only backing this location, in my
9 opinion, because the jobs and the development are towards
10 Travis County which are in Austin, so Sunset Valley will
11 definitely be favorable for these apartments, they will
12 bring employees. And people shop near the areas they
13 work, we all know that, so that's going to help the taxes
14 there, not in our locations.

15 So again, he says it's here to help Dripping.

16 Well, it's very clear to me, without any doubt, that it's
17 not here to help Dripping Springs, it's only to overcrowd
18 our already overcrowded schools, which we have no more
19 money in our account to build more schools at this time.

20 Thank you so much.

21 MR. OXER: Thanks, Ms. Roberts.

22 Any questions from the Board?

23 (No response.)

24 MR. OXER: Thank you. Next.

25 MS. BATTE: My name is Michelle Batte. Thank

1 you for the opportunity to speak. I'm also a resident of
2 Dripping Springs and I live in the ETJ, the
3 extraterritorial jurisdiction there.

4 I've been following this particular development
5 for over a year and a half. My background is as a social
6 worker and my concerns come, one, as a resident, how is
7 this going to impact my community, but my questions began
8 early on when I didn't understand and couldn't see how
9 this location made sense for the folks that it was
10 intended to serve. So I will be brief and I'm going to
11 leave it as a broad statement that I care very much about
12 the Dripping Springs community.

13 I think a healthy community does have a variety
14 of housing options and we need that, we need to plan,
15 structure our city so that we have housing that everyone
16 can afford, but it needs to be in a location that makes
17 sense, and this location doesn't make sense to me in terms
18 of access to jobs, access to transportation, access to
19 schools, affordable childcare, emergency response.

20 There are so many items that over the past year
21 and a half I've tried to search for answers and I'm still
22 not convinced that these things have been resolved or
23 addressed, so I, at this time, am still opposed to this
24 development in this location.

25 Thank you.

1 MR. OXER: Thank you, Ms. Batte. Any
2 questions?

3 DR. MUÑOZ: I have a question, Ms. Batte. Have
4 you had a chance to see some of the letters of support for
5 this project? It includes bankers, educators, church
6 elders, competing apartment facilities like the Sleep Inn
7 manager. You know, I presume that these are people that
8 also live in the area, that also are familiar with the
9 schools, that also have an investment at least equal to
10 yours, that seem supportive, that seem not concerned with
11 some of the issues you raise.

12 MS. BATTE: I'm very aware that it's not 100
13 percent opposition, there's some support.

14 DR. MUÑOZ: There's considerable support.

15 MS. BATTE: Primarily it sounds like the
16 letters you're noting are from business owners, people who
17 have a business investment in the community. I don't know
18 where they live, I don't know where their kids go to
19 school. And I haven't read the specific letters, I
20 haven't seen those letters. I've heard voices in support
21 at meetings like this, but more local community meetings
22 that are planning and zoning committee, city meetings in
23 that setting. And I hear the argument and I definitely
24 believe that people feel there's potential and I think
25 that bringing affordable housing into Dripping is needed

1 and it's important, but this particular location where
2 it's at, all the way as far out to the edge of the ETJ as
3 possible, doesn't make sense for the folks who are going
4 to live there.

5 I've also seen some rents, what rent would be,
6 and these were Stuart Shaw's list that he did supply to
7 us, and they weren't that different from the apartment
8 complexes that are going to be built or have been built
9 that do pay taxes.

10 DR. MUÑOZ: One of the letters is from the
11 mayor, one of them is from the elder at the Hill Country
12 Bible Church. I presume that these are people very
13 familiar with the geography, with the social services,
14 with the educational resources.

15 MS. BATTE: I haven't read those letters so I
16 guess I can't speak to what their points are.

17 DR. MUÑOZ: They're essentially supportive of
18 the development. When you're here, you're trying to
19 figure out what's sort of in the best interest of the
20 area. You have this significant representation by
21 apparently knowledgeable people in support, and then there
22 are your comments that are no less sincere and authentic,
23 it makes for a difficult sort of decision.

24 MS. BATTE: Yes. You guys have a challenge
25 ahead of you today, I believe.

1 DR. MUÑOZ: The one fellow from the church
2 says: May God give you discernment. I hope He does.

3 MR. OXER: I hope he gives me Tylenol, frankly.
4 (General laughter.)

5 MS. BATTE: Plenty of that along the way. It's
6 caused a lot of turmoil. On the positive side, it's
7 engaged folks in our community. When I moved here to
8 Dripping Springs from out of state, I did not know what an
9 ETJ was. I sure do now, I know what the benefits and
10 limitations are, and a lot of us have been educated along
11 the way in this experience. But at this point, I still am
12 not convinced that the location for this very large
13 apartment complex would benefit, and again, this is coming
14 from my background as a social worker working in various
15 communities, from Minneapolis to Washington State to New
16 Mexico to here. I see severe limitations for the folks
17 who would live there.

18 Any other questions?

19 MR. OXER: Great. Thank you.

20 (General talking and laughter.)

21 MR. SCOTT: Thank you, Chairman and Board to
22 allow us to have an opportunity for making public comment.
23 My name is Russell Scott. Right now I live in the Ledge
24 Stone neighborhood that's being affected, or may be
25 affected by this issue.

1 For the past 30 years I have spent the vast
2 majority of my life in Texas. During this time I have
3 learned that Texans are good people, they want to help
4 others, and especially those in need which is what we're
5 talking about right now. And I personally try to help
6 other people. I've learned that we need to stick up for
7 ourselves, though, when someone tries to take advantage of
8 us. Personally, my family donates both time and money to
9 help those money in need.

10 Over the past couple of years it has become
11 more and more clear to me that the proposed Cypress Creek
12 at Ledge Stone apartments would not really help the people
13 that they purport to help. As an average person that has
14 had times in my life when I could use affordable housing,
15 I've become convinced that Cypress would not help. In
16 fact, I think they may even violate the FHA. As you know,
17 the Fair Housing Act requires that rental housing not
18 discriminate against a number of different classes of
19 people. Because I'm disabled, I happen to fall into one
20 of those protected classes.

21 The FHA requires that rental housing,
22 especially multifamily rental housing, provide accessible
23 housing for people like me. Among other things, the FHA
24 defines accessible housing to include access to public
25 transportation. Since living in Ledge Stone, I've tried

1 to find public transportation to get me to doctor
2 appointments. There's in city transportation in the area,
3 so I've looked into non-profits that offer help for
4 disabled people and their transportation needs. None of
5 the non-profits that I contacted offer transportation as
6 far away from the City of Austin as we live, and we live
7 closer to Austin than the Cypress location.

8 If I had not been so closely involved in this
9 issue and say I became divorced and didn't have my wife to
10 rely on to drive me everywhere I need to go anymore -- I
11 can't drive anymore, or I shouldn't drive. I only drive
12 through parking lots. I do have a license but it's my
13 last license that I'm going to have. Anyway, side note
14 there.

15 (General laughter.)

16 MR. SCOTT: Say my wife and I became divorced,
17 if I could qualify for the Cypress Creek apartments, I'd
18 probably go there. I live right in that area, I like that
19 area, we are comfortable in that area, so I would probably
20 rent from Cypress, I'd probably look into there and say
21 there's a spot for me to live, I might be able to qualify,
22 I'm not sure if I could. But unexpectedly, in less than a
23 month, I would discover that Cypress was not properly
24 serving me as required by the FHA, the Fair Housing Act,
25 because I would find that I would be unable to find public

1 transportation to get me to my regular doctor
2 appointments. For these and numerous other reasons, I
3 respectfully request that TDHCA deny funding for such a
4 housing project in this location.

5 The only support that I've seen for this -- and
6 one of those is that letter that you were talking about
7 from the elder at the Baptist Church, I'd be interested to
8 know where he lives, and if he lives in the area and how
9 he came up with his conclusion to support it. The other
10 people I've seen that support it in the past have been Rex
11 Baker and Patrick Rose, and it's interesting that Rex
12 Baker, as I understand it, is an attorney that has helped
13 Mr. Shaw and Bonner Carrington to establish -- he's been
14 their legal representative, as far as I know, but you may
15 need to check on that. And another supporter has been
16 Patrick Rose. I cannot figure out why he would support it
17 because he doesn't live in the area either, as far as I
18 understand it.

19 And one other point that in our dealings with
20 Mr. Shaw, he specifically said: I will not build if there
21 is opposition. This came up in a public hearing, I don't
22 remember when it was, but I brought that point out that he
23 said that multiple times and he stood up -- I guess it was
24 County Judge Cobb's office when I made that comment -- and
25 he objected to that, but then he actually admitted that,

1 hey, I have said that at least once. And so Mr. Shaw
2 himself has said he wouldn't do it if there's opposition,
3 and I think that tells a lot.

4 Thank you.

5 MR. OXER: Thank you, Mr. Scott.

6 Any questions from the Board?

7 (No response.)

8 MR. OXER: Good. Thanks. Need a hand getting
9 saddled back up over there?

10 MR. SCOTT: If I just fall backwards, I'm
11 probably okay.

12 MR. OXER: That's what we sit up here for,
13 that's why we're on the deck on this.

14 (General laughter.)

15 MR. OXER: Just so that you know, you won't be
16 able to distribute those unless there's enough for
17 everybody in the audience. It's a protocol thing that
18 we're required to abide by.

19 MR. ROSE: Totally understand. Let me sign in.

20 MR. OXER: Fair enough.

21 I think what we're going to do down there,
22 let's make sure we've got a sign-in sheet because it looks
23 like you're going to be busy signing folks in, let's get
24 them signed in so that they're ready to speak when the
25 next one is ready.

1 Good morning.

2 MR. ROSE: Good morning, Mr. Chairman and
3 commissioners. Let me first say I appreciate everybody
4 who is here for and against the issue. There's a lot of
5 people in our community who are invested there, people get
6 to different conclusions on issues of concern to them,
7 each of them reach those destinations in a legitimate and
8 honest and worthwhile way, and I respect everyone's
9 opinion.

10 Because Mr. Scott, who I've not met -- but it's
11 nice to be with you -- was asking, I'm the Patrick Rose he
12 referred to -- why I'm involved in the issue. My parents
13 moved to Dripping Springs in 1977, I was born in '78,
14 raised in the public schools there, and I own a company
15 that employs eleven people in Hays County, seven of whom
16 reside in Dripping Springs and work in Dripping Springs. I
17 also chair the city's economic development committee.
18 That's a group of eight local leaders who the city has
19 empowered to evaluate issues like this, occasionally take
20 positions on them when they are in the best or not in the
21 best interests of the community. That is what brings me
22 here.

23 And as a business owner in Dripping Springs,
24 and someone who's had more than my fair share of
25 experience with our great community, I'll say this: we

1 have a distinct need for affordable housing in our
2 community. That need has been identified numerous ways,
3 but including and recently in the comprehensive plan. Our
4 committee unanimously supports this project because we
5 need places for the people who work in our fine community
6 to live.

7 DR. MUÑOZ: Let me ask a quick question. Sorry
8 for the interruption.

9 MR. ROSE: Yes, sir.

10 DR. MUÑOZ: Of those eight people, how many of
11 them live in Dripping Springs?

12 MR. ROSE: Seven, and the other is in Hays
13 County in Kyle.

14 It's a tough issue, where do you put the
15 housing, and there may not be any perfect answer to that,
16 but our committee reaches this conclusion because we
17 strongly believe there's a need and we also strongly
18 believe in the developer who has brought the project. He
19 is more or less local, he's in the Austin region. I do
20 reside in Hays County but in San Marcos, very close to
21 another one of his projects called Mariposa, very familiar
22 with it, and I've watched and seen other of his projects
23 across the region and believe in its quality, as does our
24 committee. So that's why, respectfully, we come to
25 present our unanimous support of this project, and will be

1 glad to answer any questions if you have them.

2 MR. OXER: Are there questions from the Board?

3 Robert.

4 MR. THOMAS: Patrick, Representative, good to
5 see you this morning.

6 MR. ROSE: Good to be here.

7 MR. THOMAS: Talk to me about it a little bit,
8 help me understand, you heard my earlier question
9 concerning economic viability, and where you're coming
10 from, talk to me about the economic viability of this
11 project from economic growth in the community. How can
12 this project support growth in the community, economic
13 growth and build more jobs. Obviously, if it's not going
14 to be on the tax rolls, we've got to have another way that
15 it adds to this particular community.

16 MR. ROSE: Sure. Two things. First, the
17 current employment base in our community has many people,
18 includes many people who would qualify for this project,
19 and we need that housing option today for the existing
20 employment base that we have in our community. That's why
21 our economic development community supports the project.
22 Second reason is that our community is a growing
23 community. I hope that more and more people -- I mean,
24 Dripping is a great place to live, to raise your family,
25 to go to church, it's a great community to live.

1 Increasingly, it will become a great community to work in,
2 as well, and particularly as we grow in that way, I think
3 there's a need for this housing. So not only do I believe
4 we have a demand for it today, but I also believe we have
5 a distinct need for it tomorrow.

6 MR. OXER: Patrick, do you have an answer to
7 the question of transportation, public transportation?

8 MR. ROSE: It's an enormous problem, no matter
9 where you live in Dripping Springs. If this were to be in
10 downtown Dripping Springs, you'd still have a
11 transportation problem. CARTS does a noble job of serving
12 rural needs, particularly for folks going to medical
13 treatment, but it isn't Portland, Oregon out there.

14 MR. OXER: There's a transportation problem in
15 Houston too but generally because there's too much of it
16 down there.

17 MR. ROSE: Right.

18 MR. OXER: Okay. Any other questions from the
19 Board? Tom, did you have a question?

20 MR. GANN: He answered it.

21 MR. OXER: Okay.

22 MR. ROSE: Appreciate your consideration.

23 MR. OXER: Thank you.

24 MR. BAKER: Good morning. My name is Rex
25 Baker. I'm the other guy that Mr. Scott referred to.

1 I've lived in Dripping Springs for about 25
2 years, I live in the ETJ, I'm a businessman, I've had my
3 business there for all the time I've been there. We
4 definitely have a need for this project. As far as
5 location is concerned, the current location has sewer, it
6 has water, so it's not septic, it's not well. The problem
7 with the City of Dripping Springs proper is it just got
8 sewer three years ago. That's kind of hard to believe but
9 it's the truth. And unfortunately, the sewer system does
10 not have the capacity to handle a project this size, so
11 even if it wanted to be in there, it couldn't unless it
12 wanted to go under septic.

13 From a location standpoint, most of the
14 people -- and I say that anecdotally -- a lot of the
15 people that are here complaining is because it's in their
16 backyard. And I can understand that. I'm from Houston
17 originally. We don't have zoning so you're always looking
18 over your shoulder what's in your backyard, but you pay
19 your money and you take your chances.

20 I too serve on the economic development
21 committee but I've abstained from any votes there because
22 I was involved representing the developer. At this point
23 I do not represent the developer. I've also worn a bunch
24 of hats while in Dripping: I've been city attorney, I've
25 been the JP, I've done my stint in community service, and

1 I can tell you categorically the city desperately needs
2 this project.

3 We went around -- I say we -- Mr. Shaw's group
4 went around, and they may refer to it later, I think
5 there's 200-some-odd units available in this project and
6 we have 600 or 700 people who would qualify for this that
7 currently work in Dripping, people who work at Home Depot,
8 people that work at H.E.B., people that work at Trudy's,
9 people that work for the school district. They commute
10 because there's no place to live in Dripping. Dripping is
11 a very expensive place, if you aren't aware of that. I
12 think the median price of a house is over \$200,000.

13 So for someone who's got an income of less than
14 \$50,000, there's no place, there are no apartments in
15 Dripping Springs to speak of. There's a Section 8
16 facility on the east side of town, but we don't have the
17 housing that's needed for right now, as Patrick said, not
18 to mention what's going to be happening in the future.

19 Thank you for your time.

20 MR. OXER: Are there any questions for Mr.
21 Baker?

22 (No response.)

23 MR. OXER: Thank you.

24 Okay. We have the second row there. Anybody
25 else on this one? Is anybody over here? Who's next? For

1 the record, we're going from that way across there. Make
2 sure by the time you get up here you've been signed in so
3 we keep it as efficient as possible.

4 MR. NUTT: Thank you, Mr. Chairman and the
5 Board for your time today. My name is Steve Nutt. I am a
6 resident of Heritage Oaks which is immediately next door
7 to the Cypress Creek project.

8 I served three years on the Heritage Oaks
9 Landowner Association board, and I can tell you there is
10 overwhelming opposition in our neighborhood to this
11 project. There's significant objection to this project
12 and one thing that is extremely frustrating for me as a
13 citizen, and for residents of our community, is we are in
14 the ETJ and we are impacted by these developments but we
15 have no voice.

16 You have a letter from the mayor of Dripping
17 Springs. I don't get to vote for the mayor of Dripping
18 Springs but I certainly get to be impacted by this type of
19 project and these decisions, and there is a tremendous
20 amount of frustration of the people in the ETJ that we
21 don't have a voice other than taking our voice in a public
22 forum such as this. There are many people in the ETJ that
23 are opposed to this, there are many letters of other
24 significant community members who are also opposed for a
25 variety of reasons.

1 My objection to this is really based on the
2 location being inappropriate. This is still a semi rural
3 area. One of my big concerns is 290 and the traffic
4 impacts on 290. This is a 65 mile an hour speed limit to
5 the exit of this complex, and there are no plans that I
6 have seen to put any kind of traffic lights in. There is
7 no traffic light departing this development. The closest
8 light is down at my residence at Heritage Oaks, and prior
9 to the lights going in at Heritage Oaks, my next door
10 neighbor was involved in a very serious car accident which
11 hospitalized her and injured her children.

12 I have two other neighbors in the Heritage Oaks
13 development that have been in car accidents on 290. In
14 September there was a fatal, four fatality accident at the
15 light at 290. Once again, there is no light coming out of
16 this project, and I can tell you, from direct experience,
17 turning left which is the direction to Austin, is a
18 harrowing experience for anybody. As the father of a
19 recent Dripping Springs High School grad, it was always a
20 concern that my son was driving on 290 with him and his
21 friends.

22 The nearest grocery store to this development
23 is either in Dripping Springs or at the Y at Oak Hill and
24 it's seven miles away. The schools, there's no proximity
25 to the schools, there are no sidewalks or bike paths along

1 290. There are few parks and no schools, and there is no
2 plan for these kids to be able to safely cross 290. And
3 the estimates I've seen is we're looking at 200 to 300
4 children coming into this development.

5 The schools being a long ways away and no
6 public transportation to them is an impact, and as a
7 parent of a school child, I understand how important it
8 was to be involved in school and to be able to participate
9 in school events.

10 The work opportunities I don't believe are as
11 prevalent in Dripping Springs as they will be in Austin
12 and that means the traffic direction is going to be going
13 to the Y in Oak Hill, which is notorious in and of itself.

14 For sake of time I'll limit my comments to
15 these particular concerns, but I'm sure you'll hear many
16 other concerns articulated today. I believe strongly that
17 affordable housing is vital to both the individuals and to
18 the communities that it serves, but I would encourage this
19 Board to invest your limited resources to locations and
20 projects that make sense to both the new residents that
21 will be in these communities, as well as the existing
22 communities.

23 Please deny the application for Cypress Creek
24 at Ledge Stone project. Thank you.

25 MR. OXER: Thank you for your comments, Mr.

1 Nutt.

2 Are there any questions from the Board?

3 (No response.)

4 MR. OXER: Thank you. Who's next?

5 MR. O'BRIEN: Mr. Chairman, members of the
6 Board. My name is Dan O'Brien. I am a local business
7 owner, I have a business which would be located
8 approximately an eighth of a mile away from the site. I'm
9 a nearby resident, I live in the Belterra community which
10 is across the street from 290. I serve on the board of
11 directors for that homeowners association. I'm an
12 attorney and I have a background in economics.

13 I'm concerned with the discussion as being
14 framed as this is beneficial for Dripping Springs, it is
15 or it isn't. The site is but more than a way point
16 between Austin and Dripping Springs. It's located in the
17 extraterritorial jurisdiction, we know that, but it's even
18 miles from Dripping Springs downtown, it's as close to
19 really the last major intersection in southwest Austin
20 which is the Y at Oak Hill, 290 and the intersection of
21 Highway 71.

22 Surrounding my fellow business members are a
23 handful of other solo practitioners, local law practice, a
24 plant nursery, a couple of restaurants, a liquor store and
25 a couple of gas stations. This is not the economic basis

1 which could absorb a labor force. Practically speaking,
2 we're talking about the individuals either going back into
3 Austin, but if the idea of the project is to support
4 Dripping Springs, then we're looking at a seven-mile trek
5 into that area where there is no public transportation
6 available.

7 We've heard other comments about Dripping
8 Springs and their ability to provide different services.
9 If Dripping Springs is three years out from installing an
10 actual sewer system, I think it's fair to say there aren't
11 any immediate plans to have public transportation go into
12 place. And so we're looking at people that will have
13 either limited transportation opportunities to be able to
14 access a market which may or may not come into existence.

15 The nearby residents, I believe, don't feel
16 that there will be an economic benefit. As a business
17 owner in close proximity to it, I don't see an immediate
18 economic need. And if Dripping Springs desires to have
19 the development, it seems more appropriate for the mayor
20 to make plans to put that development in his city limits
21 and not six to seven miles out of his borders.

22 I strongly encourage the Board to reject the
23 application. I don't think it services the community and
24 I don't think it services the residents that would
25 otherwise or could potentially benefit from a project. It

1 doesn't help to provide low income housing if it's not in
2 the right place, and I don't think there is a reasonable
3 expectation of employment nearby, there's not an
4 opportunity for transportation, and I think ultimately
5 what we'll do is create a situation where we have a
6 housing community that is under served and ultimately will
7 struggle. The Department will create a problem which it
8 was intended actually to solve.

9 MR. OXER: Thank you.

10 Are there any questions for Mr. O'Brien?

11 (No response.)

12 MR. SONE: Good morning, Mr. Chair and Board.
13 I'm John Sone. I'm a resident of the Belterra
14 neighborhood. That's a master planned community. I
15 believe it was in the news yesterday as a very lucrative
16 and well thought through community. I moved to that from
17 my final assignment in the Army, I was a soldier for 30
18 years, because it was a master planned community. It
19 included multifamily housing which I think probably fits
20 into most of our definitions of affordable housing.

21 I'm a planner at heart. I was recalled from
22 retirement to serve as a strategic planner at headquarters
23 Department of the Army, so I recognize planning when it's
24 happened and when it hasn't happened. As a city manager
25 and recent graduate of Texas State with a master in public

1 administration, I can tell you that a lot of planning
2 hasn't happened.

3 I'm a staunch supporter of smart growth,
4 however, this is not smart growth that we're seeing right
5 now, there is no master planning involved. This hasn't
6 been accounted for in regional transportation planning, in
7 the county's transportation plan, it really hasn't been
8 accounted for in the municipal comprehensive plan, and if
9 they would publish an annexation plan in Dripping Springs,
10 I'm sure that perhaps there would be some thought given to
11 it, but that is not done.

12 So also, as Mr. Nutt, a father of a recent
13 graduate of Dripping Springs High School, I'm very
14 concerned about the extremely inadequate transportation
15 planning, not just the paucity of public transportation
16 but the paucity of planning for public transportation, and
17 I strongly urge you to share the misgivings that I have,
18 that my state representative has, that my county judge and
19 my county commissioner have in rejecting this application.

20 MR. OXER: Thank you, Mr. Sone.

21 Any questions?

22 (No response.)

23 MR. OXER: Okay. Thank you.

24 MR. SIKORA: Good morning, Mr. Chairman and
25 other members of the Board. My name is Vincent Sikora. I

1 live at 198 Bradshaw in Belterra subdivision, a community
2 that's part of the Dripping Springs ETJ that comprise
3 about 1,200 homes. I am the president of the Belterra
4 Neighborhood Association. The Belterra Neighborhood
5 Association is a non-profit organization incorporated in
6 the State of Texas. Our purpose is to maintain liaison
7 with local governments and associations and to inform the
8 residents and the workers of the Belterra residential and
9 commercial districts of significant community
10 developments.

11 I apologize for being more redundant here than
12 I intended to but I would like to restate some of the
13 points that have been previously stated. I understand
14 that the TDHCA mission in part is to provide affordable
15 housing to those who can benefit from it. It has provided
16 the means for many needed projects and one of the
17 determining factors for getting the support of this
18 organization is that these locations and particular
19 projects will benefit the people they are designed to
20 help. This is a necessary and admirable use of our
21 taxpayer monies.

22 This particular project under review, Cypress
23 Creek at Ledge Stone, would not necessarily help those
24 income families that this type of funding is meant to
25 promote. The accessibility of daycare, the proximity to

1 municipal services, public schools, shopping and doctors
2 is poor. The convenience of transportation is poor or
3 nonexistent. There are multiple safety issues associated
4 with this project, including very limited sidewalks and
5 bike paths to walk or bike to work or other areas, poor
6 access roads and heavy traffic congestion with limited
7 traffic lights and pedestrian crossings. In short, those
8 living on a tight fixed income will find this location a
9 very difficult functional living arrangement.

10 This project sits seven miles from downtown
11 Dripping Springs and seven miles from the Y at 290 and 71.

12 Both of these areas contain the elements of what
13 affordable housing should have easy access to.

14 I would like to bring to your attention that
15 recently Judge Cobb of Hays County and Commissioner Ray
16 Whisenant have recently withdrawn their support of this
17 project.

18 Again, if TDHCA wants to make sure that the
19 projects they help fund and utilize their taxpayer dollars
20 for will actually benefit those that they're intended for,
21 the preceding outlined factors must be taken into
22 consideration.

23 Thank you for the opportunity to speak, and I
24 would like to oppose this project.

25 MR. OXER: Thank you, Mr. Sikora.

1 Are there any questions from the Board?

2 (No response.)

3 MR. OXER: Okay.

4 MR. GRAD: Good morning. My name is Owen Grad
5 and my wife and I live in the Ledge Stone community.

6 The Ledge Stone community is served by one
7 entrance and one exit passing through a roundabout on
8 Ledge Stone Drive and onto Highway 290. Entering Highway
9 290 is at best hazardous and at worst death defying,
10 especially heading eastbound. At this time there are no
11 traffic lights at this intersection. I would also like to
12 point out again that there is no mass transit serving our
13 community, for that matter, the City of Dripping Springs.

14 The Ledge Stone community now has 209 homes
15 completed, with a planned final buildout of 234 homes.
16 The residents in our community have to pass through the
17 Ledge Stone roundabout to enter 290 east or west in order
18 to exit our community. The Ledge Stone roundabout must
19 handle all the vehicles from the existing homes and future
20 planned homes. In addition, school buses from the
21 Dripping Springs ISD enter and exit our community numerous
22 times during the day.

23 The proposed Cypress Creek apartments at Ledge
24 Stone would use the same roundabout in front of our
25 community to enter and exit Highway 290 or use Four Star

1 Boulevard which also has no traffic lights to enter
2 Highway 290. At this time it would be hard to approximate
3 how many additional vehicles will eventually have to enter
4 and exit Highway 290 from this apartment complex, but it's
5 safe to say that with 244 apartment units and no mass
6 transit in our area, the number of cars entering and
7 exiting through the roundabout at Ledge Stone Drive or
8 through Four Star Boulevard would be considerable. With
9 the volume and high rate of speed on Highway 20, both
10 eastbound and westbound, it would be exceptionally
11 hazardous to add additional vehicles into this mix.

12 For this reason I am asking you to add this
13 information in your deliberations concerning this project.

14 Thank you.

15 MR. OXER: Thank you, Mr. Grad.

16 Any questions from the Board?

17 (No response.)

18 MR. OXER: Good. Next.

19 MS. SCOTT: Hi. I am Theresa Scott. I am the
20 chauffeur of Russell Scott. He does not and will not be
21 driving. You are safe in the parking lot even.

22 (General laughter.)

23 MR. OXER: That takes all the fun out of it.

24 MS. SCOTT: Commissioner Whisenant's office had
25 let me know that there was 101 opposition to this project.

1 From day one, the City of Dripping Springs and the
2 Chamber of Commerce told me and told many of us that this
3 project was needed and necessary because of two main
4 reasons. The two main reasons that they always put out to
5 us were that businesses will not come into the area
6 without affordable housing. According to them, in order
7 to have growth, we need an affordable housing complex.
8 Well, it's my understanding that TDHCA was not created to
9 build cities or to bring businesses into cities, but
10 rather to deliver local housing and assistance to Texans
11 in need.

12 It seems to me the age-old statement don't put
13 the cart before the horse is pertinent in this situation.
14 Which needs to happen first: affordable housing or a
15 strong job market? Common sense to me is that Texans on a
16 fixed budget need to live in an area that currently offer
17 jobs, public transportation, shopping conveniences, and in
18 close proximity to everyday needs. This location at this
19 time offers little to no infrastructure to support and
20 assist those on a tight budget.

21 I have been on that tight budget. I have four
22 children and when you drive 40 to 100 miles a day to go to
23 the schools every day to pick up and drop off kids for
24 extracurricular activities, the before school practices,
25 the after school practices, and all the shows and the in-

1 between, 40 to 100 miles a day takes a big chunk out of
2 your fixed budget.

3 If your child misses the bus either in the
4 morning or after school, there is no way they can walk to
5 school, there is no way they can ride a bike to school.
6 In fact, I don't know if you heard on the news recently of
7 a child that was bullied in Dripping Springs just this
8 week, the kid left school, walked six miles home on the
9 highway. It outraged the parents and the community
10 because there is no safe way for a child to get to and
11 from school if their parent cannot drive them.

12 The grocery store is a place we cannot avoid.
13 It seems to me that is my second home. The closest
14 grocery store in either direction, towards Austin or to
15 Dripping Springs, is seven miles. It's really frustrating
16 when you get home and you realize you forgot an item. To
17 either have to go back and get something, or get in your
18 car, drive across 290 to the closest gas station and pay
19 twice the cost is not a nice alternative.

20 This complex site that we've mentioned is on a
21 very busy and dangerous highway. Accidents, many fatal,
22 seem to happen on a regular basis. I myself had never
23 been in a car accident until we moved out to Ledge Stone.

24 I have had three on 290 -- granted, none of them were my
25 fault, but nonetheless, three accidents in the seven years

1 I've lived there. It is a very dangerous, dangerous
2 highway.

3 There are, as was mentioned, no neighborhoods
4 to cut through, there are no sidewalks or bike paths, no
5 traffic signals, just you and lots of vehicles traveling
6 over 60 miles an hour. This apartment complex will be
7 situated just off 290. There will be no place for mothers
8 to walk strollers, for people to walk their dogs unless
9 they want to go around and around the complex.

10 The Dripping Springs Chamber of Commerce feels
11 like the need for affordable housing is now. I disagree.

12 How can you put hundreds of people on a fixed income into
13 an area where the cost of living is so high and the
14 infrastructure to assist their needs does not exist.

15 Let's get the sidewalks, the bike lanes, traffic lights
16 and other supporting businesses into the area first. It
17 can be done and it has been done time and time again.

18 Affordable housing can and should be a blessing to both
19 the community and those who need affordable housing, the
20 key being that it needs to be a blessing to both parties
21 and not just to one.

22 The second reason the city and chamber have
23 told us they support this complex is because the current
24 businesses cannot maintain employees because of the long
25 commute. Well, did you know that our sister community,

1 Lake Travis, was once a small town like Dripping Springs.

2 In ten short years it has transformed into a booming
3 metropolis, and two interesting facts stand out: one,
4 there is not a single affordable housing complex in the
5 boundaries of Lake Travis or the Eanes School District,
6 and I am a realtor and I can tell you the housing market
7 in those areas is more expensive than in Dripping Springs,
8 yet they have businesses and they have employees. How are
9 they able to maintain the growth and maintain the
10 employees if an affordable complex is necessary?

11 To determine the amount of employers seeking
12 employees I purchased two local papers this week in
13 downtown Dripping Springs. There were a total of three
14 jobs offered in the help wanted for Dripping Springs. I
15 drove around town, I saw very few help wanted signs.
16 Those I did see were for fast food restaurants,
17 McDonald's, Dairy Queen, which are likely to hire at a
18 minimum wage, not enough income to qualify to live in
19 these apartments. I searched craigslist and found five
20 jobs offered for Dripping Springs since October 1. I
21 looked at the Chamber of Commerce's website for their job
22 postings and saw there were 22 for local jobs, but some of
23 those have been filled and are duplicates of what I found
24 in the paper or on craigslist.

25 I've spoken with three women this week who have

1 been trying to find jobs in the Dripping Springs area who
2 are local, and they all stressed the same concerns: there
3 was nothing available that they could take that would
4 service their family and provide the income that they
5 needed. If employees are scarce and they're having a hard
6 time keeping employees, well, where is the advertising for
7 employees coming from?

8 The location of Cypress Creek is on the Hays-
9 Travis county line. It seems apparent that this complex
10 would serve Travis County and Austin businesses far more
11 than it will currently support or build up Dripping
12 Springs. Living there, I can attest that the business
13 traffic is not going into Dripping Springs in the mornings
14 or in the evenings, it's going into Austin. If Dripping
15 Springs wants the benefit of this complex, it needs to be
16 located within their city boundaries -- which, on their
17 comprehensive plan, it does ask for affordable housing and
18 they have planned for affordable housing within their
19 limits, but because of their own planning, their own
20 doing, they can't support it at this time.

21 How can we rationalize our Hays County dollars
22 being spent on a complex that will seemingly benefit
23 Travis County? There is an affordable housing complex in
24 the municipality of Dripping Springs. I have called
25 multiple times over the years and found that they have

1 vacancies every time I have called. There is also another
2 affordable housing complex located at the Y in Oak Hill
3 that, too, has vacancies every time I have called. There
4 are options for Texans on a fixed income currently in
5 place. The commute can either be a five-minute commute or
6 a 15- to 20-minute commute.

7 If anything, at this time we need a complex
8 where all are able to reside if they choose. We do not
9 have a single market rent apartment complex in the
10 Dripping Springs area. We have firefighters, police
11 officers, school teachers, managers, new business owners
12 and divorcees that do not meet the income guidelines to
13 live in Cypress Creek apartments. They are the ones
14 without any options.

15 Affordable housing is a necessary element to a
16 healthy community. I am not opposed to what your purpose
17 is. However, if my tax dollars are being used to fund
18 this complex, then it needs to support those it is
19 intended to support. It seems backwards to bring a
20 complex in before the jobs and the support system. Let's
21 not experiment with those on a fixed income, they can't
22 afford it and neither can we.

23 Thank you.

24 MR. OXER: Thank you, Ms. Scott.

25 Any questions from the Board?

1 (No response.)

2 MR. OXER: Okay. Thank you.

3 MR. PETERSON: I'm Norman Peterson and I live
4 in the Heritage Oaks area right near this development. I
5 just wanted to show my opposition to the project. I think
6 the people that have spoken before me have expressed it
7 better than I could, and in the interest of time, I just
8 wanted to step up and show my opposition.

9 MR. OXER: Good. Thank you very much.

10 MR. SHIVELY: Good morning. I didn't believe
11 we were going to be underground. My name is Dick Shively.
12 I live in Ledge Stone. My background is not all that
13 great. I spent 27 years as a police officer in the area
14 of Seattle in a small town called Auburn. I moved down
15 here to Texas seven years ago and moved into Ledge Stone
16 six years ago.

17 I keep hearing that people want this
18 development built, but I keep hearing they or them but I
19 never heard any specifics. I wish you, Mr. Mendez --
20 excuse me, I'm going to mess your name up -- could have
21 been in attendance at a meeting that we had in City
22 Council of Dripping Springs about a year ago. You said
23 you've got six letters opposing it. At that meeting there
24 were over 205 people there opposing it, all ready to speak
25 but we didn't have time. There were two people in favor

1 of it, one was Mr. Shaw, the other one was a deputy who
2 resides in one of his apartments in north Travis County.

3 Then we had a planning meeting because they
4 wanted a cut and fill variance. Over 200 people showed up
5 opposing it. We were voted down seven to one; they didn't
6 think it was a good idea for us to oppose it.

7 You said there was market study done of
8 businesses. Well, I'm not a market study analyst, but
9 Tuesday I had lunch with a gentleman and we asked the
10 waitress and the manager how many people here do you have
11 employed, and they said twenty. How many live in
12 affordable housing? Well, they don't need to, most of
13 them live with their parents. Well, could they live in an
14 apartment if they were working here? No, they don't make
15 enough money.

16 So on the way home I stopped at my bank and
17 asked them the same questions. We really don't need it,
18 we all live in our own homes. Then I stopped at Sonic,
19 talked to the manager, I went across the street, talked to
20 McDonald's, talked to the manager, same thing. Both have
21 about twenty employees, they don't have problems filling
22 open vacancies. They put the word out and they have
23 numerous applications. The problem is most of them are
24 young people that don't have a place to stay other than at
25 home and they won't make enough to afford an apartment.

1 I'm a taxpayer, you folks are going to be
2 spending my tax money. I just hope you do well with it
3 and consider all the possibilities. Thank you.

4 MR. OXER: Thank you, Mr. Shively.

5 Are there any questions from the Board?

6 (No response.)

7 MR. OXER: Okay. One more?

8 MR. HINES: Hello, Mr. Chairman and directors.

9 Thank you for allowing me to speak today. My name is
10 Jonathan Hines. I've been a resident of Dripping Springs
11 for the past nine years. I've attended Dripping Springs
12 schools since the second grade.

13 A lot of what I came to talk about today has
14 been covered, so I'm going to try and be brief about it.
15 In no way do I intend to be condescending and negative, I
16 am simply stating my position.

17 I've been hearing we need the project, we
18 desperately need it, we don't have the housing for our
19 residents. I strongly believe in affordable housing for
20 those that need it until the point where it puts a burden
21 and a strain on the community.

22 I have a close personal friend, his name is
23 Marco Arredondo Ramirez. His family, along with several
24 other families, whose names I've been asked not to
25 disclose, all live in one housing complex. The fathers of

1 these children all stand by the gas station on the way
2 towards the school, they are day laborers, they wait for a
3 rancher or someone to come pick them up and give them
4 work. These men have adapted to the sense that work is so
5 rare and so they're encouraged to wait out by the gas
6 station, and that have not been able to find work in quite
7 some time.

8 I've also heard that between 200 and 300
9 children will be incoming to Dripping Springs School
10 District. This is the first year we have not faced a
11 budget cut but we are still in a budget deficit as we are
12 recovering from recent years of budget cuts. We as a
13 school have received numerous grants to fund projects such
14 as the football program, the debate program, band and
15 other extracurricular activities, however, the money we
16 have is quickly being exhausted recovering from recent
17 years and funding the few projects we have. We've tried
18 numerous fund raisers to try and come up with other means
19 of funding for these programs, however, with these new
20 children coming in, we will have to find more ways to fund
21 and support them in the district.

22 It is for these reasons that I'm in opposition,
23 and I strongly encourage the Board to please deny this
24 grant. Thank you.

25 MR. OXER: Jonathan, hold on a second.

1 Any questions from the Board?

2 (No response.)

3 MR. OXER: Just a quick comment from me. Based
4 on the strength of your presentation, you've got a future
5 in public service, Sport.

6 MR. HINES: Thank you.

7 MR. OXER: I think Representative Isaac has
8 just stepped in to join us.

9 MR. ISAAC: I'll wait till the end.

10 MR. OXER: And yes, we'll have some more public
11 speaking. It's a courtesy we offer to representatives.
12 Ultimately, what we really want is for you to get back to
13 work so we can solve some of the budget problems we have.

14 If you want to hear some more of what the folks have to
15 say, then we'll call you later. Thanks very much.

16 Okay. Who's next? Don't be shy because you've
17 eventually got to stand up there and say it anyway.

18 MS. STEWART: My name is Brandy Stewart. I
19 live in the Ledge Stone community, and I'm just showing my
20 support of opposition for this deal. Everything has been
21 said, and I agree, there isn't enough transportation or
22 public help for what will be needed there. Thank you.

23 MR. OXER: Thank you, Ms. Stewart.

24 And just for the record, you've got to sign in,
25 and that includes our representatives when they show up

1 too. We have to make you leave tracks so we can identify
2 them for the recorder here. Okay.

3 MS. PARKS: Good morning. My name is Sherrie
4 Parks. I'm the executive director of the Dripping Springs
5 Chamber of Commerce. Representing nearly 400 business
6 members in our area, the Dripping Springs Chamber is here
7 in support of the Cypress Creek project.

8 Just within the last month, local employers in
9 the auto mechanic, restaurant, healthcare and childcare
10 industries have shared with our board members the
11 difficult they continue to experience finding and keeping
12 employees. The Chamber recently received an email from a
13 local small business owner who stated:

14 "It's been, and will continue to be, a huge
15 struggle for me to find reliable adult employees who can
16 afford to live in the area if they're interested in
17 working for \$11 to \$14 an hour plus tips. As I'm seeing
18 other new businesses open up, I definitely wonder how
19 we're going to be able to staff them all. My three
20 strongest employees live in Manor, a 45-minute drive away,
21 Wimberly and Dripping Springs. The Dripping Springs
22 resident lives in a home that was her grandmother's so
23 she's able to rent it for a very, very low amount from her
24 family."

25 In fact, I asked that small business owner to

1 come this morning and she is understaffed so could not
2 afford to leave her business.

3 In addition to the employment struggles of
4 current business owners, the Chamber has found that the
5 lack of affordable housing is making it difficult to
6 recruit new businesses to our area. Within the last two
7 years we have seen, firsthand, businesses wishing to
8 relocate or open a store in our area, remove Dripping
9 Springs from their consideration simply because we do not
10 have affordable housing for their workers.

11 There are concrete numbers to show the high
12 growth our area is experiencing. The Dripping Springs
13 School District superbly handled a student population
14 increase of 6.6 percent this school year, close to 2
15 percent over the growth rate that was projected. With
16 increased population comes a growth in business. The city
17 recently approved a new hotel to be built and another
18 hotel has filed a letter of interest. We have an H.E.B.,
19 Home Depot, over 30 restaurants, childcare facilities, and
20 20 wedding and event venues in our area, all these
21 businesses looking for employees in the low to middle
22 income range. As our retail and service sector grows,
23 even more employees will be needed for these jobs.

24 Within the mission statement of the Dripping
25 Springs Chamber of Commerce are the words: to provide for

1 the continuous improvement of the business environment.
2 The City of Dripping Springs comprehensive plan includes
3 recommendations for developing a viable economy through
4 recruiting appropriate primary employers. To succeed in
5 improving our business environment and developing a viable
6 economy Dripping Springs needs the ability to create
7 opportunities for persons of all income levels to live in
8 Dripping Springs. The Cypress Creek at Ledge Stone
9 apartments can create that opportunity.

10 The Chamber encourages the TDHCA to support and
11 fund this project. Thank you.

12 MR. OXER: Thank you, Ms. Parks.

13 Any questions from the Board? Good timing, by
14 the way.

15 Dr. Muñoz.

16 DR. MUÑOZ: Ms. Parks, I suspect you've heard
17 some of the other observations from members of that
18 general community, both apparently researched and some
19 anecdotal about businesses and their demand for employees
20 that seems to contradict what you are representing on
21 behalf of apparently 400 other businesses.

22 MS. PARKS: As far as job listings, we have a
23 lack of opportunity for businesses to list jobs. The page
24 on our Chamber site is relatively new. I am listing one
25 to two to three jobs a week for employers as they become

1 aware that our site is there for them to use.

2 DR. MUÑOZ: Well, I just make the point because
3 fundamentally the project is predicated on demand.
4 Earlier -- his name escapes me -- indicated that there
5 might be up to 600 people that would take advantage of
6 this kind of housing and its price range. So there's a
7 presumption that there will be those to reside in this
8 facility, and that they would be middle income sort of
9 employees at the places you've enumerated. But then there
10 are those others here that suggest that there won't be
11 that demand.

12 MS. PARKS: Well, and Dripping Springs is in
13 that time period of what the Chamber is seeing and in the
14 studies that we've done recently, we're entering a high
15 growth phase, not only residential but business as well.
16 I believe there's no less than five subdivisions that are
17 going to be going in in the next couple of years, all high
18 income housing. We have one Section 8 housing complex, we
19 have nothing in between. I've got many single parent
20 friends that they struggle to find something they can
21 lease in the area to be able to keep their kids in our
22 fine school districts.

23 And to answer your question on the pastor, he
24 lives in Ledge Stone, the pastor of Hill Country Bible
25 Church.

1 Yes, sir?

2 MR. THOMAS: I'm sorry. I need to be
3 recognized by our chair.

4 MS. PARKS: Yes, sir, I realize. Thank you.

5 MR. THOMAS: Thank you so much for your
6 presentation. So the market analysis, that I don't know
7 that you've had a chance to see, indicates that in this
8 particular area, and I'm not sure how tight it is to the
9 development, but there are almost 3,000, 2,997 people who
10 would fit the demand or would fit the need to be able to
11 have this, but we've had other testimony today, including
12 elicited by my colleague, that indicate that that may not
13 be -- there may not be a direct correlation there. Can
14 you help me understand where this demand is coming from
15 and why this project specifically in its location would
16 meet that need?

17 MS. PARKS: Our retail trade area in our ETJ is
18 very large. Ledge Stone itself is seven miles out from
19 Dripping Springs, Belterra is seven miles out, we go, I
20 think, even nine miles out down 290 towards Austin. So I
21 think the location was the pick of the developer and what
22 he could find. I agree with, I believe it was Mr. Baker,
23 who said that our wastewater system is already maxed out.

24 It's three years old and we're really close to maxing it
25 out. The city is now taking on that job of increasing it

1 but from a developer's point of view, I would think they
2 would need to locate where they know they have that
3 infrastructure.

4 MR. THOMAS: Thank you. Another question is I
5 think you said \$14 per hour.

6 MS. PARKS: That's what this small business
7 owner looked at.

8 MR. THOMAS: So the adjusted rents or the rents
9 available for this project would fall in the 50 to 60
10 percent adjusted income, and at \$14 an hour that would be
11 \$28,000 a year. Now, I understand that would be just be
12 one earner. But that is from a low, assuming a four-
13 person family, from \$32,000 to a high of \$43,000. Does
14 this community support income in those ranges to be able
15 to afford these units?

16 MS. PARKS: I believe it does. I mean, we've
17 listed several jobs recently that are in the \$25 an hour
18 range.

19 MR. THOMAS: For 244 units?

20 MS. PARKS: I haven't done studies and I
21 haven't seen your studies on that, so I'm hesitant to
22 speak.

23 MR. THOMAS: Fair enough. Thank you.

24 MS. PARKS: Thank you.

25 MR. THOMAS: Thank you, Mr. Chair.

1 MR. OXER: Ms. Parks, I have a quick question.

2 MS. PARKS: Yes, sir.

3 MR. OXER: Quite a number of the respondents
4 have indicated there's an issue with traffic on 290. As
5 it turns out, I live in Sugar Land, I live three-eighths
6 of a mile from US 90 which has its own set of traffic
7 adventures on it every day too.

8 MS. PARKS: I'm sure it does.

9 MR. OXER: Do you have any thoughts on that?
10 Can you give us any insight on what the Chamber of
11 Commerce has in terms of the traffic pattern?

12 MS. PARKS: The traffic is increasing on 290,
13 there's no doubt about it. The studies TxDOT did from
14 2012 just came out and they've increased. I don't have a
15 percentage on that. 290 is a problem for all of us. My
16 kids have to leave my subdivision which is two miles east
17 of the city limits, and I just pray over them every day
18 that when they're turning left out of that subdivision
19 that they take their time. It is a problem.

20 MR. OXER: That being a federal highway, we
21 don't have any influence over when that gets done. If it
22 was a state highway, we'd be able to call our friends on
23 another committee that deals with this, we could seek some
24 input from them, but since it's a federal highway, they
25 have to see the traffic build before we can expect any

1 motion from them. So I just wanted to get a sense from
2 you on the record what the Chamber of Commerce sees as a
3 resolution to those traffic issues.

4 MS. PARKS: Someone referred to the chicken and
5 the egg analogy, and it applies here.

6 MR. OXER: Our problem is we make omelets
7 around here.

8 (General laughter.)

9 MS. PARKS: Here and mix them all together.

10 Transportation, I believe, will come and it is
11 in the city's comprehensive plan, but it will come when
12 the need is there. Until the need is there, it's not
13 going to come.

14 MR. OXER: You don't build a school and fill it
15 up, you wait for the demand and then you build the school.

16 MS. PARKS: Exactly.

17 MR. OXER: Any other questions from the Board?

18 MR. McWATTERS: I have one.

19 MR. OXER: Okay. Professor McWatters.

20 MR. McWATTERS: Are there any other sites for
21 this project? I've heard it's seven miles from Dripping
22 Springs, it's by a tough road, a tough road for all, but
23 nonetheless, a tough road, absence of sidewalks, absence
24 of stores and the like. Is there a place that would
25 negate a lot of those concerns?

1 MS. PARKS: At this point, I don't believe so.
2 The city is just now redoing their downtown street to
3 include sidewalks. We just received a nice grant to be
4 able to begin that process. The desire is there to put
5 sidewalks in, but even down Ranch Road 12, any of our main
6 arterial roads that come into Drip, there's no sidewalks,
7 and basically, you're a suicide jockey if you ride a bike.
8 Pie in the sky, yes, we would love to have the roads and
9 the sidewalks and be able to walk to school, but that is
10 not what our community has right now.

11 MR. McWATTERS: When you say our community,
12 what does that entail? I mean, if this project was
13 located closer to Dripping Springs itself, are there
14 sidewalks?

15 MS. PARKS: There are not, not at this moment.
16 Like I said, the main downtown street, Mercer, which
17 comes off of 290, they're just now moving to put sidewalks
18 on it, and there's really very little housing around it
19 right now.

20 MR. McWATTERS: Okay. If anyone else can
21 address my question, I would appreciate it. Thank you.

22 MR. OXER: Good. Other questions from the
23 Board?

24 (No response.)

25 MR. OXER: Thank you, Ms. Parks.

1 Is there anybody else here in the second row?
2 Representative Isaac gets to go last. To answer your
3 question, yes, everybody has to sign in, and yes, you get
4 three minutes to start.

5 MS. KINNEY: My name is Linda Kinney, and for
6 full disclosure, I'll tell you I'm the executive director
7 for Hays County Commissioner Ray Whisenant, although I'm
8 not here speaking for Commissioner Whisenant, I'm speaking
9 for myself.

10 I have lived in Dripping Springs for going on
11 29 years now. I raised both my daughters in the Dripping
12 Springs public schools, and have watched it grow from the
13 sleepy little town that it was when I moved there to
14 pretty much still the sleepy little town that it is now.
15 A lot of the growth that we've seen has come with the need
16 for people to move out of the cities to look for a nice
17 place to live. We've had growth coming from out of state.

18 The growth of the Texas economy is one that is bringing
19 people here, so we're growing.

20 I live about three miles from where this
21 development is going to be. My children went to school in
22 Dripping Springs and I watched them learn to drive and
23 worried every day when they got on Highway 290, and even
24 back then when they were driving it, it was still a
25 really, really small town. Even being considered a small

1 town now, the traffic on 290 is horrendous, and the
2 thought of adding this many more units and this many more
3 people with potentially young drivers is really
4 frightening to me. It is seven miles from Dripping
5 Springs, and as you've heard, transportation is a problem.

6 I would like to set the record straight on one
7 thing, though. Someone mentioned earlier that
8 Commissioner Whisenant had pulled his support, but
9 Commissioner Whisenant has never supported this project.

10 I sit on a state board myself and I understand
11 that you listen to your staff recommendations and you put
12 your trust in your staff that the things that they are
13 telling you are just and that they're correct, and you
14 want to honor their value in making their recommendation,
15 but there are times when they're wrong, and there are
16 times when sitting on my board that I have voted against
17 staff recommendation after hearing all of the reasons and
18 the just reasons why their recommendation doesn't really
19 fit at that time.

20 And that's the case I think we have today is
21 where, yes, there may be a need for affordable housing,
22 this is not the place because it won't support,
23 transportation-wise, people who are going to live there.
24 So I would hope that you would vote against this today.
25 Thank you.

1 MR. OXER: Thank you, Ms. Kinney.

2 Any questions from the Board?

3 (No response.)

4 MR. OXER: All right. I'm going to do a little
5 housekeeping item here just for purposes. How many more
6 people want to speak to this item? Raise your hands,
7 let's get them up and count them. How many more want to
8 speak on this item? Not the ones following.

9 Stuart, I know you want to speak. I appreciate
10 you getting your hand up.

11 So it looks like we've got at least ten or so
12 which is going to take quite a while to get through.
13 Representative Isaac, if you could indulge us, we're going
14 to take a short break here. We'd be happy to have you
15 speak, if you'd like, to finish up and wait till after
16 that, but otherwise, we're going to take a ten-minute
17 break and come back. They think better when they're not
18 squirming in their chairs.

19 All right. We're going to take a ten-minute
20 break. Let's be back at five after the hour by that
21 clock.

22 (Whereupon, at 10:56 a.m., a brief recess was
23 taken.)

24 MR. OXER: We're going to have to give the
25 executive director a minute to recover from the heart

1 attack he just had. I grew up on a ranch building fence,
2 so I know how to use a hammer.

3 (General laughter.)

4 MR. OXER: Okay. We have a number of people
5 who would like to continue the commentary on this, so
6 who's next? Have you signed in?

7 MR. STOUT: Yes, sir. My name is Steve Stout
8 and I'm a real estate investor and I have provided housing
9 for Section 8 people in the past. And the issue on this
10 seems to be not that affordable housing is needed, it's
11 the location, and in my mind, the location for this
12 project is inadequate. There's no place for the children
13 to play. For a mother staying at home, if she wanted to
14 buy a gallon of milk, she would either have to cross 290
15 and risk the 60-mile-an-hour traffic, with her children,
16 or she would have to walk a mile down towards Dripping
17 Springs to go to the CVS Pharmacy there and buy a gallon
18 of milk there or a loaf of bread, whatever she needed.

19 But there are no other resources and there are
20 no parks, no diversions for the kids. You get a kid out
21 there with a bicycle that's not paying attention to
22 traffic, and you're asking for an accident, and it
23 probably will happen.

24 So that's my take on the situation and I
25 appreciate your time.

1 MR. OXER: Thank you.

2 Are there any questions from the Board?

3 (No response.)

4 MR. OXER: Okay. Don't be shy.

5 MS. NIKARA: Hello. My name is Tasha Nikara,
6 and I haven't been following this for the entire time, so
7 I'm recently moved to Dripping Springs from Los Angeles,
8 California.

9 MR. OXER: We're glad to have you. Bring some
10 more out of California.

11 (General laughter.)

12 MS. NIKARA: My background is actually in
13 psychology. I work specifically with at-risk youth and
14 child development out there, so I've worked with a lot of
15 families that it sounds like this complex is bringing in.

16 And I don't doubt that affordable housing is
17 definitely beneficial, especially coming from LA, we have
18 lots of them out there, we have lots of group homes, we
19 have a lot of that type of environment that is able to
20 sustain the type of housing that I hear is being
21 described.

22 My biggest concern and opposition to this is
23 not only the location, just from what I've seen. I have a
24 seven-month-old daughter, I live about seven miles north
25 of downtown Dripping Springs, I can't walk her anywhere, I

1 can't push her in her stroller, there are no parks even in
2 that area. I have to get in my car to drive her anywhere,
3 and it's usually a good 15 to 20 minutes outside of that
4 area.

5 But my other concern is that the area, I've
6 looked into like Medicaid and Medi-Cal, which for these
7 families, I assume most of them are going to be on, and
8 there are two pediatricians in the Dripping Springs area,
9 one of which will not take Medicare, is not open to it
10 anymore, and the other one that only takes a specific type
11 which is CHIP which requires co-pays and things like that.

12 The next closest pediatrician is seven miles away down
13 past where you guys are talking about building this
14 facility.

15 And with everything that's coming up with the
16 transportation, I'm wondering how a stay-at-home mom or a
17 family with one car, when you have a screaming kid who
18 needs to get to the emergency room, is going to have the
19 ability to get their child there. I'm wondering where
20 they're going to go, how they're going to get there, what
21 doctors are going to be afforded to these children.
22 That's my biggest concern.

23 My next is that when you get the teenagers and
24 there's no parks and there's no ability for them to ride
25 their bikes or to get to places where they need to go.

1 This complex is going to be their home, their environment,
2 their playground. What's going to happen to them if the
3 complex doesn't provide something for them to do? I mean,
4 teenagers are energetic and expressive and daring and they
5 get into a lot of things. So I'm wondering what's going
6 to become of them and how their lives are going to be
7 benefit from being moved out here to where there's really
8 nothing for them to access.

9 So that would be my questions. And I think
10 it's great if we find a place that can accommodate them
11 and that is going to give them the benefits. I totally
12 support affordable housing, but just from my perspective,
13 not in this area, not for the kids and not for the
14 families. So thank you.

15 MR. OXER: Thank you, Ms. Nikara.

16 Any questions from the Board?

17 (No response.)

18 MR. OXER: Anyone else? We've got one more
19 there.

20 MR. JOHNS: Good morning, ladies and gentlemen
21 of the Board, Mr. Chairman. I'd like to thank you for
22 allowing me to speak today.

23 MR. OXER: For the record you have to identify
24 yourself.

25 MR. JOHNS: Yes. I'm William Johns. I'm a

1 resident at 112 Terrace Court in Ledge Stone. I'm
2 currently a police officer with the City of Austin. I
3 work patrol and traffic enforcement.

4 I just wanted to come up and express my
5 opposition and support of opposition to this proposal. I
6 don't have a background in economics or psychology, like
7 some of the other folks here. Simply looking at the
8 increase in traffic from a law enforcement perspective,
9 the area, especially which I leave from Ledge Stone going
10 onto 290 eastbound about four to five times a week to go
11 to work, is the epitome of an intersection that we, as law
12 enforcement officers, really kind of hate to work. It's
13 kind of turning into one of those intersections where it's
14 a constant area for collisions, and I would assume with
15 the increased traffic and lack of viable traffic either
16 signs or signs, will most likely become an area for
17 increased traffic fatalities.

18 We have intersections in the City of Austin,
19 such as Ed Bluestein and Loyola, other areas such as Ed
20 Bluestein and Manor, where even at those intersections
21 where we have traffic enforcement, either through signal
22 lights or so forth, we still see an abnormal amount of
23 traffic collisions due to the high volume of traffic
24 coming through there.

25 With the increased traffic of this project and

1 the lack of traffic signals, I'm not sure how the City of
2 Dripping Springs plans to ferry 300-plus people through
3 that area increased on a daily basis without any
4 repercussions.

5 I know the lady from the Chamber of Commerce
6 had made a comment about there being no viable options for
7 public transportation or sidewalks, even in the heart of
8 Dripping Springs, and it seemed to me that her demeanor
9 was one of it kind of not being a viable option to place
10 this project in the heart of Dripping Springs because of
11 the lack of sidewalks and public transportation. If it's
12 not a viable option for us to place that in the heart of
13 Dripping Springs, I'm not sure where the sense comes from
14 to think that that would be a viable option to place that
15 project seven miles outside of the heart of the city.

16 Another thing that was made was her talking
17 about the jobs. I believe she said they post one to two
18 jobs per day. That's, you know, what, ten jobs a week on
19 a website and they're supposed to have 300-plus people
20 coming into this apartment complex. If they're not
21 producing that volume now, I'm not sure when the idea was
22 going to be put into place to produce that volume or
23 greater for posting jobs in the future.

24 But thank you very much, ladies and gentlemen.
25 I appreciate your time.

1 MR. OXER: Glad to have you here, Mr. Johns.

2 Any questions from the Board?

3 (No response.)

4 MR. OXER: Okay. Can you go fast or last? You
5 get either one of those at your choice. Next. If you're
6 not up here where I can see you, it's hard for me to tell
7 out there.

8 MS. STRONG: Evelyn Strong. I've been a
9 Dripping Springs resident or almost 20 years. I'm a
10 realtor with a rather large company in Dripping Springs,
11 so I've seen a lot of the growth that's happened, and for
12 all of the reasons that the other speakers have said,
13 transportation and remoteness of the location, I don't see
14 that as a good location for an apartment complex at this
15 time.

16 It is eight miles, approximately, from the
17 nearest emergency medical services or any types of
18 services. Daycare, my brother graduated from Dripping
19 Springs, he's a firefighter out there, and he can't afford
20 daycare on a firefighter's salary. However, on a
21 firefighter's salary, he would be above the income cap to
22 be able to live in these apartments. So I see there's a
23 gap there with the people that would be a certain segment
24 of the population excluded, and there's a middle ground of
25 people who would be restricted from being able to live in

1 these apartments because they would make too much but they
2 wouldn't be able to afford to buy a house. And daycare is
3 roughly \$800 a month at the closest place to where these
4 apartments would be.

5 So I just don't think it's the right time or
6 place. I think more in the heart of Dripping Springs
7 would be better suited for it. And that's what I have to
8 say. Thank you.

9 MR. OXER: We're glad to have you, Ms. Strong.

10 MR. MADDOX: Good morning. My name is David
11 Maddox and I am a resident of Ledge Stone. No expert,
12 just a guy, and all of the great points that have been
13 brought up, I wanted to just make sure we're all in
14 clarification.

15 I moved here from Houston where I fought the
16 traffic out on 290, ironically, to the Galleria, every
17 day, day after day, year after year. When I came to
18 Austin, I had the opportunity to work at home, so you look
19 around and say where am I going to live, and Dripping
20 Springs comes up. Because why? Because it's in the
21 beautiful Texas Hill Country, it's got highly recognized
22 schools, and there's new neighborhoods that are being
23 built where you're still close to Austin. That's where we
24 all are, that's what we wanted: upscale communities close
25 to what draws us, which is Austin, and good school

1 districts, beautiful country. None of us came to Dripping
2 Springs so that we could go to a shop in Dripping Springs
3 or to a restaurant in Dripping Springs, or anything like
4 that. If it comes, we'll be happy.

5 When we moved to Ledge Stone, what was on the
6 way? A brand new elementary school for our kids in
7 Belterra. Growth, planned, everybody knew this was going
8 to be great, great selling point. My kids went to that
9 school for one year before we were forced out for
10 overgrowth. The school was one year old when they
11 realized they didn't build it properly for the growth that
12 was happening. Now we go to an elementary school nine
13 miles away, one way. So in the mornings, when my wife is
14 taking my daughter to band practice at the high school
15 nine miles away, I'm waiting for my son to get on the bus
16 to go nine miles away. It will be the same bus stop that
17 this development will be, they'll get on the same bus.

18 Someone mentioned that if they miss the bus,
19 what do you do. We're in a position to where I can take
20 him, so while my wife is coming back on her 20-mile
21 commute, I'll start a 20-mile commute, or if something
22 else is going on, we'll take him. If the nurse, who roams
23 the schools because we don't have enough funding for
24 individual nurses, calls me, we have to drop everything
25 and go the 20-mile commute to get him, and that's okay

1 because we live in an upscale community of upscale people
2 fortunate enough to do that. Is that okay for working
3 class people or people that need to be subsidized? I
4 don't know, maybe.

5 Where are they working? You talk about the
6 need for these people. Where are these people coming
7 from? They're not in the Dripping Springs community
8 because we already know they can't afford it, so they're
9 living in Austin, I assume, and we want to build a place
10 for them so that they can stop living wherever they happen
11 to be, five, six, seven, eight miles away, and go about
12 halfway to their desired destination -- which I assume is
13 the H.E.B. and the Home Depot or engineering firms, I
14 don't know -- I don't know where the Chamber of Commerce
15 wants them, but now we're going to get them about halfway
16 so that they then continue to go into Dripping Springs.

17 Some of the problems that we might see with
18 that is are they going to do it, or are they going to find
19 a new place and then continue to do their business in
20 Austin? That's a great location for Austin. That's why
21 we're all here, all of us are here because we're tied to
22 Austin in one way or another. That's the beauty of this
23 location. The developer found this location because it is
24 a black hole for him. Why doesn't he do it in Dripping
25 Springs? Because he can't get the tax credits or the

1 state can't help him. I don't know specifics, but I've
2 certainly been told there is no place in Dripping Springs
3 because he doesn't get the benefits to him.

4 Why does the mayor of Dripping Springs want
5 this? Why wouldn't he want it? If it bonds, what does he
6 care? There's going to be some benefit, surely. If it's
7 one person that gets a job, then he wins, if it's a
8 hundred people, he wins. Of course he wants it.

9 Why would a pastor be for it? The question, of
10 course, is why would a pastor be against it, why would any
11 pastor not want people, souls to save. And I know the
12 pastor, I don't doubt his meaning at all, great on him.

13 The Chamber of Commerce of Dripping Springs,
14 Texas, of course they would want it. There's no loss for
15 them.

16 We're residents of the Dripping Springs ISD,
17 just like Dripping Springs town is, they're no different
18 than us. The ISD has their reasons for wanting it. We
19 could argue about that a lot, that's not this argument.

20 The other point that Theresa brought up, a
21 great point, Lake Travis, seven miles from the Oak Hill Y.

22 We're seven miles from the Y at Oak Hill. Is anybody
23 arguing that Lake Travis needed to build this kind of
24 housing to do what they've done? Lake Travis is awesome,
25 lots of businesses, amazing stuff. No different than us.

1 They did it in the right order. I don't know about the
2 chicken and the egg, the cart and the horse, they did it
3 in their order and it's worked out great.

4 The people of Dripping Springs that are in
5 charge of development and better business, I know which
6 way they want it. One way or another, it's going to work
7 out great for them, they're in a great location and great
8 people.

9 So that's why I'm here speaking against this
10 for the very sheer fact is it makes zero sense where it is
11 in that location. It doesn't seem to benefit anybody,
12 that we can tell.

13 MR. OXER: Thank you, Mr. Maddox.

14 Any questions?

15 MR. THOMAS: Mr. Maddox, I'm just a little
16 confused. Are you saying that there's literally zero
17 location in Dripping Springs where this project would make
18 sense, or is it just not in my backyard?

19 MR. MADDOX: No. I'm saying, the question had
20 come up, I guess Mr. McWatters had mentioned where the
21 lady from the Better Business Bureau said there was no
22 alternative location in Dripping Springs, and we've had
23 plenty of people who have said Dripping Springs wants it,
24 they need it, but they're not getting it because the tax
25 implications, he can't build it in the township, from my

1 understanding, so he's not even looking, no one is
2 looking. So we're saying if they need it in Dripping
3 Springs, then that's their job to find a way to get it,
4 and they can't so they're not even trying.

5 MR. THOMAS: Would there be a situation or
6 circumstance in which affordable housing could or should
7 be built in your area?

8 MR. MADDOX: Absolutely. On Ranch Road 12, a
9 nice rural road, going both directions, there's so much
10 land, so much space, so close to downtown, no traffic
11 problems, all kinds of infrastructure ready for it. Or
12 290 going westbound, just farmers' fields. But 290 going
13 eastbound towards Austin, with all that traffic, everybody
14 going towards Austin, all the doctors, all the hospitals,
15 the restaurants, all the entertainment. There's no
16 entertainment here. People go in to get weird in Austin.

17 MR. OXER: So that what happens, all you people
18 from Dripping Springs are coming here.

19 MR. MADDOX: All the normal Dripping people.

20 MR. THOMAS: I was going to say that's why it's
21 weird, Dripping Springs comes to Austin.

22 MR. OXER: Now we can place it.

23 MR. THOMAS: I think we have our own weird here
24 in Austin. Thank you, sir.

25 (General laughter.)

1 MR. OXER: Thank you, Mr. Maddox.

2 Okay. Is there anybody else aside from Mr.
3 Shaw and Representative Isaac? Anybody else? Okay, Ryan,
4 come on up.

5 MR. COMBS: I am Ryan Combs. I work for the
6 developer. Thank you for allowing me to address you this
7 morning. I work for the developer, and equally as
8 impactful for me, I live in Belterra across the street
9 from where this proposed community would be, and so I
10 personally am invested in what's going on here and what
11 goes on in my community, what impacts my schools, my kids
12 will go to these same schools, and all.

13 We heard some of these concerns, and this has
14 been going on for a while, but we heard some of these
15 concerns and so a few of us, on our team in our office,
16 decided we would just hit the streets and go find out what
17 jobs currently exist in Dripping Springs, who is there
18 right now currently that would and can qualify to live in
19 our community. And Rex, I think he was referring to this,
20 however, he shot low, I think he was trying to be safe.
21 But we found, and we didn't canvas every single business
22 in the community but we just went to all the ones that we
23 could in about a week's time, and we found well over 800
24 current jobs that are already in Dripping Springs that
25 income qualify to live in these communities.

1 We heard all kinds of stories. We heard
2 stories of employers sending vans into South Austin and
3 commuting people out as an incentive to try to draw new
4 workers to their business. I sat down with one of the
5 daycare owners in town and she told me how a couple of
6 daycare workers were having to live at her home, and she
7 just lost one at the time because that daycare worker
8 could not find a place to live, and so she had to move off
9 into another community. These jobs currently exist there,
10 this is the need that we propose to address.

11 I live in the neighborhood, I'm very excited
12 about the future of Dripping Springs, that's why I moved
13 out there. Just like these guys, it's Hill Country, the
14 schools are fantastic, it's a beautiful place to be, and
15 the community is a vibrant growing community.

16 Also, the second page of this, our residents
17 are employees, they work just like me and many other
18 people in the room, they have jobs. The second page of
19 this shows, we went and just looked at our sister
20 community, and this is an existing community of ours,
21 Cypress Creek Lakeline Boulevard in Cedar Park, and looked
22 at what are the jobs that some of our residents have, and
23 they work as educators, entrepreneurs, they work in the
24 medical industry, retail, they work in banks, they hold
25 jobs. And people who hold jobs have to get to jobs,

1 they're going to have cars.

2 There's a CVS just down the street. I would
3 assume that when one of our residents needs a gallon of
4 milk, they're going to go to the same place I do, they're
5 going to get in their car and go to CVS down the street,
6 just like I do. These are residents that serve an
7 incredible need in Dripping Springs.

8 So I want to thank you for your time. If you
9 have any questions.

10 MR. OXER: Thanks, Ryan.

11 Any questions from the Board?

12 MR. THOMAS: Yes, I actually do.

13 MR. OXER: Robert.

14 MR. THOMAS: Thank you. This is exactly the
15 kind of information that I need to help me understand the
16 need. But I'm having a real question, so on the first
17 page you've got a nail shop that is going to employ three
18 people that are going to pay them between \$23,000 on the
19 low end and \$47,000 on the high end.

20 MR. COMBS: If that's what our range is, I
21 don't remember exactly, but yes, we showed the ranges to
22 these business owners and said, How many employees do you
23 have, and by the way, where do they live and where are
24 they coming from? And we heard all these stories. These
25 are the numbers that they gave us, the business owners

1 gave us and said these are the numbers of employees that
2 we have that fit within your limits that would qualify to
3 be able to live at your community.

4 MR. THOMAS: So Taco Bell is going to pay 14
5 people, Sonic is going to pay 26, Pizza Hut is going to
6 pay 18, Dominoes is going to pay 10, Burger King is going
7 to pay 20, at the very minimum, \$23,520?

8 MR. COMBS: I don't know about minimum, it was
9 just maximum, they would not go over the maximum.

10 MR. THOMAS: Right. I'm sorry. I'm looking at
11 the analysis that this is a household of one person,
12 minimum to qualify for one of these apartments would have
13 to be a minimum income of \$23,520, to a maximum of six
14 people household would be \$51-. I'm assuming if we stayed
15 safe at the four people in a household, that would be
16 \$43,920. So I'm just trying to understand, based upon
17 assuming that these are the ranges of where those numbers
18 with the income for those size families would have to
19 fall, that's what this is. You're intending to say that
20 if those are the qualification ranges for their income,
21 that businesses would pay somewhere in those ranges.

22 MR. COMBS: Right.

23 MR. OXER: Hold on just a second. Do it,
24 Cameron.

25 MR. DORSEY: Let me help out, yes. Mr. Thomas

1 is looking specifically in the underwriting report, I
2 believe where we don't want to assume that someone is
3 going to spend 100 percent of their income on rent,
4 obviously, so the market analysis requirements have
5 basically a maximum rent burden for general population
6 transactions of, I believe, 35 percent of their income
7 spent on housing. I think if you were to look at trends
8 across our portfolio, you would find that folks are
9 willing to spend well above that, however, we don't want
10 to base the --

11 MR. THOMAS: I'm sorry to interrupt. I'm
12 really focusing on eligible household by income, I'm
13 looking at a very specific.

14 MR. DORSEY: Yes.

15 MR. THOMAS: So I need some real clear focus,
16 Cameron, on that issue. If this is the ranges that staff
17 are telling us that will comply, I need to understand,
18 based upon the testimony, so please answer that question.

19 MR. DORSEY: Okay, sure. The maximum is the
20 program limit, meaning you cannot rent to someone who
21 makes above that level. The minimum is based on the idea
22 that we don't want to put a property on the ground whose
23 demand is based on someone that's well over rent burdened
24 based on their income, so we cap it basically that they
25 would be spending 35 percent of their income on rent, so

1 it's that kind of band that we look at for demand
2 purposes.

3 MR. THOMAS: Cameron, have you worked for Taco
4 Bell?

5 MR. DORSEY: Nope.

6 MR. THOMAS: Okay. I'm asking a real specific
7 question, and I appreciate that, but I need all this
8 background, but I need to understand for purposes of the
9 issues that have been raised and the ability of this
10 community to support this project so we can know how to
11 vote, I need to know if, in fact, these types of
12 businesses are going to be able to support the income
13 ranges that you guys have set.

14 MR. DORSEY: Right. I think these folks are
15 answering based on a survey where they probably didn't
16 consider an income minimum, where there was kind of we
17 don't want to rent burden folks too much, so it probably
18 includes incomes well below that kind of 35 percent rent
19 burden that's in the market study.

20 MR. THOMAS: Okay. Thank you, Cameron.

21 MR. COMBS: Yes, sir, he's right. This was
22 what the maximum is, but what is not represented here, and
23 we don't have it, is that if that person that works at
24 Taco Bell has a spouse that's working somewhere else and
25 you have combined incomes and so those are the types of

1 things that are not in this, but those are the types of
2 real-life situations that happen, for sure.

3 DR. MUÑOZ: But what you did was go to these
4 places and you asked, in a number of cases, these
5 managers, and you said, Here's the range. I suspect that
6 they didn't sit down with their HR people and very
7 meticulous examine all of their employees' benefits,
8 secondary income. You said, Hey, at Home Depot, you're
9 the manager, who do you think would fall within this range
10 of income that would be at least interested in this living
11 option. And this is what they, to the best of their
12 knowledge, provided you.

13 MR. COMBS: That's exactly right.

14 MR. OXER: Good. Professor McWatters.

15 MR. McWATTERS: Yes. The location of this
16 project has been presented, I think, by a number of people
17 as an unattractive area, unattractive for an affordable
18 housing area. That point has been made by so many people,
19 it strikes me as almost a moonscape, as a place where
20 people would not want to live. Is that true? Describe to
21 me other developments in the area, or are developers just
22 shunning this area? Is the market voting and saying we're
23 not going to go there for all the reasons which have been
24 articulated, or is this area under active development, and
25 if so, by whom?

1 MR. COMBS: It is under active development. It
2 is a beautiful area. It's driving out 290 towards
3 Dripping Springs, you get into the Hill Country, and
4 there's a reason that all of us choose to live out there.
5 You get a piece of the Hill Country, you've got a great
6 school district, it's a beautiful community. Sherrie
7 represented that there's a number of businesses that are
8 trying to move out that direction, and one of the things
9 that she told us and she spoke about --

10 MR. OXER: She just needs to make them live out
11 west of Dripping Springs so they go the other direction in
12 the morning?

13 MR. COMBS: To move out west of Dripping
14 Springs? Well, there's certainly a need there, and so it
15 really is not a moonscape at all, it is a beautiful place.
16 There's a number of active developers that she spoke
17 about, hotels and I know there's some other commercial
18 development that's trying to work on -- the entrance to
19 Belterra, there's some commercial, and I don't know what
20 the progress of all that is, but I know there's a lot of
21 interested people moving that direction because it is such
22 a beautiful community and it's got a healthy sense of
23 growth right now.

24 MR. McWATTERS: Are these other communities
25 what you would describe as low income communities?

1 MR. COMBS: These other communities?

2 MR. McWATTERS: Yes, around this project site.

3 If I was to drive out there and look at the housing,
4 would I say this is low income housing or would I say this
5 is upscale housing.

6 MR. COMBS: Yes.

7 MR. McWATTERS: So the project is being
8 proposed in an area of upscale housing that is increasing
9 to develop with more upscale housing. Is that a fair
10 statement?

11 MR. COMBS: I think, and I don't want to
12 represent Sherrie or I sure don't want to represent the
13 city, but I believe that what they would like to do is --
14 there's a few master planned communities, Belterra is a
15 very large one, there's Ledge Stone, High Point, a few,
16 most of those communities, I think the average she said
17 was about \$200,000 for homes in there -- I believe that
18 what the Chamber is trying to do, and this is just me, so
19 again, I don't want to speak on her behalf, I believe that
20 they're trying to bring affordable all the way through
21 upscale because that's what a healthy community needs to
22 be able to survive.

23 I don't know specific plans of what all the
24 rest of the community is doing, or what the city is doing
25 and what the Chamber of Commerce is doing to attract that

1 type of development, but I know it's on people's lips and
2 people are talking about it.

3 MR. McWATTERS: Okay. Well, my point is
4 simple, it's that if people are choosing to live in this
5 neighborhood and they're people of some means, then I'm
6 having a hard time understanding why people of lesser
7 means may not find the same neighborhood attractive. So
8 that's my point.

9 MR. OXER: And I might offer up one comment.
10 Having had, in the last two years, a number of
11 opportunities to visit these developments, I would be hard
12 pressed to tell you driving by and look at one of these
13 versus anything else which one, quote, looked like a low
14 income housing unit, because due to the services of Chief
15 Murphy over here, they all stay in pretty good shape for
16 quite a while, and if you don't, we put the chief on you.

17 I just bring that out, it's not a matter of appearances
18 on these things, it's only, as Professor McWatters pointed
19 out, having an opportunity for those of lesser means to be
20 able to live in a similar community.

21 MR. COMBS: That's right.

22 MR. OXER: Okay. Thanks, Ryan.

23 MR. COMBS: Thank you.

24 MR. OXER: Stuart.

25 MR. SHAW: Would you like for me to defer to

1 the representative?

2 MR. OXER: He wants to run sweep on this.

3 MR. SHAW: Fair enough, fair enough.

4 Stuart Shaw, president of Bonner Carrington.
5 Mr. Chair, Board members and staff.

6 I just want to take a minute and try to clarify
7 some things. About four or five years ago, colleagues of
8 ours were invited to Dripping Springs because of the need
9 that they saw. That need has since been expressed real
10 clearly and articulately in what is the Dripping Springs
11 comprehensive plan. And communities do the best they can
12 with what they have at their disposal, and so they have a
13 comprehensive plan, there was a lot of input, as you can
14 imagine. So the people who are community leaders,
15 business leaders, political leaders and otherwise asked
16 some folks who asked us, and that's when we started
17 looking.

18 Another thing to understand is that Dripping
19 Springs is a big area, it's a rural area that is right in
20 the path of growth, as are a lot of areas around Austin,
21 and so it's right in the path of growth, and that's our
22 job is to go find those areas where you're in the path of
23 growth and try to serve those communities, and so we're
24 just doing what we do. We didn't mean to go make people
25 unhappy, and we don't mean to. We try to do a good job

1 with what we do, and there's a lot of proof in the pudding
2 all over the State of Texas to that effect. There's
3 plenty of people who will tell you that about what we do.
4 One of them close by is in San Marco where we have just
5 excellent relations and reputation with what we've done
6 there.

7 But back to this point, this area of Dripping
8 Springs is a long area and it's along Highway 290 and
9 everybody has the same problem. Highway 290 is a mess,
10 and it's being enlarged right now by whoever, TxDOT or
11 federal government, right outside of Austin. There's work
12 that's been going on for a year and it will continue to
13 be. As we all know, you have the need first and then
14 people who have that oversight address things like
15 highways.

16 So it's a long area, and when you say Dripping
17 Springs, we've come to understand Dripping Springs not so
18 much as the small city of Dripping Springs, because many
19 of the people here do not live in Dripping Springs, they
20 live in the ETJ. And what it is, more or less, in my
21 opinion, is that Dripping Springs Independent School
22 District, which is about 20,000 people covering a massive
23 area of part of Hays County, western Hays County.

24 Anyway, that whole area is characterized by
25 what you've heard: small communities, insular, getting on

1 that highway or other big highways. And so all the things
2 that you're hearing, there's no place to do this or do
3 that -- well, that's actually not true -- but it's the
4 same condition for everybody around there. It's not like
5 going to the Memorial area of Houston or Tarrytown in
6 Austin, or something, and having places to walk and go
7 across the street and go to Starbucks. Everybody is going
8 to be dealing with the same situation. Whether you live
9 in our Cypress Creek community or you live in a \$200,000
10 or a \$500,000 home, you're going to have to get in your
11 car to go somewhere, unless you go see your neighbor.

12 We have a ton of amenities in every Cypress
13 Creek apartment home, and we've shown that to folks. The
14 residents who live with us are going to have a lot of
15 amenities, a lot of sidewalks, a lot of beautiful terrain,
16 a couple of acres in the middle -- may I go on?

17 MR. OXER: Please.

18 MR. SHAW: Thank you -- that is just going to
19 be left native. I mean, it's a gorgeous site, with a ton
20 of amenities for small children, teenagers, adults,
21 everybody. We spend a lot more money on sidewalks and
22 things that we are not required to do in order to make
23 these communities viable and sustainable for people to
24 live in community, that's why we call them apartment
25 homes. We're not building a project, we're building an

1 apartment home community and we make a big deal out of it.

2 So we started on this and we've really tried to
3 do our best. We feel like we've followed it by the book,
4 and then some; we feel like we've gone way beyond what is
5 even expected of us. As we got into this, a number of
6 local folks around us really, you know, objected, and
7 you've heard them today, and I respect them. I'm a
8 homeowner and I live in a neighborhood. I have an
9 affordable community not too far from me. I'm okay with
10 it because I understand it. There's a lot of
11 misunderstanding about it.

12 And just to share a couple, you know, we've
13 been told: Well, gee, if you could just do this, we would
14 be able to support you or not be against you. And the
15 first was traffic -- and I won't bore you with the whole
16 thing but I've got a whole file on all this stuff, we
17 spent a lot of time researching this -- the entry and
18 roundabout into Ledge Stone were designed to meet Hays
19 County standards as a minor arterial to support up to
20 15,000 vehicle trips per day.

21 The land we're looking at right next to the
22 community of Ledge Stone has been for sale for eight
23 years. It went into sort of the icebox with the 2008
24 economic downturn, land just didn't sell, it's had a for
25 sale sign on it for eight years, it's been planned for

1 eight years by the county and by everybody else. And so,
2 you know, somebody is going to do something there; given
3 the rules, you could do just about anything there.

4 We're proposing to build a very upscale, nice
5 apartment home community for general population, for
6 single people, for families, for young families starting
7 out, for people who have gone through the horror of a
8 divorce and have to do this, have to live near their
9 child. We're proposing to do that. We've done it in
10 communities as nice as this in Cedar Park, Texas. That's
11 our first one ever. It's a Class A location right next to
12 Class A pedigreed, institutionally owned apartment home
13 communities, and we get along with everybody beautifully
14 and we don't have problems.

15 So really, the public transportation, in terms
16 of the trips per day, has been documented, I can show it
17 to you, it's not an issue. I know you all probably know
18 and I know staff knows, but the people who we rent to, we
19 don't rent to people who are without a car, we rent to
20 people who have jobs, and when they need to go to the
21 grocery store, they're going to go get in their car, put
22 the key in the ignition, just like everybody else, and
23 they're going to go to the grocery store. And that's what
24 everybody out there does. You have to travel if you live
25 in this area because it's a rural in the path of growth,

1 becoming suburban.

2 The reason that we found this site is -- and I
3 do want to clarify this, there is not a site in Dripping
4 Springs, Texas that will work for us, period. It has
5 nothing to do with this program or anything else, it does
6 not work. There is a profound lack of water in Hays
7 County. Many, many people -- Jerry Wright, who many of
8 you all know, is a banker around affordable housing, he
9 has to use rainwater collection. A lot of people in
10 multi-million dollar homes use rainwater because their
11 wells have gone dry. There's a profound lack of water out
12 there, so you've got to have a nexus of water and
13 wastewater and a piece of land that has some zoning or
14 something like that. There is none, period, in Dripping
15 Springs, and we did look extensively. Now, there's a
16 small piece of land but it wasn't big enough for what we
17 wanted to do.

18 We're aware of three sites: two of them are at
19 Ledge Stone, and one of them is across the street in
20 Belterra. There is a proposed apartment community in
21 Belterra that's market rate. I think it has not gone
22 forward but it may be, I hope it does. Their rents, just
23 to set this record straight, have been published to be --
24 this is their published rents and they will usually go
25 higher, we can't go higher, as you know -- anywhere from

1 \$73 to as high as \$537 a month higher than our rents, \$73
2 to \$537 a month higher. Apples to apples, that's their
3 rents versus ours.

4 And so we're proposing to offer a real value to
5 people who, as Ryan pointed out, let's just say that
6 number of 800 is in half, let's say take 25 percent of it,
7 okay, call it 200 people out there who could use a place
8 to live. They're out there already. Their kids, if they
9 have them, and some of them do, are already in that school
10 district. So it's not really accurate to say that this is
11 going to bring 100 percent new children or 100 percent new
12 people, it's a dynamic. I have yet to eat in Trudy's
13 Restaurant one time, and I ask my wait person every time,
14 I have yet to find one who lives in Dripping Springs or in
15 that area. They live in Austin and commute in, or they
16 live in San Marcos, or they live in Blanco and they're
17 commuting.

18 And so the issue about traffic is actually a
19 reverse issue in some cases because there's a lot of
20 people who are having to go back and forth to Austin or
21 other communities, driving in, who would be closer. And
22 if they're seven miles away, they're still closer, that's
23 closer than San Marcos, it's closer than southwest Austin.

24 So the public transportation issue is one that
25 was brought up. We've really answered it a number of

1 times, we've gone through and met with constituents here,
2 as well as many other constituents from the county, the
3 fire department, the city, even Dripping Springs
4 Independent School District. I was not aware of what
5 Sherrie said, I wasn't aware of that precipitous growth
6 that DSISD has had this year, but that wasn't us, they're
7 just having growth. That's what happens. School
8 districts, as they have said, are there to address growth
9 and to educate our children. We're not going to be the
10 biggest part of that growth, we'll just be some of it and
11 some of those people are already going to be in that
12 school district.

13 The next one was home values, there was a big
14 allegation that this would reduce home values. And a
15 simple internet search will indicate to you otherwise,
16 there's no evidence, and all the evidence we could find
17 says there's no impact. We went and did our own research
18 and we checked for the last ten years in Cedar Park, and
19 there is no diminution of value, period. Cannot see it.
20 In fact, all you see is that the values of the homes right
21 next door to us are riding up in value just as the ones in
22 the rest of Cedar Park. You get to 2008, everybody's
23 values go flat citywide, with the depression, and then
24 they rise back up. So again, that was not an issue.

25 The first one was are we going to pay taxes,

1 because as you know, sometimes communities like this get
2 tax exemptions, and we worked out a way where we didn't
3 have to ask for a tax exemption, so we said, No, we're
4 going to pay 100 percent taxes. Well, that wasn't okay, a
5 lot of people said, Well, then we won't be against you.
6 Well, they're still against us. And then they said,
7 You're not paying enough taxes. Well, all we can pay is
8 what the tax assessor appraises, and so that's what we
9 have offered to pay.

10 There's an allegation that we'll have multiple
11 families in one unit. And I'm so glad that you pointed
12 out Chief Murphy here, who does a good job. It is
13 impossible, almost, for me to explain to people how
14 regulated we are, and how from the syndicator to the
15 lender to TDHCA, and we have two bodies ourselves. We
16 don't have to hire, we do it to make sure that we can live
17 within these rules, to make sure that we're always
18 compliant.

19 We can't do this, but yet people continue to
20 allege that we're going to have three -- and it's always
21 Hispanic -- families, three Hispanic families per two-
22 bedroom unit with twelve people in a unit. And I hope you
23 all know that that doesn't happen. You would catch it, we
24 would catch it, it's against our lease.

25 MR. OXER: And then we would all catch hell

1 too.

2 MR. SHAW: We'd all catch hell. People don't
3 understand this, and then pretty soon I start to lose
4 credibility because they don't believe me, but that's
5 true.

6 And one more issue, and then there's crime.
7 People say you're going to bring a lot of crime and your
8 kids are going to be going out trying to get into our
9 amenities. Truth is that our amenities are going to be as
10 nice -- I mean, we've shown them to everyone, most of the
11 people here -- our amenities are actually going to be
12 significantly nicer than Ledge Stone's. And I'm sorry
13 about that, but that's what we do. In fact, in Cedar Park
14 our problem has been the kids from the neighborhood
15 jumping the fence, that's an eight-foot fence, to come in
16 and use our pool, and you know, we just have to deal with
17 it. But no, it's not a problem of our kids going out and
18 causing crime.

19 In fact, we've done studies and the studies
20 have shown that there's not a causal relationship between
21 affordable housing and crime. Now, maybe if you're in
22 Houston and you're around Hobby Airport and there's a
23 bunch of Grade F apartments, there's going to be crime.
24 These are not Grade F apartments, and I think you all
25 know, these are Class A apartments with unbelievable

1 management oversight because we do a good job, but we do
2 it to live within our rules, our rules. And so no, it's
3 not going to be a crime issue.

4 MR. SHAW: Impact on schools.

5 MR. OXER: You need to sum it up, Stuart,
6 please.

7 MR. SHAW: Fire safety, Chief Marcum has said
8 numerous times, we've got it in writing, that this is not
9 a problem, we have a couple of three-story locations, we
10 can deal with that, we have one four-story that they can
11 deal with from either side. Not an issue.

12 We really have tried to do our best, you all.
13 This has been so frustrating, it's been very hurtful
14 personally to my team and to me. It's gotten very
15 personal in terms of attacks, and we're not going to
16 attack. I'm just telling you we've done the best we can,
17 we've done way beyond, we've met with people many, many
18 times, we've addressed this, talked about it. I'm trying
19 to figure out what the real issue is, and I don't see here
20 or anything today what the real issue is, and I would just
21 ask you maybe to ask that question.

22 I'm done, and thank you for listening. We
23 would appreciate your support. Can I answer any questions
24 for anyone?

25 MR. OXER: Robert.

1 MR. THOMAS: And I'm sorry about the hurt.
2 There's obviously a lot of emotion around this issue. One
3 of my colleagues helped me know that not all of these are
4 this long or this contentious, so I guess there's hope for
5 us.

6 But what I clearly care about are the economic
7 issues, and I care very, very much about making sure that
8 these are going to be successful. And there's some
9 interesting pros and cons, or strengths and weaknesses
10 that our staff have provided us in the marketing analysis,
11 but let me just make sure I'm really clear. This is going
12 to be a net positive financial positive impact to the
13 community because you are not seeking any tax exemptions.

14 Did I understand that correctly?

15 MR. SHAW: That is 100 percent correct, sir.
16 None.

17 MR. THOMAS: Thank you.

18 MR. SHAW: May I address your other question
19 about economics, please, about growth?

20 MR. THOMAS: Sure.

21 MR. SHAW: We've met extensively with the
22 people who did the plan, the comprehensive plan, not just
23 for Dripping Springs, but we've been doing this with
24 communities for years. It's a big deal, especially if
25 you're in a smaller community and you see growth just

1 staring you right in the face and it's coming and you've
2 got limited resources to plan. There is no question that
3 every community needs to have housing for the CEO, let's
4 say, down to housing for the person who is going to work
5 as the bank teller.

6 And you all have talked a lot today about the
7 people at the fast food restaurants. Well, let me just
8 add, a prominent bank right there in Dripping Springs said
9 four or five of our people would income qualify, and oh,
10 by the way, we have a hard time hiring -- and these are
11 bank tellers -- we have a hard time hiring bank tellers
12 because there's no place here for them to live so they
13 have to commute from Austin. Traffic, commute, it's hard
14 to hire and keep good employees.

15 So it's an economic benefit, at a minimum, for
16 a community, like Cedar Park in the day, which is probably
17 10 years ago, 15 years ago when they were then carrying
18 out their plan, now Dripping Springs. To be able to have
19 your Chamber of Commerce greet an employer and say here's
20 where everybody is going to live, here's some places for
21 the CEO and middle management, and here's worker bees,
22 here's some places for people to live, and so that's a big
23 one.

24 And that last thing is that there's a dynamic
25 about this whole income qualification. You'll see on that

1 list we have people, we have wonderful people, look at the
2 professions that people do. These are not people who
3 don't have a car.

4 MR. THOMAS: You're referring to the second
5 page?

6 MR. SHAW: Yes, sir, I am. We went to a lot of
7 trouble to do that. That's a direct abstract off of our
8 leases, and that is absolutely accurate about a year ago.

9 MR. OXER: Sum it up, Stuart.

10 MR. SHAW: Those people have to have a place to
11 live, and so when an employer comes to town, if there's no
12 place for folks to live, they make other choices, and
13 we've been told that, and that's what Sherrie said, we've
14 been told that a lot and we see it a lot.

15 Thank you for your time.

16 MR. OXER: Indeed. I take it there's no more
17 questions from the Board.

18 Representative Isaac, at long last, it appears,
19 and we're happy to have you.

20 MR. ISAAC: Thank you, Mr. Chairman, members,
21 staff. My name is Jason Isaac. I'm the state
22 representative for Blanco and Hays counties, and I
23 appreciate your time and your service.

24 MR. OXER: Representative, you've spent a lot
25 of time in this particular room but in this chair.

1 MR. ISAAC: Yes. I'm usually back there
2 sitting in either an economic and Small Business
3 Development hearing or Environmental Regulation, the
4 committees I served on during this session. I'll tell
5 you, most of my interaction with you has been just in the
6 form of writing; I've written many support letters
7 throughout Blanco and Hays counties for other projects
8 that have been considered. And I'm here today in
9 opposition to one particular project, and this is the
10 first project that I have opposed in the district.

11 And Mr. McWatters, to answer some of the
12 questions you had earlier about is this a moonscape. It's
13 not a moonscape, it is a very nice area, but I think some
14 of the biggest concerns are regarding density and location
15 of this particular planned project and access to
16 transportation, public transportation and other concerns,
17 but I just think the density is the big concern, and I
18 just wanted to mention that.

19 I also think this is a good list here, but
20 raises many questions more than there are answers. I know
21 a lot of these business, I have a district office in one
22 of these businesses, and I have not heard from a single
23 business on here that is in support of this project. And
24 I know many employees that work at these businesses. They
25 are high school students that work part-time. I know many

1 of them are college students. I've coached them in high
2 school and their youth sports and now they're taking
3 classes at ACC or Texas State in San Marco, and work at
4 these businesses part-time. I know there are many semi-
5 retired people that live in the community that work at
6 these businesses.

7 So again, those are just more questions that I
8 got when I saw this list, but I think it is important to
9 know that I have not heard from a single one, and like I
10 said, I have a district office in one of them, I coach
11 people's kids that own other businesses, and this has come
12 up before and I haven't heard that.

13 So I would ask you today to please consider the
14 concerns of my bosses, the constituents that I work for in
15 House District 45, who, for the most part, overwhelmingly
16 oppose consideration of this project and are here today
17 and have no financial interest in this project. They're
18 here taking time out of their lives and off work, such as
19 I am today.

20 I worked hard this session regarding some of
21 these issues. In fact, I filed five bills with Chairman
22 Dunton's committee, and we had hearings on those and was
23 fortunate and able to get one piece of legislation passed
24 that would allow for more community impact, and I did that
25 because it would allow us to have a voice, those of us

1 that live in the ETJ of Dripping Springs, the people that
2 I work for.

3 For those of you that don't know, Dripping
4 Springs has the largest ETJ in the state. Some people say
5 we live eight miles from the city limits and there's only
6 1,400 people that live in the city limits, but there's
7 25,000 people that live in the ETJ. My colleagues are
8 shocked and they say how did that happen and when did that
9 happen, and that happened well before my time in the
10 legislature.

11 But we do, we have the largest ETJ in the
12 state, and there are people that are in these surrounding
13 communities that feel like they didn't have a voice
14 because they don't get a vote when it comes to people on
15 the city council, they don't get a voice when it comes to
16 appointing people to planning and zoning commission. And
17 so I filed legislation and was successful in getting that
18 legislation put into effect that took effect September 1,
19 but because this application was started before that, it
20 doesn't apply in this particular case. But I wanted to
21 make sure that my constituents had a voice, and up until
22 today, I haven't seen that thus far in the process.

23 Earlier this week, Hays County Judge Bert Cobb
24 withdrew and rescinded his support of this project and the
25 TEFRA. That happened on Monday, and it's my

1 understanding, based on this information -- and I just
2 received confirmation from Hays County Commissioner Ray
3 Whisenant -- the Capital Area Housing Finance Corporation
4 will not be issuing bonds for this project based on, I
5 guess, the removal and withdrawal of support of that TEFRA
6 from Hays County Judge Bert Cobb.

7 And so with all that information that you've
8 heard from the people that I work for today and that
9 information from the judge and County Commissioner Ray
10 Whisenant, I ask that you deny this project at this point
11 in time.

12 MR. OXER: Thank you for your comments, and
13 thank you for coming and being with us today.

14 MR. ISAAC: Thank you, Chairman.

15 MR. OXER: Is there any questions from the
16 Board? Ms. Bingham.

17 MS. BINGHAM ESCAREÑO: Mr. Chair, would Cameron
18 be able to comment on any new news that the representative
19 just shared in terms of how a decision of information on
20 financing might affect the application.

21 DR. MUÑOZ: The issuance of bonds.

22 MR. OXER: We can address the issue of how a
23 change might address.

24 MS. BINGHAM ESCAREÑO: That's all, the
25 application or the project.

1 MR. OXER: Right. And we'll have some more
2 discussion on this too. Do you want to ask that question
3 of Cameron at this point?

4 MS. BINGHAM ESCAREÑO: If it's appropriate,
5 sir.

6 MR. OXER: Can you answer that, Cameron?

7 MR. DORSEY: In order to --

8 DR. MUÑOZ: What would this do to your
9 underwriting, Cameron? You'd have to reassess?

10 MR. DORSEY: Well, if this carried through and
11 was confirmed and everything -- and we haven't gotten
12 anything in writing at this point in time -- then it would
13 make them ineligible for tax credits altogether under this
14 specific bond reservation. The 4 percent credits, they're
15 eligible for 4 percent credits because of the bond
16 issuance that is expected to occur. To the extent that
17 that doesn't happen, then they could go find another
18 issuer or something like that, but they would have to come
19 back through the process entirely in order to accomplish
20 that.

21 MR. OXER: And in doing that, in the recycling
22 or the restart of this process, then they would be under
23 the legislation that Representative Isaac generated this
24 past session that came into effect on September 1. Is
25 that correct?

1 MR. ISAAC: Yes.

2 MR. DORSEY: Yes.

3 MR. OXER: Okay. That's a point of
4 clarification.

5 Dr. Muñoz, do you have another question?

6 DR. MUÑOZ: That as my question. I mean, I
7 appreciate that you probably don't have anything in hand
8 to sort of verify this, although I just personally don't
9 question the veracity of what's being represented.

10 MR. DORSEY: Sure.

11 DR. MUÑOZ: But that could have fairly profound
12 implications for whatever it is we were to decide to do.

13 MR. IRVINE: And the staff recommendation is
14 specific to this structure with this issuer and the 150-
15 day closing. So if that did not occur, which obviously
16 could not occur without a TEFRA certification, then the
17 approval would be a nullity.

18 MR. THOMAS: Mr. Chair, clarification?

19 MR. OXER: Yes, sir.

20 MR. THOMAS: Maybe we can ask Mr. Shaw, if he's
21 still here, if he's aware of any of this, if that's
22 appropriate. But more appropriately, legally, how do we
23 proceed?

24 MR. OXER: Here's how we're going to proceed --
25 because I get to have a little say on that one -- we're

1 about to break for an executive session, we're going to
2 suspend the discussion on this, we'll do a formal vote on
3 it when we return. I want to make sure we've got general
4 counsel, and you're going to be in on it too, Cameron, on
5 this discussion. Okay? But to that end --

6 MR. DORSEY: I can answer legal questions if
7 Barbara lets me.

8 MR. OXER: Exactly. She has the leash.

9 MS. DEANE: Right, this will be a legal advice
10 on pending legislation executive session, but if there is
11 a question that from a legal standpoint needs to be
12 answered, I can get the information.

13 MR. OXER: Okay. Then you'll be available to
14 that.

15 Hold on a second, sir. That's all right, don't
16 worry, you'll get your shot.

17 MR. SHAW: I wanted Barry Palmer to get a shot.

18 MR. OXER: We appreciate your input, and if any
19 of these are easy, we don't get to see them. Cameron only
20 brings us the really tough ones, for some reason, they get
21 all the easy ones. But you don't know anything about that
22 from the legislative standpoint. Right?

23 MR. ISAAC: I just write letters in support of
24 those.

25 MR. OXER: Right. We very much appreciate you

1 being here.

2 MR. ISAAC: Thank you, Mr. Chairman. Members,
3 thank you. And with that, I close, as they say in the
4 House.

5 MR. OXER: As they say in the House.

6 Okay, Barry, one more shot.

7 MR. PALMER: Barry Palmer with Coats Rose,
8 legal counsel for the developer.

9 On the issue of the TEFRA, the TEFRA is a
10 requirement of the Internal Revenue Code that you have a
11 TEFRA and that you get approval of that TEFRA by the
12 highest ranking officer of the jurisdiction. We received
13 that approval.

14 MR. OXER: And that officer would be whom?

15 MR. PALMER: In this case, the judge, the
16 county judge.

17 MR. OXER: Judge Cobb? Do I recall it
18 correctly?

19 MR. PALMER: Yes. It's our understanding that
20 he is withdrawing that approval. We do not -- it's not
21 clear that once you get a TEFRA approval, from our
22 perspective, that there's any procedure for withdrawing
23 that approval. The approval has been given. It's really
24 going to be a question for the bond issuer as to whether
25 they're able to issue the bonds, and their bond counsel

1 will sign off on that. We have not been notified by the
2 bond issuer that they will not issue the bonds.

3 That issue is not really before you today,
4 that's a decision for the bond issuer to make. The
5 question before you today is just on the allocation of the
6 tax credits.

7 MR. OXER: All right. Point noted.

8 Dr. Muñoz.

9 DR. MUÑOZ: Barry, perhaps I have a different
10 sort of interpretation. I mean, you know, part of why
11 we've been listening for three hours is for additional
12 information, and this is pertinent and relevant additional
13 information. If it turns out to be accurate, it has
14 substantive consequences for whatever it is that is
15 decided here. I don't know what kind of procedural,
16 statutory process to rescind or withdraw your support as
17 the judge, but I suspect that the judge will just say I
18 withdraw it. I don't understand how the bond issuer could
19 not be sensitive to that new position, and that new
20 position not have implications for this proposal.

21 MR. PALMER: That's an issue for them to
22 consider. It's considered an issue by a lot of bodies.
23 You, for example, have seen that same issue come before
24 you where you've received state representative letters in
25 support of a transaction and you've moved forward based on

1 those letters, and then a state representative would
2 withdraw that letter after the fact, and in fact, you've
3 adopted a rule that does not allow that anymore. So it
4 would be up to this bond issuer to determine what their
5 procedure is on that. And historically, these deals go
6 back to the bond issuer for final resolution and closing
7 after all the other approvals have been given, like the
8 tax credit resolution.

9 DR. MUÑOZ: But I understood from Cameron a
10 minute ago that if the TEFRA isn't provided, if it's
11 somehow withdrawn and the bonds not be issued, then that
12 the entire project becomes sort of ineligible.

13 MR. PALMER: If the bond issuer is not prepared
14 to issue the bonds, the project would not be eligible
15 without another bond issuer. So under the terms of the
16 resolution that you have before you, if there were another
17 bond issuer substituted, then that would have to come back
18 to you for a subsequent approval.

19 MS. DEANE: Mr. Chair, do you mind if I ask a
20 real quick question?

21 MR. OXER: I will gladly allow that.

22 MS. DEANE: In terms of timing for the project
23 and the bond reservation and so forth, what would be the
24 effect, if any, of tabling it to see about the resolution
25 of some of these issues and bringing it back, say next

1 month or in December? Would that cause any detriment to
2 the bond reservation and so forth?

3 MR. PALMER: Well, it's not a typical 150-day
4 reservation, we have the three-year carry-forward
5 reservation, so the reservation is not going to expire,
6 but it would mean coming back here again next month and
7 sitting through three more hours of testimony on this
8 issue.

9 MR. OXER: Not necessarily. I get some say in
10 that.

11 (General laughter.)

12 MR. PALMER: So I think we've all heard all of
13 the arguments on both sides of the issue. Although one
14 thing that hasn't been brought up is the Fair Housing
15 issue. We've had a lot of issues on the Fair Housing side
16 with advocates complaining that the Department is
17 allocating too many tax credits in high poverty or high
18 minority concentrated areas, and so that's been an issue,
19 and part of the Department's response has been: Well, we
20 allocate credits where people bring us applications to go,
21 and a lot of developers bring applications to go into
22 qualified census tracts.

23 Here, a developer is bringing you an
24 application in a high income area, and perhaps this is a
25 lesson on why we don't see more developers bringing

1 applications in high income areas because there is a
2 tremendous outcry from the community that it's a nice
3 enough area to live in if you've got a single family
4 house, but it's not a nice enough area to live in if
5 you're going to be living in an apartment.

6 So that's the issue, really. We've got a
7 developer who has taken the chance and fought the battle
8 to try to bring affordable housing into a high income,
9 desirable area, and so the question is will the Department
10 support those efforts.

11 MR. OXER: Okay. We're going to suspend
12 discussion. I want everybody to sit still for a second
13 because I've got to say this because it's got to be on the
14 record and she's got to be able to hear it.

15 The Governing Board of the Texas Department of
16 Housing and Community Affairs will go into closed session
17 at this time, pursuant to the Texas Open Meetings Act, to
18 discuss pending litigation with its attorney under Section
19 551.071 of the Act, to receive legal advice from its
20 attorney under Section 551.071 of the Act, to discuss real
21 estate matters under Section 551.072 of the act, to
22 discuss certain personnel matters under Section 551.074 of
23 the Act, and to discuss issues related to fraud, waste and
24 abuse under Section 2306.039(c) of the Texas Government
25 Code.

1 The closed session will be held in the
2 cafeteria banquet room. The date is October 10, 2013, it
3 is now 12:21. So with that, we'll see everybody back here
4 at 1:30 by that clock.

5 (Whereupon, at 12:21 p.m., the meeting was
6 recessed to meet in closed session.)

7 (Whereupon, at 1:43 p.m., the meeting resumed
8 in open session.)

9 MR. OXER: The Board is now reconvened in open
10 session, and it is 1:43.

11 We met with our general counsel in executive
12 session for legal advice. No decisions were made, and
13 discussion was limited to the items on our specific
14 agenda.

15 MS. BINGHAM ESCAREÑO: Mr. Chair.

16 MR. OXER: Ms. Bingham.

17 MS. BINGHAM ESCAREÑO: With regard to pending
18 litigation discussed in executive session, I move we
19 proceed in accordance with the advice of legal counsel.

20 MR. OXER: Thank you.

21 MR. THOMAS: Second.

22 MR. OXER: Second by Mr. Thomas. Public
23 comment is not required.

24 So a motion by Ms. Bingham, second by Mr.
25 Thomas, regarding pending litigation.

1 Say it again, Leslie.

2 MS. BINGHAM ESCAREÑO: That with regard to the
3 litigation discussed in executive session, I move we
4 pursue as directed by legal counsel.

5 MR. OXER: Okay. Second by Mr. Thomas. All in
6 favor?

7 (A chorus of ayes.)

8 MR. OXER: Opposed?

9 (No response.)

10 MR. OXER: There are none. It's unanimous.

11 Okay. Second item -- there wasn't a second
12 item. Actually, we have to continue on item 3(a), on
13 development number 13412, Cypress Creek at Ledge Stone.

14 This is a refresher here, Tim. We've heard
15 commentary and public comment for and against this one.
16 Cameron, I need you to restate this so we're clear on the
17 record, because as it turns out, we have to deal with
18 information that's available to us today. Is that
19 correct, Executive Director?

20 MR. IRVINE: Well, if you're going to take
21 action. We've got a motion on the table to proceed with
22 staff recommendation to issue the determination notice.

23 MR. OXER: Stand by a second. Since there is
24 the issue of the TEFRA, and this is a 4 percent deal. Is
25 that correct, Cameron?

1 MR. DORSEY: Yes.

2 MR. OXER: Ledge Stone is a 4 percent deal --
3 sorry -- Cypress Creek is a 4 percent deal. And were
4 there to be a delay in pursuing this, to see what the
5 issue is associated with this TEFRA, we could take this up
6 in the next meeting. We have the possibility of tabling
7 it now to see what the result of this TEFRA discussion is
8 and then take it up at the next meeting, if I'm clear.

9 MR. DORSEY: That would be an option available
10 to you, yes.

11 MR. OXER: An option to make sure that this
12 works out.

13 MR. DORSEY: That's an option, yes.

14 DR. MUÑOZ: And there wouldn't necessarily be
15 any adverse effect to the applicant in terms of a time
16 line or deadline.

17 MR. DORSEY: Not from a regulatory standpoint.

18 MR. IRVINE: They'd still be within their bond
19 reservation.

20 MR. OXER: And their bond reservation is for
21 considerably more than a few months, it's like three
22 years?

23 MR. DORSEY: I think it ends at the end of
24 2014, December 2014. They've had it for a while already.
25 It ends at the end of December 2014.

1 MR. OXER: Can somebody confirm that? Is there
2 anybody here that can confirm that one way or the other?

3 MR. DORSEY: It's confirmed.

4 MR. OXER: So the bond reservation, even if we
5 delayed this to get this TEFRA issue sorted out and
6 answered, there would still be plenty of time for them to
7 execute within their bond reservation period.

8 MR. DORSEY: That's correct.

9 MR. OXER: Okay. Owing to the fact that we sat
10 there and listened to three hours worth of discussion
11 before this ever came up, which seems to have a material
12 impact on what the decision would have been, I'd like to
13 get that answered. So Mr. Gann, you were the second, Ms.
14 Bingham, you made the motion. Would you consider tabling,
15 or could we table the motion or move to table?

16 MS. BINGHAM ESCAREÑO: Maybe, Mr. Chair, I can
17 withdraw my motion, and then that will leave the table, if
18 Mr. Gann is okay with that.

19 MR. GANN: I'll concur with that.

20 MR. OXER: I think we need that sorted out.
21 That's such a critical issue on this, and yes, there are
22 legal issues associated with it that they need to get
23 sorted out. So if it works, it works, if it doesn't, it
24 doesn't, and we'll know by the next meeting.

25 So it gives you 30 days to figure it out, sort

1 this issue.

2 DR. MUÑOZ: Well, we need a motion.

3 MR. OXER: Hold on a second. You're right.

4 And I know the clock is running, I know the
5 clock is running.

6 MR. SHAW: We set a TEFRA that expires at the
7 end of January.

8 MR. OXER: That's why I asked that question,
9 Cameron.

10 MR. DORSEY: The reservation expires at the end
11 of December. I'm not sure I understand about the
12 expiration of the TEFRA.

13 MR. OXER: Right. So what it comes down to on
14 the TEFRA, the TEFRA has to be -- come up here, Stuart --
15 the TEFRA has to be in place for you to close. Assuming
16 you've got one now, it would be there. Okay? If there's
17 some legal discussion about whether that is in place or
18 not at this point, you would have to get another one if it
19 is not.

20 MR. SHAW: That's the intent here.

21 MR. OXER: Well, it's --

22 MR. SHAW: Not your intent, their intent.

23 MR. OXER: Well, our intent is to answer the
24 questions that are material to the project.

25 MR. SHAW: Mr. Chair, just that the time is

1 ticking on that and we're aware that our bond reservation
2 goes on. The TEFRA, which we think that's intact, we
3 don't think you can revoke it, but that's going to be
4 decided by somebody. But at any rate, it's a one-year
5 TEFRA, it expires for sure the end of January, which we're
6 running out of time.

7 MR. OXER: Dr. Muñoz, do you have any, just a
8 thought?

9 DR. MUÑOZ: Well, I don't have a thought.
10 Given that the first motion has been withdrawn, I'm
11 inclined to table this for the next meeting and to further
12 examine whether this TEFRA is still in place and active,
13 given its material relevance to our decision, before we
14 make a decision.

15 MR. OXER: Is that even in bounds, Counsel?

16 MS. DEANE: Yes. If you wanted to table it,
17 you could table it and bring it up at the next meeting.

18 MR. OXER: I want the answer on this.

19 MS. DEANE: See if we can get additional
20 information on what the status is.

21 DR. MUÑOZ: For no longer than the next
22 meeting, which what's the date?

23 MR. OXER: November 7.

24 DR. MUÑOZ: That is my motion.

25 MR. OXER: Barry.

1 MR. PALMER: Barry Palmer. It has never been a
2 policy or a requirement of the Department that you even
3 have your TEFRA hearing before you get your tax credit
4 reservation, so this would seem to imply that you're
5 required to have your TEFRA in place and approved -- which
6 we have done -- but that's never been a requirement to get
7 your tax credit commitment approved is that the TEFRA be
8 approved.

9 MR. IRVINE: I would respectfully disagree that
10 that's not the proposition. The proposition is that
11 allegedly the person who is required to issue the TEFRA
12 certification have said that they have revoked their
13 certification. There is not clarity as to what has
14 actually occurred, there is not clarity as to what the
15 actual legal effect is, and I think the Board simply wants
16 to address that uncertainty.

17 MS. DEANE: Well, I think there was also an
18 issue raised about the financing, and I haven't heard
19 anything, we still have no clarity about that either, so
20 if we could get some information on that. They linked,
21 apparently -- one of the commenters linked the financing
22 with the TEFRA, and we just don't know the status of any
23 of that yet.

24 MR. PALMER: I don't know what the question is
25 about the financing.

1 MR. SHAW: Let me repeat to everyone, we don't
2 think that this can be revoked, and probably sort this
3 out, that's something we'll have to sort out. We don't
4 think it can be revoked. Nobody I know in the business
5 has ever seen one revoked, never heard of one, and there
6 doesn't appear to be a way to do that. Just because
7 somebody did something doesn't mean it's revoked. And
8 whether or not Capital Area can go forward with this is an
9 issue that we're working on right now, but we're working
10 against the clock, and it's a very concerted effort for us
11 to fail -- not here but elsewhere, and that's what we're
12 working against.

13 If we go forward with our tax credits, and
14 you've done that before where there's no TEFRA in place --

15 MR. OXER: I see where you're going with this.

16 I don't mean to interrupt, Stuart, but in the interest of
17 expedience -- which is never our interest when it comes to
18 making sure that all parties are heard on this, I think
19 the Board has a couple of options available to them. We
20 can approve the staff recommendation which under 2306.6731
21 on allocation decisions, the Board may not make, without
22 good cause, an allocation decision that conflicts with the
23 recommendation of the staff. So essentially, the staff
24 has recommended in favor. We can't oppose that unless
25 there is good cause that we find to do so.

1 The question about the TEFRA would be answered
2 later on, either you have it or you don't, and we can
3 either say yes now and by the next meeting you'll either
4 have it or you won't, it will go up or down. That just
5 keeps us from having to come back to it, because if it
6 goes down and you don't have the financing, we don't have
7 to talk to you again on this one.

8 MR. SHAW: It would be a moot point.

9 MR. OXER: Right. And the point of all this is
10 this keeps us within our rules, keeps us within the bounds
11 of 2306 that we have to necessarily stay and observe. And
12 for the record, we didn't vote, so your motion and your
13 second are still intact.

14 MS. DEANE: It was withdrawn.

15 MR. OXER: Did you formally?

16 MS. BINGHAM ESCAREÑO: I friendly withdrew it.

17 MR. OXER: Okay. Then we have to have a motion
18 to consider on this, with one of the options being either
19 table it and get the answer, or we say yes now, which is
20 the option, and they'll either have the TEFRA and their
21 financing or they won't.

22 DR. MUÑOZ: Mr. Chair, I believe my motion was
23 made and seconded. It would have to be withdrawn in order
24 to make the new motion.

25 MR. OXER: That's right, and that's where I'm

1 headed trying to get to this point on the point of order.

2 DR. MUÑOZ: I withdraw my motion.

3 MR. THOMAS: Which withdraws my second.

4 MR. OXER: Mr. Thomas and Dr. Muñoz withdraw
5 their actions. So now we're at a clean slate. So here
6 are our options: we can vote for it and have them proceed
7 with the understanding that Barry and Stuart have to sort
8 out this issue with the TEFRA and the financing. That is
9 an option.

10 MR. IRVINE: An option. The staff
11 recommendation was to issue the determination notice and
12 place a 150-day closing requirement on it, so those things
13 would have to come together.

14 MR. OXER: Those have to be in place by the end
15 at the close. That was the original motion.

16 MS. BINGHAM ESCAREÑO: Mr. Chair, I move that
17 the Board approve staff's recommendation.

18 MR. GANN: Second.

19 MR. OXER: Great. Motion by Ms. Bingham,
20 second by Mr. Gann to approve staff recommendation. We've
21 had, as I recall, three hours of public comments, so we
22 don't come do any more. All in favor?

23 (A chorus of ayes.)

24 MR. OXER: Opposed?

25 DR. MUÑOZ: Aye.

1 MR. THOMAS: Aye.

2 MR. OXER: Okay.

3 MS. DEANE: Can we clarify that?

4 MR. OXER: Yes, we're going to clarify that.

5 Those were affirmative votes by Mr. Gann, Ms. Bingham,
6 myself and Mr. McWatters. Mr. Thomas and Dr. Muñoz have
7 voted opposed.

8 MS. BINGHAM ESCAREÑO: Mr. Chair, can I make a
9 couple of general comments, or is this an appropriate
10 time?

11 MR. OXER: It's an appropriate time.

12 MS. BINGHAM ESCAREÑO: So my first comment
13 would just be, for those of you that are still here that
14 watched this slow motion cliffhanger and stayed for after
15 lunch, that that's probably the longest public comment
16 that I've ever endured on one issue, and everybody was so
17 professional. It was the most professional, appropriate
18 exchange, and so I speak for myself in that we're very
19 grateful and we took all comments very seriously.

20 There was a public commenter, I believe named
21 Ms. Kinney -- in the back of the room, maybe, in the
22 pretty teal dress -- that mentioned something about staff
23 recommendation, and I just wanted to say -- and I know she
24 spoke from experience because she sits on a board too --
25 we do hold staff's recommendation in extremely high

1 esteem. They are far more great experts on the subject
2 matter than we will ever be, and do it 365 days a year,
3 where we do it once a month for most months. But that
4 being said, we take staff's recommendation very seriously
5 and it's very important to us to listen to comment and
6 weigh those comments.

7 I like Dripping Springs a lot. I actually lost
8 part of my foot in Dripping Springs earlier this spring in
9 a Tough Mudder that I should have never done, and it's
10 beautiful there. And Dripping Springs obviously has its
11 challenges, and it sounds like it has its challenges
12 regardless of if you live in an upscale community or if
13 you aspire to live in an affordable community, and I hope
14 you continue to seek the support of your elected officials
15 to get your issues taken care of. This is a beautiful
16 area and it is going to continue to grow.

17 We've had the honor of placing many affordable
18 communities throughout the state, including some of Mr.
19 Shaw's, and my sincere hope is that the residents of
20 Dripping Springs and the nearby communities will be very,
21 very happy with any affordable community or initiative
22 that goes there in the near future. But I just want to
23 express my gratitude and wish the community the best.

24 MR. OXER: Thanks for that, Leslie.

25 And I appreciate everybody's indulgence,

1 because our fundamental position here, in terms right out
2 of my Governance 101 handbook, is everybody gets a shot to
3 be heard. You can't take all day but you get at least one
4 shot at it.

5 With that adventure now closed, we have another
6 one, Cameron.

7 MR. DORSEY: We do have another one, two more
8 of these.

9 So we have another 4 percent determination
10 notice. Let me clarify, when we're talking about 4
11 percent, quote-unquote, awards, what we're really talking
12 about is the approval to issue a determination notice, and
13 then at the end of the day, once the property is built,
14 that's the point at which the allocation actually occurs.

15 This is a process that helps provide some level of
16 certainty for folks that when they come back in, if they
17 do X, Y and Z, as they laid out in their application and
18 that was approved by the Board, that there would some
19 certainty that that credit is, in fact, allocated. But
20 it's not an approval of an actual specific allocation,
21 there are a number of steps that have to occur for them to
22 actually claim that credit at the end of the day.

23 MR. OXER: Cameron, hold on just for a second.

24 MR. DORSEY: Yes.

25 MR. OXER: I made a minor logistical error

1 here. We have a couple of things that need to be read
2 into the record on that last item, and in deference to the
3 public interest.

4 MS. HENDERSON: Peggy Henderson, TDHCA staff.

5 Registering public opinion for Meredith Gomez
6 for item 3(a) Cypress Creek at Ledge Stone, against
7 staff's recommendation. Also registering Maria Victoria
8 Hines, realtor with Keller Williams on agenda item 3(a),
9 project number 13412, against staff recommendations. And
10 finally, Diane Davidson, registering opinion on agenda
11 item 3(a), project 13412, lack of public transportation,
12 lack of jobs nearby, increased traffic, and busy and
13 dangerous intersection, against staff recommendation.

14 MR. OXER: Thank you, Peggy.

15 Okay. Thanks, Cameron.

16 MR. DORSEY: All right. Anyhow, back to what I
17 was talking about before, I just wanted to clarify that
18 when you all approve a, quote-unquote, 4 percent award,
19 it's really to issue a determination notice, and then they
20 have to do a series of steps to ensure that they are
21 ultimately eligible to claim that credit at the end of the
22 day.

23 MR. OXER: It's not the end, it's just the end
24 of the beginning.

25 MR. DORSEY: That's right.

1 Edison Square is the next 4 percent transaction
2 on the agenda. This is a new construction development
3 that would serve the senior population, I believe 62 and
4 over. There are proposed to be a total of 128 units, five
5 are market rate units with the other units supported with
6 a public housing operating subsidy and project-based
7 Section 8 vouchers. The site is located in Port Arthur,
8 just off Sabine Lake, just kind of northwest of Sabine
9 Lake a bit.

10 The financing includes a bond issuance of
11 around \$7.8 million in tax-exempt private activity bonds,
12 and the plan is to redeem a large portion of that at
13 conversion to permanent, leaving an outstanding of \$1.6
14 million that would be supported and paid off through the
15 cash flow of the property over time. Just under \$9
16 million in CDBG and other funds from the Port Arthur
17 Housing Authority have been pledged to the transaction,
18 and the tax credits, staff is recommending \$589,952 in tax
19 credits which would generate \$5.3 million in equity to
20 round out the financing for the transaction.

21 There was some opposition received, primarily
22 related to procedure irregularities in the re-zoning of
23 the property. We did, during the public comment that
24 occurred on the last transaction, we received, hand-
25 delivered, a copy of a temporary restraining order that

1 was filed against the City of Port Arthur related to that
2 re-zoning. I'll turn it over to Barbara to let you all
3 know if there are any legal constraints that that causes
4 for any possible action today.

5 MS. DEANE: Right. We have a temporary
6 restraining order that was signed this morning at 8:45 by
7 Judge Donald Floyd in Jefferson County. The defendant in
8 this instance is the City of Port Arthur, it's not TDHCA,
9 it's not the State, it is the City of Port Arthur. It
10 relates to a zoning classification and it basically
11 enjoins the City of Port Arthur, its agents, employees,
12 assigns and so forth from allowing the zoning change found
13 in Ordinance 1338 which relates, apparently, to
14 multifamily zoning, to be applied to the property, or
15 granting any person or entity a permit of any kind,
16 including a building permit or a certificate of occupancy
17 that would result in the property being used for a purpose
18 allowed under a multifamily zoning classification that is
19 not allowed on a 2-F -- I don't know what 2-F -- 2F zoning
20 classification. And there's a hearing set for the
21 temporary injunction hearing.

22 As I said, the State is not a party to this.
23 The State itself is not enjoined, TDHCA is not enjoined,
24 and in fact, it's my understanding -- Cameron can correct
25 me if I'm wrong -- a vote today would basically be

1 contingent on and conditioned on getting that zoning.
2 They have to have that zoning in place before they could
3 proceed anyway, so it's basically a condition of whatever
4 vote the Board would be taking today anyway. So it
5 doesn't particularly affect what we are doing here today,
6 other than it's informational, additional information as
7 to what is going on with regard to the zoning as
8 background information.

9 MR. DORSEY: That's right. And just being more
10 specific, to the extent that the ability to issue a
11 determination notice is approved, the determination notice
12 would lay out that proving up appropriate zoning within 30
13 days of receipt of that determination notice is the
14 requirement. That's based in our rule, and so we
15 basically would issue that determination notice and they
16 have to sign it and return it within 30 days with evidence
17 of that final zoning that will allow the proposed
18 development to be constructed.

19 MR. OXER: So essentially, what the
20 determination notice is, the development, the actual
21 structure and the population it will serve meets the
22 requirements of the Department, so it will say here, you
23 get to go but you've got to do all these other things,
24 these other gates to get through before you can capture
25 those tax credits.

1 MR. DORSEY: Right.

2 MR. OXER: So they've got 30 days to get the
3 zoning notice straightened out. Is that 30 days extended
4 by any of this temporary restraining order, the period of
5 the TRO?

6 MR. DORSEY: There wouldn't be any specific
7 extension. I think the applicant could come back probably
8 before the Board if they felt like the 30 days didn't end
9 up being sufficient time to get the issue resolved or that
10 type of thing, but the rule is very specific that it's 30
11 days, and I don't think I have any specific authority to
12 extend that 30-day period.

13 MR. OXER: Had they not received the zoning or
14 the zoning certification or the zoning notice or the re-
15 zoning by now, would you have recommended that we proceed
16 and make this allocation?

17 MR. DORSEY: Yes, I would have.

18 MR. OXER: Okay. So conceptually, they would
19 then have 30 days to get that zoning taken care of. It
20 has to be done within 30 days after they're given the
21 allocation, more or less.

22 MR. DORSEY: Determination notice. More or
23 less, yes.

24 MR. OXER: So if they go ten days into that and
25 they get a temporary restraining order, that puts them

1 beyond that 30 days, what's their relief, Counselor?

2 MS. DEANE: Well, as I said, the hearing on the
3 temporary injunction is scheduled for October 24, so they
4 should know something here pretty soon. But obviously, if
5 the litigation that is going on in Jefferson County causes
6 the zoning issue to be dragged out, they would have to
7 either come back and ask for an extension from the Board
8 or they would miss their deadline.

9 MR. DORSEY: They could, obviously, come back
10 through the process and everything. If it got resolved
11 through a much longer extended kind of litigation
12 concerning the zoning, they could wait till the end and
13 come back through.

14 MR. OXER: Nothing that stops them from
15 circling back and starting over, it's not like they have
16 to have it done by the end of the year or middle of next
17 year.

18 MR. DORSEY: Not from our standpoint. There
19 are obviously all kinds of other constraints. But yes.

20 MR. OXER: All with respect to what we can
21 control in the process.

22 MR. DORSEY: That's right.

23 MR. OXER: Okay. Well, then we'll have to have
24 a motion to consider what to do on this. Would anybody
25 like to make one?

1 MR. THOMAS: Move to approve staff
2 recommendation.

3 MR. OXER: Motion by Mr. Thomas to approve
4 staff recommendation.

5 MS. BINGHAM ESCAREÑO: I'll second.

6 MR. OXER: Second by Ms. Bingham. She gets to
7 be the assistant bad guy this time.

8 Is there any public comment?

9 MR. AKBARI: Good afternoon. My name is Ike
10 Akbari. I am the developer.

11 MR. OXER: Ike, this is going in the right
12 direction. Are you sure you want to talk now?

13 MR. AKBARI: Well, yes, just for the purpose of
14 general knowledge, I wanted to make sure to mention this.

15 The zoning has already been -- actually, we do have the
16 zoning approved, four to three, and I think it is just a
17 matter of somebody who voted no does not like it and
18 proposing this. Other than that, I was not even aware
19 until today. I just wanted to mention that.

20 MR. OXER: Okay, fair enough.

21 MR. AKBARI: Thank you.

22 MR. OXER: Okay. Motion to approve staff
23 recommendation by Mr. Thomas, second by Ms. Bingham. No
24 other public comment. All in favor?

25 (A chorus of ayes.)

1 MR. OXER: Opposed?

2 (No response.)

3 MR. OXER: There are none. It's unanimous.

4 You said Wilmington House was removed?

5 MR. DORSEY: Yes. It's withdrawn from today's
6 meeting and I expect to hear it at a future meeting.

7 MR. OXER: Okay.

8 MR. DORSEY: All right. The next transaction
9 is Cedar Terrace, it's also sometimes referred to as
10 Galveston Initiative I. This is a new construction
11 development, technically speaking. I think that they will
12 talk about the fact that it's about redevelopment of units
13 that were destroyed, but it is technically new
14 construction which will serve the general population.

15 We're talking about 122 units, 22 of which
16 would be rent-restricted, 60 market rate. The restricted
17 units would be supported by a combination of public
18 housing operating subsidy, as well as project-based
19 Section 8 vouchers. It's obviously on Galveston Island.
20 You all know quite a bit about this.

21 I have kind of a longer set of speaking notes.

22 I ask you to bear with me for a moment. Some of this
23 isn't firsthand for me, quite like the QAP is, so I'm
24 going to read a little bit, but I want to make sure you
25 all have a full picture before we proceed to public

1 comment.

2 The first thing are two corrections. One is
3 that I think there's a reference to the development being
4 located in Urban Region 3, in the write-up it's Urban
5 Region 6. That is a simple error. A more important error
6 to note is the fact that it talks about a waiver of the
7 flood plain requirements having previously been approved
8 when this transaction came through back in 2012. That was
9 the sister transaction that the Board approved a waiver of
10 the flood plain on. The elevation challenges are
11 virtually identical in terms of how many feet below the
12 flood plain the parking would have been, the design is
13 also extremely similar, and we tend to talk about them
14 interchangeably and made that error. So apologize for
15 that.

16 This transaction involves many unique aspects,
17 some of which are also a little bit unusual. First of
18 all, it's on Galveston Island which, as is well known, was
19 severely impacted by Hurricane Ike. A key piece of the
20 financial assistance on this transaction is CDBG Disaster
21 Recovery funding administered by the General Land Office.

22 The specifically appropriated DR, Disaster Recovery,
23 funds came to Texas under a congressional appropriate and
24 were awarded through HUD in two phases or rounds. The
25 aggregate amount of DR assistance for Texas was roughly

1 \$3.1 billion. Of the Round 2 funds, \$969 million was
2 distributed to the area overseen by the Houston-Galveston
3 Area Council of Governments.

4 It is an important piece of history that prior
5 to the State of Texas moving ahead with the Round 2
6 funding, a fair housing complaint was filed against the
7 State by the Texas Low Income Housing Information Service
8 and Texas Appleseed. The complaint was ultimately
9 resolved through a conciliation agreement in which HUD was
10 very much involved, and it addressed, among other things,
11 the one-for-one replacement of 529 destroyed units of
12 public housing in Galveston.

13 Some key dates include: September 2009, Ike
14 struck; February (sic) 2009, HUD published the notice for
15 the availability of Round 1 funds; in December 2009, the
16 complaint was made; in May of 2010 the conciliation
17 agreement was approved by all parties and HUD; in November
18 of 2011 the Houston-Galveston Area Council of Governments'
19 method of distribution was adopted; in July 2013 -- you
20 can see there's quite an extended time frame here -- an
21 application was made for 4 percent credits for Cedar
22 Terrace by a partnership structure involving entities
23 related to the Galveston Public Housing Authority and
24 their developer, McCormack Baron Salazar. I might refer
25 to them as MBS, and they're here to speak, I believe, as

1 well.

2 The application presents the issues to be
3 addressed here today. With the Board's granting of two
4 waivers, the application is not eligible. One waiver
5 relates to the flood plain elevation for the parking of
6 the development as designed. I believe at the last
7 meeting we mentioned twelve feet below the flood plain,
8 the parking is actually twelve feet below the finished
9 floor elevation of the living units, but about six feet
10 below the flood plain, so that's a little clarification
11 there.

12 MR. GANN: Six feet?

13 MR. DORSEY: Six feet below the flood plain.
14 Right.

15 MR. OXER: The flood level.

16 MR. DORSEY: Right.

17 The second waiver relates to the closeness of
18 poles for energy transmission, it's high voltage power
19 lines. Those power lines are located adjacent to the site
20 but not on the site. The buildings would not be
21 constructed in the easement, and I've asked for some type
22 of affirmative statement from an engineer to support the
23 waiver request that it is, in fact, in the engineered fall
24 distance. There's a bit of a problem in that regard
25 because in order to have an engineer assess definitively

1 that the buildings are, in fact, within the engineered
2 fall distance, they would have to understand the
3 structure, how the poles were built and everything, and
4 power companies aren't too forthcoming with such
5 information, and so that creates some difficulty. But
6 when I asked for this, the applicant basically said,
7 They're right there, they're clearly in the fall zone. So
8 think they pretty much acknowledge that they're there.

9 It is our understanding that the GLO, the
10 General Land Office, has provided roughly \$50 million for
11 the replacement of public housing and that this
12 transaction will receive a grant, or effectively a loan --
13 has to technically be a loan for tax credit purposes -- of
14 \$15.7 million in CDBG DR funds and this would go to the
15 replacement of 62 public housing units. As I said, the
16 whole development is 122; we're talking about 62 public
17 housing units, however, a combination of public housing
18 and Section 8.

19 At virtually every step of the way, HUD and the
20 complainants have been aware of the process and the point
21 at which we find this proposed development is that MBS,
22 GLO and the complainants are saying that the waivers and
23 the 4 percent credits are necessary for this development
24 to move forward.

25 Locally, there has been a great deal of

1 contentions over the development, and as the Board has
2 been previously advised, a lawyer by the name of Sherry
3 Goldsberry has directly threatened litigation if the
4 applicant is awarded 4 percent credits for the development
5 on this site. Conversely, the complainants have contended
6 that a failure to award the credits, and therefore, move
7 ahead with the development, will cause a breach of the
8 conciliation agreement.

9 Staff has reviewed the background and the
10 correspondence on this complex matter, and it is our
11 assessment that HUD's position in approving the
12 conciliation agreement and the methods of distribution
13 fall short of specifically addressing the core issues as
14 they relate to this specific development:

15 Is this site acceptable?

16 Will development of public housing on this site
17 comply with fair housing laws?

18 Is the development on this site in this manner
19 necessary for the State of Texas to be in compliance with
20 the conciliation agreement?

21 Is the development on this site in this manner
22 necessary for the State of Texas to meet its obligation to
23 affirmatively further fair housing?

24 Is the use of 4 percent credits a necessary and
25 essential component of this financing structure, without

1 which the development cannot occur?

2 Are there other compliant measures that the
3 State of Texas could take to address its obligations under
4 the conciliation agreement and affirmatively further fair
5 housing, such as other sites or more scattered site
6 development or a combination thereof, or a use of
7 additional CDBG funds?

8 Are there other ways this development can
9 complete its financing besides the pursuit of 4 percent
10 credits under an application that is not eligible without
11 granting waivers, such as a combination of conventional
12 financing with the use of CDBG funds?

13 And what HUD's specific opinion is with regard
14 to these issues, I think, is still a question and
15 something staff hasn't gotten an entirely clear picture
16 on. So those are some of the issues.

17 At our EARAC meeting, which is our Executive
18 Award Review and Advisory Committee, they make the formal
19 recommendation that appears for awards for tax credit
20 deals and other Department awards, and EARAC voted to not
21 recommend the waivers. However, if you look at kind of
22 the way the Board write-up is structured, it provides you
23 all certainly some options to go in several different
24 directions, such as addressing those questions by placing
25 conditions in the award or that kind of thing.

1 So I'll stop there, and if you all have any
2 questions, I'd be happy to answer them.

3 MR. OXER: Boy, do we. Who wants to be first?

4 All right. With respect to the conciliation agreement,
5 which tends to be at the heart of most of this, there is
6 an obligation to support to rebuild one-for-one in
7 Galveston. Is that correct?

8 MR. DORSEY: I'm going to let these guys take
9 that, I'm not the CDBG expert.

10 MR. IRVINE: Yes, that's correct, the
11 conciliation agreement requires the one-for-one
12 replacement of the destroyed, I believe, 529 units of
13 public housing in Galveston.

14 MR. OXER: So this represents around 10-1/2
15 percent of that total, so you've got 62 out of the 529,
16 that's a requirement to rebuild one-for-one but not
17 necessarily one-at-one, it doesn't have to be in exactly
18 the same site.

19 MS. DEANE: That's correct.

20 MR. OXER: So I'm adding some color commentary
21 into this so we've got some points that we're working
22 from.

23 If this was a brand new site and we were going
24 back to this on a tax credit deal, any tax credit deal,
25 the two waivers that would be required, it's obvious that

1 the developer admits it's in the fall line for the high
2 tension wires. It looks like a 236 kva line that they're
3 running right down the side of the site.

4 MR. DORSEY: If you say so.

5 (General laughter.)

6 MR. OXER: Trust me, that's my department.

7 So it would require two waivers, one of which
8 would be definitely not even in question because of the
9 high tension wire fall zone, and then the other one, since
10 the entire island is basically in a flood zone, were it to
11 be a hurricane, most of the whole island would be under
12 water anyway. So that one, you can work around that so
13 you could conceivably provide a waiver on that, based on
14 the construction where you have the parking underneath
15 where it's not habitated.

16 MR. DORSEY: That's correct. I believe the
17 only thing that would be located within the flood plain or
18 flood zone would be the parking and then a storage unit,
19 and I believe the applicant testified the last time that
20 they'd obviously advise folks not set that up as a bedroom
21 or something.

22 MR. OXER: Yes, and I specifically asked to
23 make sure that there was some requirement for training on
24 that to make sure that whoever came in there recognized
25 that if it was built, somebody had to recognize and state

1 that they recognize that this was in a flood-prone zone
2 and not to go down there and try and get in their car
3 while it's flooding.

4 Okay. So given that that's the case, absent
5 the conciliation agreement, this thing would have problems
6 anyway, it seems.

7 MR. DORSEY: Well, right. I mean, it needs the
8 waivers regardless. The issue of the waivers is really
9 one of accessing the 4 percent tax credits. They would be
10 necessary regardless of any of the other financing
11 involved or the one-for-one replacement of the public
12 housing.

13 MR. OXER: Since this is a HUD -- I guess GLO
14 is a party to all of that, did we give it back to them?
15 It's a HUD-TDHCA conciliation agreement. Is that right?
16 Or HUD-State of Texas.

17 MR. IRVINE: HUD-State of Texas, and the State
18 of Texas executed it through TDHCA and the Texas
19 Department of Rural Affairs, which no longer exists.

20 MR. OXER: Which is now part of the Department
21 of Agriculture.

22 Okay. So even if we were to get through this,
23 HUD, the many-headed hydra HUD, of whom we have such high
24 regard here, would have to sign off on several components
25 of that. Can we get any input into what those

1 requirements would be?

2 MS. JACKSON: (Speaking from audience.) Chair,
3 I plan to speak to that.

4 MR. OXER: Okay. What I'm trying to get to on
5 this, Toni, is our process, we have to have a motion to
6 proceed. There are a lot of questions on this one that we
7 need to air out some things on this.

8 Counsel?

9 MS. DEANE: I was going to say we also have --
10 I believe she's still here -- the attorney at TDHCA who
11 handles fair housing issues, so she might be able to
12 answer some questions after Toni has spoken.

13 MR. OXER: This is a point of order for me.
14 May we suspend this process? I think there's enough at
15 issue here about how to proceed on this, and we need to
16 get some input on what HUD is going to require before we
17 have the motion because I think that information is going
18 to be material to the decision.

19 MR. THOMAS: That was my request.

20 MR. OXER: I think I have discretion as chair
21 to exercise that, or do I?

22 MS. DEANE: Well, it's kind of odd in that the
23 requirement to get a vote before public comment is taken
24 is in the statute.

25 MR. OXER: A motion.

1 MS. DEANE: I'm sorry. A motion.

2 MR. OXER: So don't necessarily have that one.

3 MS. DEANE: Yeah.

4 MR. OXER: All right. I'm getting yanked.

5 MS. BINGHAM ESCAREÑO: Mr. Chair. Excuse me,
6 Counsel. It is process that if the Board has questions of
7 staff in order to make an appropriate motion, we can ask
8 questions of staff. Correct?

9 MR. OXER: Correct.

10 MS. BINGHAM ESCAREÑO: Is Megan staff?

11 MS. DEANE: Yes.

12 MR. OXER: Megan is staff.

13 MS. BINGHAM ESCAREÑO: We have questions for
14 Megan.

15 MR. OXER: Okay. We have questions for Megan,
16 and then I'm sure Toni is going to give us some more
17 questions that we're going to ask Megan again, but let's
18 have those questions.

19 MS. DEANE: That will work.

20 MR. OXER: Megan, come on.

21 MS. SYLVESTER: Hi. Megan Sylvester, TDHCA
22 Legal Services. How can I help you today?

23 (General laughter.)

24 MR. OXER: Well, you could ask HUD what they
25 think about this project.

1 MS. SYLVESTER: I don't think anybody is asking
2 HUD much of anything these days, at least not getting a
3 response.

4 (General laughter.)

5 MR. OXER: Hold on just a second.

6 MR. IRVINE: You could just have a motion to
7 table and then discuss it.

8 MR. OXER: Motion to table? Well, there's no
9 motion on the floor.

10 MR. IRVINE: I know, but you can discuss the
11 motion to table based on public input, if you wanted.

12 MR. OXER: We try to be good about the rules
13 here and we try not to break them, even when it's us that
14 needs to every once in a while.

15 MS. SYLVESTER: I think he's got a good idea.

16 MR. OXER: Okay. Do it, Robert.

17 MR. THOMAS: Mr. Chair, I move to table this
18 item.

19 MS. BINGHAM ESCAREÑO: I'll second.

20 MR. OXER: Motion by Mr. Thomas to table this
21 item for discussion later, and second by Ms. Bingham.
22 Now, given that?

23 MS. SYLVESTER: Given that, I think Toni can
24 probably give a good presentation.

25 MR. OXER: Do we have to vote on this?

1 MR. IRVINE: No, you don't.

2 MS. DEANE: That satisfies the requirement for
3 a motion.

4 MR. OXER: So now we're hearing comment on
5 this. We're still learning too.

6 Hi, Toni.

7 MS. JACKSON: Good afternoon, everyone. Toni
8 Jackson, Coats Rose.

9 I was going to start actually talking about our
10 support, but would you like me to start on the fair
11 housing piece and the HUD piece?

12 MR. OXER: You start with what you wanted to,
13 and we'll eventually get to the HUD part, I'm sure.

14 MS. JACKSON: Okay. Well, first of all, I
15 wanted to reiterate the fact that we have a lot of support
16 here. As Cameron mentioned, Hurricane Ike happened five
17 years ago and the City of Galveston has been waiting a
18 long time to get these units rebuilt. But starting off,
19 we did have a lot of opposition and a lot of discussion
20 had to take place to get us to this place, however, we are
21 now very much on the same page.

22 We have the City of Galveston and the Galveston
23 Housing Authority entered into a redevelopment plan last
24 September 28, 2012. That plan set out the plans for Cedar
25 Terrace and Magnolia, as well as the scattered sites, and

1 basically, that plan included mixed finance and mixed
2 income developments for Cedar Terrace and Magnolia.
3 Cameron mentioned our sister project which is Magnolia,
4 which we hope to have in front of you in the next two
5 months.

6 So we have that support and the city and the
7 housing authority are working hand-in-hand. Additionally,
8 we have the support of the housing advocates, who you
9 heard at the last meeting and some of them are here to
10 talk to you again today, John is here. GLO is supporting
11 us and HUD is supporting us.

12 Now, in this process -- and it's something I've
13 had to explain a lot to the Galveston Housing Authority
14 Board -- is that we do have a lot of approvals that have
15 to come from HUD as a result of this development, and we
16 are working with several parts of HUD: HUD Fair Housing,
17 HUD Public Housing and HUD CPD. CPD is overseeing the
18 disaster dollars, Public Housing oversees all of the
19 public housing rebuilding of those units, and then we have
20 the fair housing piece that actually is intertwined on
21 both sides of the table.

22 We currently have our disposition approval in
23 HUD which they are looking at -- or they were before
24 lights shut down for them.

25 MR. OXER: They've got to turn the lights back

1 on.

2 MS. JACKSON: We're hoping soon, real soon.
3 But that disposition approval, as far as we had our status
4 before the shutdown, was going well and was in order.
5 That disposition approval requires HUD to say that this is
6 HUD land and we have the ability to dispose of it to put
7 it into this partnership because we have to have HUD's
8 permission from Public Housing and from what they call the
9 Special Application Center to do so.

10 In doing that disposition approval, they do a
11 Part 58 approval, which all of you have probably heard of,
12 that's any time that federal dollars are going to be
13 expended, that Part 58 is a type of environmental
14 approval. There's a fair housing component that is looked
15 at for the disposition approval, and then there are other
16 aspects of the approval that they look at on the
17 disposition as it relates to the financing structure that
18 we're going to be looking at. So that's one approval that
19 has already been submitted.

20 Our next approval, which we are in the process
21 of putting together, is our mixed finance approval. That
22 approval is basically HUD's underwriting, and that entails
23 us submitting all our loan documents, our investor
24 documents and bond documents, and that approval will
25 include Fair Housing doing their site and neighborhood

1 standards review on the fair housing side, an underwriting
2 from the Public Housing side, as well as them making
3 determination and approval as it relates to our not
4 exceeding total development costs and being in line with
5 all of our public housing requirements.

6 We also have, at every step of the way,
7 approvals from the CPD side. We entered into a
8 subrecipient agreement for the CDBG DR funds and HUD
9 actually reviewed that subrecipient agreement that was
10 entered into between the Galveston Housing Authority and
11 GLO, so CPD has done an initial approval of that. At
12 every step of the way, as we seek reimbursement for any
13 expenditures that are being done, that is, again, being
14 reviewed by GLO and GrantWorks with a ultimate sign-off by
15 HUD CPD. So every step of the way, everything that we do,
16 there are approvals that are being done and HUD is
17 overseeing each aspect of this.

18 We provided supplemental materials, that were
19 put outside and should be in front of each of you, that
20 also speak to the fact that HUD actually met with the City
21 of Galveston and the Galveston Housing Authority and
22 indicated that you must rebuild, and it was the intent
23 that they rebuild on these two sites. There were several
24 other sites that were actually destroyed during the
25 hurricane. One of those sites has been pulled off the

1 table for the moment, and then the fourth site actually
2 has had some rebuilding already taking place on that site.

3 MR. THOMAS: Quick clarification.

4 MS. JACKSON: Certainly.

5 MR. THOMAS: Did you say that HUD said that the
6 construction had to take place at this site?

7 MS. JACKSON: Right.

8 MR. THOMAS: Is that in writing?

9 MS. JACKSON: Secretary Donovan actually met
10 with members of the city and the Galveston Housing
11 Authority in person, and there was actually a letter
12 followed up, and what we have put in front of you is
13 also -- I'm sorry -- we're going to have read into the
14 record for you, a City of Galveston letter from the city
15 manager that speaks to the fact that he was in that
16 meeting and that was instructed to them.

17 MR. OXER: But here's what we're looking for, I
18 want a letter on HUD letterhead that says it has to be
19 done there.

20 MS. JACKSON: We don't have -- what we will
21 have is our mixed finance approval. Our mixed finance
22 approval will set out those things that you're asking as
23 it relates to this site has been vetted and reviewed,
24 you're doing XYZ, fair housing has been reviewed, all of
25 these things, and we now approve you to do your building

1 at this site. And we won't have that until -- that's
2 something that doesn't come until time for closing.

3 MR. OXER: I know. And where we're headed with
4 this, Toni, is under the conciliation agreement it says
5 Galveston has to rebuild one-for-one.

6 MS. JACKSON: That's correct.

7 MR. OXER: And that's fine, understood that.
8 But is it one-at-one, meaning it has to be exactly at that
9 site?

10 MS. JACKSON: No, sir, because the replacement
11 plan that I spoke of that was passed last September, that
12 plan actually indicates the two sites, Cedar Terrace and
13 Magnolia. Like I said, Oleander is not being rebuilt on
14 at this time and it now has a scattered site component, so
15 300-plus units are actually going to actually be scattered
16 sites across the island, and that is something that has
17 been agreed upon by all the parties. And the housing
18 advocates, who have been watching this all along and were
19 also setting forth what they wanted to see as it related
20 to that one-for-one replacement, have agreed to that as
21 well.

22 So no, all of the units will not be put on
23 those two sites, but it was determined by the island that
24 they wanted mixed finance as opposed to all straight
25 public housing.

1 MR. OXER: And I understand that, but where I'm
2 headed with that is, or I'm trying to get to with that, if
3 they say it's okay to put it there, that's not the same as
4 they mandate to put it there.

5 MS. JACKSON: Correct, but going back to your
6 other question where you asked -- well, I think one of
7 Cameron's questions is if the tax credits are not used,
8 would you be able to build. What we would be able to
9 build or the only thing we could build would be straight
10 public housing, and the City of Galveston has said they do
11 not want straight public housing. The Galveston Housing
12 Authority only has those two sites, they don't have the
13 funding to go find other land, and frankly, there is not
14 much other land on the island.

15 When we're looking at a change of property, as
16 I've always explained to clients, HUD looks for same
17 place, same space, basically, similar acreage, similar
18 appraisal amount, approximately, and there just isn't that
19 availability on the island.

20 MR. OXER: We're fighting through this conflict
21 where the people want to build 62 units on this particular
22 site.

23 MS. JACKSON: Right.

24 MR. OXER: It's right into a place where if
25 there were not a conciliation agreement, we'd have trouble

1 with it. Okay?

2 MS. JACKSON: Correct.

3 MR. OXER: So if that's the case, does HUD say
4 you've got to build it there, or no, you don't have to
5 build it there but you have to build it somewhere, is
6 there anyplace else. If these are the only two sites that
7 Galveston Housing Authority has, there's a constraint.

8 MS. JACKSON: No question. And this is
9 something that I've been in front of this Board to discuss
10 before, and this is the reality with public housing is
11 that when we're looking at utilizing the sites that we
12 already have, because we don't have any other option, then
13 there are going to be those instances that we are dealing
14 with what we show in the QAP as undesirable site features
15 because we don't have any say into that land. And the
16 reality of it is that historically that's where public
17 housing was put.

18 MR. OXER: It's where public housing was put
19 but it wasn't where we put public housing.

20 MS. JACKSON: No, it wasn't.

21 MR. OXER: And that's the constraints that we
22 have to work under because we have a set of rules over
23 here.

24 MS. JACKSON: I understand. And the reality is
25 also, though -- and this is something I struggle with all

1 the time and I talk to people all the time about it -- I
2 fully recognize the issues that we come across when we
3 want to build in high opportunity or we want to change
4 location and those kinds of things, but the flip of it is
5 that we have tenants who say I want to come back to where
6 I live, I want to come back to where I was displaced from,
7 and this is my home. And although you and I can't always
8 see it and appreciate it, this is what we're hearing.
9 We've had tenants that have been displaced for the last
10 five years who are still saying: Very much so we want to
11 return and we very much want to still be in our community,
12 we want to be where we were.

13 MR. OXER: And I understand the displacement
14 issue, and whatever the circumstances, you go home to
15 where home is. But that said, I'm trying to figure out
16 the path which is going to be tortuous, and we're going to
17 be caught in the crossfire here one direction or the other
18 because that's the only place you've got to build and
19 somebody is going to shoot us for helping you build there.

20 MS. JACKSON: I understand. But again, we do
21 have undesirable site features, there's no way around it.

22 MR. OXER: That's a given.

23 MS. JACKSON: But it is the property that we
24 have to build on.

25 MR. OXER: And what would help us out on this,

1 in terms of sorting through some of those policy issues,
2 we understand and recognize that you have HUD
3 endorsements, verbal if not documented, and you have
4 somebody from the housing authority that was there in the
5 meeting, but that still constitutes secondhand
6 information, and so what I'm looking for is --

7 MS. JACKSON: Now, we did put in front of you
8 the letter to Joe Jaworski, dated July 2011, speaking to
9 the one-for-one replacement, and then the letter to Mayor
10 Rosen, dated July 2012.

11 MR. THOMAS: Is that in today's packet?

12 MS. JACKSON: That is in today's package.

13 MR. THOMAS: The one that looks like this?

14 MS. JACKSON: No, sir. It has McCormack Baron
15 on the front.

16 MR. OXER: Well, if it was easy, anybody could
17 do this. Right? I'm sure glad this job pays so well to
18 make it worthwhile.

19 (General laughter.)

20 MS. JACKSON: I just noticed that --

21 MR. THOMAS: Can we take a second to read it
22 real quick?

23 MS. JACKSON: Oh, certainly.

24 (Pause.)

25 MR. OXER: So essentially what this is saying,

1 particularly the one to Mayor Jaworski, is saying if they
2 don't build it on the sites that they have available, then
3 it puts the rest of their CDBG funds at risk.

4 MS. JACKSON: That is correct.

5 MR. OXER: And they have only these two sites.

6 MS. JACKSON: That is correct.

7 MR. OXER: Gee, and I thought we were between a
8 rock and a hard place.

9 MS. JACKSON: And to further clarify that,
10 that's not just putting the housing authority CDBG dollars
11 at risk, that's putting the city's CDBG dollars at risk.
12 There is a signature, we noticed, that is missing.

13 MR. OXER: Did you hear the click when they
14 cocked the hammer back on that pistol?

15 (General laughter.)

16 MS. JACKSON: You're missing that, it's barely
17 a paragraph on that 2012 letter.

18 MR. THOMAS: Can you read that paragraph?

19 MS. JACKSON: Certainly. I'm going to start
20 from the first page so I can say a complete sentence.

21 "Please be aware that city actions that impede
22 or limit the rebuilding of 569 replacement units will
23 likely lead to adverse consequences for CDBG, HOME and
24 Disaster Recovery funding. Actions or inactions that
25 violate Civil Rights or fair housing laws may also result

1 in further legal or administrative action by HUD or other
2 federal or state government agencies.

3 "Again, we look forward to working with you in
4 your efforts to rebuild and revitalize Galveston. A
5 representative of the department will be in contact with
6 you soon to follow up on these matters.

7 "Sincerely, Sandra Enriquez, Assistant
8 Secretary for Public and Indian Housing; Mark Johnston,
9 Acting Assistant Secretary for Community Planning and
10 Development; and John Trasviña, Assistant Secretary for
11 Fair Housing and Equal Opportunity."

12 MR. THOMAS: Has this been provided before?
13 It's dated July 1, 2012. Has this letter been provided
14 before to us?

15 MS. JACKSON: No. You had not asked us ever
16 before to see any letters that we had, so we just provided
17 them.

18 MR. OXER: Mr. Thomas.

19 MR. THOMAS: Thank you, Mr. Chair.

20 Forgive me, I'm going to ask you to please just
21 go back for me one more time. What are the specific end
22 final approvals that you have to have -- I think you
23 mentioned three -- from HUD in order to know that you are
24 approved through HUD to move through this program?

25 MS. JACKSON: Our disposition application

1 approval, and that disposition approval provides for us to
2 dispose of the property from the Galveston Housing
3 Authority into the partnership that is going to actually
4 receive the tax credits.

5 MR. THOMAS: That's one.

6 MS. JACKSON: The second one is our mixed
7 finance approval, and our mixed finance approval approves
8 the public housing and the financing for the mixed income,
9 allowing the Galveston Housing Authority to put public
10 housing and its operating subsidy into the mixed income.

11 MR. THOMAS: And three?

12 MS. JACKSON: And the third is all approvals
13 for the release of the CDBG dollars are approved by GLO
14 and GrantWorks and the reimbursements are signed off by
15 HUD.

16 MR. GANN: Was one of those a HUD site that had
17 review problems?

18 MS. JACKSON: The site and neighborhood review
19 is done in conjunction with our mixed finance approval,
20 and that is done by Fair Housing and Public Housing.

21 MR. GANN: Is that an on-site review?

22 MS. JACKSON: There are certain statutory
23 requirements that go in a site and neighborhood review and
24 they look to see, again, how many units are we putting
25 back, what is the neighborhood, are we in a qualified

1 census tract, is it an impacted neighborhood, they look at
2 the Part 58 which is a part of the environmental, and so
3 it's a statutory review.

4 MR. GANN: What about the power lines?

5 MS. JACKSON: They do look at that and they
6 determine if there is anything that has to be mitigated as
7 it relates to that.

8 MR. GANN: Is it possible that they could move
9 that line back, maybe, some to be more protective of the
10 neighborhood?

11 MS. JACKSON: That's not something HUD would
12 do. And if that was a requirement, but because it's not
13 on our site, the power lines are actually across the
14 street, and so ordinarily in something like that, they
15 would only ask for a mitigating something from us, as
16 opposed to a movement, because the lines are not actually
17 on our property. They generally do not give directive
18 when it's not something that's on your actual property.

19 MR. THOMAS: What is the time frame to get the
20 disposition application approval?

21 MS. JACKSON: Our bond reservation actually
22 expires December 19, but as each of you know, the
23 government is currently shut down and so we are getting a
24 little nervous as to what that means for us, actually.

25 MR. OXER: You too, huh?

1 MS. JACKSON: Yes.

2 MR. OXER: Professor McWatters.

3 MR. McWATTERS: Let me ask you this. There's a
4 letter here from McCormack Baron Salazar, dated October 8,
5 2013. On page 3 under (d), the last sentence of that
6 paragraph beginning with the word "Attached" and it says:

7 While these letters do not specifically address items (a)
8 through (d) -- which are the staff's recommendations, or
9 proposed recommendations -- they clearly show the
10 cooperation of the three divisions of HUD mentioned above.

11 There's a big difference between, I think,
12 satisfying (a) through (d) above and letters that purport
13 to show general cooperation.

14 MS. JACKSON: Well, Mr. McWatters, the thing is
15 we got the staff recommendation or saw the Board package
16 on Monday, HUD was closed down, so we can't even converse
17 with them, consult with them to see if this is something
18 we can, in fact, even get. We wanted to at least come
19 before this Board and show you and at least demonstrate to
20 you what has already taken place to this point, and
21 particularly as it relates to the cooperation within HUD
22 because many of you probably have at least enough
23 experience to know that that's not something that always
24 comes easily.

25 MR. McWATTERS: No. I appreciate that very

1 much.

2 MS. JACKSON: But it was simply us trying to
3 very quickly respond to what we had already seen in terms
4 of staff, the recommended conditions that staff was
5 placing, because we don't have ability to talk to HUD, and
6 unfortunately, where our timing is, we need to continue to
7 move forward so that when they are reopen, we're ready to
8 go. But this was the best we could provide you at this
9 time, given the shutdown.

10 MR. McWATTERS: This is very helpful, but it
11 sounds like satisfying (a) through (d), you don't see that
12 as a problem once you can actually get on the phone and
13 talk to someone and get their letter-writing process
14 underway.

15 MS. JACKSON: I will be very frank. I don't
16 want to stand here and make representations of exactly
17 what I can get from HUD. This is definitely a unique
18 situation and we do have three areas of HUD that have been
19 working together and working from the top together, and so
20 as I indicated earlier, this is something that is very
21 much on the secretary's radar. The secretary himself
22 called a meeting with the city and the housing authority,
23 so it's very much on his radar. We feel confident that we
24 should be able to get something, but I just would not like
25 to make a representation given them being shutdown because

1 we haven't been able to confer with anyone.

2 MR. McWATTERS: I fully understand that. But
3 it sounds like with your connections, we're not dealing
4 with the general bureaucratic maze here, that you can go
5 directly to the secretary, discuss this, and, I would
6 think, get a positive response in a relatively short
7 period of time. And if you can't, well, you know, that
8 tells us something too.

9 MS. JACKSON: Right. I think that we can get
10 something that is close to what you want, I just would not
11 want your conditions to be so narrow that if the wording
12 is not just as exactly as you want it, because HUD is no
13 different from TDHCA and is going to -- you know, they
14 have their guidelines --

15 MR. OXER: Don't be casting aspersions.

16 (General talking and laughter.)

17 MS. JACKSON: But I don't want to make exact
18 promises, but again, we feel confident that we can
19 continue to demonstrate to you that all three aspects of
20 HUD are working together and working with us, as well as
21 giving us direction.

22 MR. McWATTERS: I once wrote something that had
23 a split infinitive and the executive director brought it
24 to my attention, so we will not hold you to that standard.

25 MS. JACKSON: No, Tim, you would not do that.

1 MR. IRVINE: I would.

2 MR. OXER: Yes, he would. Trust me.

3 MR. THOMAS: I'm not even sure what that is, so
4 I think I'm going to find out.

5 (General laughter.)

6 MR. OXER: So your bond reservation expires
7 December 19 this year, so you've got ten weeks, more or
8 less.

9 MS. JACKSON: More or less, correct.

10 MR. OXER: Maybe nine. And that bond
11 reservation started out how long, three years?

12 MS. JACKSON: No. Bond reservations are 150
13 days, sir.

14 MR. OXER: Okay. That's basically what we were
15 talking about earlier.

16 MS. JACKSON: Exactly.

17 MR. OXER: So we're 60 percent through the bond
18 reservation period.

19 MS. JACKSON: Right, but everything else is on
20 track but for a government shutdown.

21 MR. GANN: I have just a general question.

22 MR. OXER: Please.

23 MR. GANN: My own problem is the power lines,
24 that's just my problem, but it's a safety issue for me, no
25 matter who lives there.

1 MS. JACKSON: Right. I understand.

2 MR. GANN: And those houses are in that fall
3 line, well within that fall line of the poles, from what
4 I've ready, anyway.

5 MS. JACKSON: Mr. Gann, almost every street on
6 the grid of Galveston is in a fall line under that
7 scenario. I mean, I don't know the last time you've been
8 to the city of Galveston, but I mean, literally almost
9 every street grid is in a fall line based on that
10 scenario. And the reality is that Galveston is an island
11 and it is an island that has been hit by hurricanes, and
12 what we have been provided, information from CenterPoint
13 is that those poles can withstand 135 mile per hour winds,
14 but again, the reality is there is very few pieces of land
15 around there that is not going to be in a fall line.

16 MR. GANN: And there's no way to move those
17 houses back off of the curb?

18 MR. OXER: There's not enough room.

19 MS. JACKSON: No, there's not enough room.

20 MR. OXER: To answer your question about the
21 last time he was down there, I was there Tuesday. I
22 wasn't at the beach, I've got to say.

23 MS. JACKSON: Except for sitting at the beach.

24 MR. GANN: I'm an old Houston guy myself, I go
25 down there all the time.

1 MR. OXER: The problem is a large part of
2 Galveston is over on the other side of the bay now after
3 Hurricane Ike.

4 Okay. Let's do this. We appreciate your
5 testimony, of course. We'll have more questions. I want
6 to finish up with the folks that are here who want to
7 speak and address this issue, and if you've got some more.

8 MR. LYTTLE: I have some letters to read into
9 the record. Do you want me to read those first?

10 MR. OXER: Let's get those out of the way here.

11 MR. McWATTERS: Mr. Chairman, may I make a
12 point here as we proceed? In the staff's recommendation
13 on fair housing, there is a number (a) that has to do with
14 disparate impact on Urban Region 3.

15 MR. IRVINE: Corrected to Urban Region 6.

16 MR. McWATTERS: So it should be Urban Region 6.

17 Thank you.

18 MR. OXER: Because 3 is actually Dallas, isn't
19 it?

20 Okay, Michael.

21 MR. LYTTLE: Michael Lyttle, TDHCA staff.

22 I have two letters to read into the record that
23 we've been requested to read now. The first is from State
24 Representative Craig Eiland. It reads as follows:

25 "Please accept this letter as support for the

1 reconstruction and recovery of Galveston and for TDHCA to
2 support the City of Galveston's September 28, 2012 plan.
3 I support the city and housing authority in their efforts.

4 "Further, I am not aware of any opposition from
5 HUD to the September 28, 2012 plan approved by the
6 Galveston City Council and submitted to the GLO. I do not
7 believe there is any documented record of any HUD
8 objection to the September 28 plan. It is my
9 understanding that these entities support the action
10 before you today.

11 "I believe that it is time to move forward
12 rebuilding Galveston for all of our citizens. While I
13 feel that this is primarily a local city issue, I submit
14 this as their state representative, understanding that it
15 is what my local council is supporting.

16 "I hope my comments have been useful and I urge
17 that action be taken today without further delay.

18 "Sincerely, Craig Eiland, State Representative,
19 District 23."

20 The other letter is from the City of Galveston,
21 Office of City Manager. It reads as follows:

22 "Please accept this letter as support for
23 moving forward with the reconstruction of Cedar Terrace
24 and Magnolia Homes in the City of Galveston.

25 "The Galveston City Council has approved the

1 site plans and the concept of rebuilding these units in a
2 mixed income setting. The tax credits to be awarded by
3 TDHCA are a critical component of this private-public
4 venture.

5 "Concerning HUD's role in this rebuilding, I
6 was personally told by Secretary Donovan that Cedar
7 Terrace and Magnolia Homes must be rebuilt. This
8 condition is a key component in the city receiving
9 recovery funding from HUD of the approximate value of \$200
10 million.

11 "Sincerely, Michael Kovacs, City Manager."

12 MR. OXER: So his assertion is that they have
13 to be built in location, one-for-one and one-at-one.

14 MR. IRVINE: I don't believe that's what the
15 letter says.

16 MR. LYTTLE: It just says they have to be
17 rebuilt, period.

18 MS. JACKSON: I'm going to just read one
19 paragraph from the redevelopment plan that I indicated
20 that the city and the housing authority entered into, and
21 HUD has approved this plan. Again, this plan was adopted
22 on September 28, 2012, it's called The Plan for Galveston
23 Public Housing Reconstruction.

24 "Article 1, Mixed income housing on former
25 public housing sites. Under the agreement between MBS and

1 GHA, GHA's developer will begin construction of mixed
2 income developments at Magnolia Homes and Cedar Terrace as
3 follows..."

4 And it says: "The developer will break ground
5 at Cedar Terrace in six months and complete construction
6 of all units 14 months thereafter. The developer will
7 break ground at Magnolia Homes in eight months and
8 complete construction of all units 16 months later. And
9 subject to HUD's approval, if the Oleander site is sold,
10 the proceeds of the sale shall be used to fund the
11 development if mixed income developments at Cedar Terrace
12 and Magnolia Homes."

13 So they have consistently throughout this plan
14 indicated that we are building on site.

15 MR. OXER: And to the point that somebody made
16 that there has been no record of opposition, no opposition
17 doesn't constitute specific approval. We're trying to get
18 to rather than somebody saying well, we didn't oppose it,
19 yes, but did you approve it, did you encourage it.
20 Frankly, that's what I'm looking for. I want a letter
21 from HUD that says go for it on this site. And that's
22 what you're saying you could get.

23 MS. JACKSON: Again, that's our mixed finance
24 approval and that's in its way because we're in the
25 process of working on that piece now. Yes, sir.

1 MS. MANLEY: Hello, Mr. Chairman and Board
2 members. My name is Meg Manley. I am a senior vice
3 president with McCormack Baron development.

4 This whole process, I've been working on this
5 project for about 18 months, this has been a tremendous
6 exercise in trying to respect multiple contexts, context
7 of the conciliation agreement, context of the residents of
8 Galveston, contexts of the city council, of GHA, of TDHCA,
9 of GLO, multiple, multiple viewpoints and desires with
10 respect to the rebuilding of this housing.

11 I come to you to really stress to you what we
12 have done for the last 40 years in 35 cities, 14 states,
13 with 16,000 units is rebuild and reposition neighborhoods
14 such as these that were discussed, public housing sites
15 that have become problematic for neighborhoods. We have
16 been tremendously successful. We have worked on a model
17 over the last 40 years that works.

18 Instead of walking away and walking away from
19 this real estate, we've worked in a way to develop a
20 method for redeveloping and reinvigorating these sites so
21 that the real estate continues to have value, the values
22 of the real estate and the neighborhoods around these
23 sites continues to rise, and we improve these
24 neighborhoods. We have made our way by saying we will not
25 return to the past, that we will systematically make an

1 attempt to reverse the damage done by public housing
2 across this country.

3 There are neighborhoods still that don't have
4 the attention, that may never have the attention to begin
5 to reverse this trend, but this is something that we do,
6 we do on a regular basis, and we're incredibly devoted to.

7 We find that we have a tremendous partnership
8 with GHA. There are certain constraints that we face here
9 that we've honestly just had to figure out how to make as
10 many people satisfied in this process as humanly possible.

11 One additional piece of information, after
12 struggling with CenterPoint energy for a very long time,
13 it's very hard to get information. They've been fine,
14 Homeland Security issues, believe it or not, it's not easy
15 to get design criteria out of them. They have confirmed
16 for us that in Hurricane Ike they lost less than 1 percent
17 of their poles, and across the entire stretch of Galveston
18 County, they lose only four transmission poles. These are
19 designed to withstand 135 mile per hour winds and there
20 were no homes damaged on the former Cedar Terrace site
21 during Hurricane Ike. So that is what we've been able to
22 obtain at this point.

23 Concerns about the flood plain. I want to
24 point out that, unfortunately, as Toni mentioned, almost
25 this entire site is in the flood plain, the entire island

1 is in the flood plain. So everybody on the island is
2 parking in the flood plain, pretty much, unless there's
3 some elevated parking structure that we really haven't
4 found yet. But we have provided in the packet to you
5 today -- and we have some supplemental information, we
6 didn't want to overwhelm you -- we thoroughly educate our
7 residents on evacuation procedures. We have a formal
8 notice procedure that you'll see in your packet there that
9 we provided. We educate our residents.

10 We do inspections in the beginning of hurricane
11 season and reeducation at the beginning of hurricane
12 season. We also do notification and inspections of the
13 units and any area where you might store outdoor goods.
14 If there is an impending storm, not right in your path but
15 when there's a warning out there, we deal with that. So
16 we're very, very adept. We've done this in New Orleans
17 and other places where we work very, very hard to make
18 sure people know what the proper evacuation procedures
19 are.

20 One of the things I wanted to hit on is
21 something that Cameron mentioned earlier, and that is that
22 these determinations are given to give the developer some
23 element of certainty. We have been working, there are
24 scores of people working diligently on these transactions,
25 putting in tons of time. We have architects, we have

1 engineers, we have attorneys. We are marching forward
2 with closing documents on five layers of financing. We
3 have three weekly standing calls.

4 And we do need some level of certainty today,
5 as we stand here before you, before we spend another 30
6 days of spending a lot of money on these projects at the
7 direction of the conciliation agreement and HUD and all of
8 the various stakeholders. We want to make sure that we
9 have certainty of execution that we can deliver to all of
10 these stakeholders that we're dealing with. There are so
11 many stakeholders in this room, and trying to serve that
12 many masters is incredibly difficult, and we've tried to
13 be as artful with that as we could, and I think that we've
14 done a very good job.

15 What you'll find when these sites are
16 redeveloped is architecture that is thoughtful, that it
17 reflects the surrounding community, a mix of Victorian.
18 We don't do a cookie-cutter product, there are multiple
19 building types that will comprise these sites when they're
20 finally developed, and then we will look down the road at
21 what can we do to bring more investment into those
22 communities and continue to better them. We make long-
23 term investments in our communities and our residents. We
24 will do so with our partners at GHA.

25 Unfortunately, we are the only project before

1 you today that's under a conciliation agreement which
2 makes the dynamics a little bit different. To try to
3 rebuild these 569 units on Galveston without re-block-
4 busting poverty is going to be a challenge, but they have
5 succeeded in taking over 300 of those and dispersing them.

6 These two sites were the best real estate that's
7 available to GHA to rebuild these units, so we're looking
8 for that certainty today.

9 And I just wanted to address one more thing,
10 and then I want to introduce a couple of friends behind
11 me. There has been a lot of discussion about the
12 environmental conditions on this site. I want to assure
13 this Board that if this site were going to be redeveloped
14 for commercial or retail purposes, it could be developed
15 as is. When you take a site and you raise it to meet
16 residential standards, that is a slightly different
17 standard, it's a higher standard. Around the country we
18 voluntarily enroll in these programs to be absolutely sure
19 that our residents and children will be safe.

20 What is on these sites is not highly toxic, it
21 is not highly dangerous. A lot of it is anthropogenic
22 which means it's stuff that just comes from combustion and
23 other activities over time. This is probably one of the
24 cleaner sites we've dealt with in redeveloping public
25 housing. So I don't want folks to think that we don't

1 care or that this Board doesn't care, we are very
2 responsible in diligently dealing with the low-level
3 contaminants that we have found on sites. I really want
4 to dispel that we would ever endanger anybody in the work
5 that we do. It runs completely counter to why we were
6 founded, what our principles are and what we're about.

7 I would like to introduce -- not all of us are
8 going to speak, but I wanted to let you folks know that I
9 have two senior executives here today with us, Bob Von
10 Hoene from U.S. Bank, and Aron Weisner from Enterprise
11 Community Foundation. They are a lender and investor,
12 they've worked with us all over the country and have
13 invested and they've seen us go into neighborhoods where
14 people say this will never work or how could you put these
15 people here or why are you putting these people here, and
16 they've seen it work over and over. So they just stand
17 with us today, they don't need to say a lot but they
18 wanted to be here to show you they believe in these
19 developments.

20 So that's really all I have.

21 MR. OXER: Thanks, Meg.

22 Any questions from the Board? Tom, did you
23 have anything on the power poles?

24 MR. GANN: No.

25 MR. OXER: Okay. Well, let's see, where are we

1 here? John, come up.

2 MR. HENNEBERGER: Mr. Chairman, Board members,
3 good afternoon. I'm John Henneberger, Texas Low Income
4 Housing Information Service. I want to try to speak to
5 the concerns about the fair housing aspects of this and
6 about the uncertainty with HUD.

7 As your general counsel and your executive
8 director can attest, the conciliation agreement and the
9 negotiations were complex but we came to an agreement.
10 The agreement is clear, the 569 units have to be rebuilt
11 back in Galveston.

12 We missed the opportunity to work with the
13 Board and the staff of TDHCA in trying to craft the fair
14 housing settlement in order to operationalize that
15 requirement because the responsibilities were transferred
16 to the General Land Office. I think you should every day
17 be grateful that the governor transferred those
18 responsibilities to the General Land Office.

19 MR. OXER: For the record, Gary Haygood hates
20 me right now.

21 MR. HENNEBERGER: Well, as you can imagine, you
22 and me, both.

23 (General laughter.)

24 MR. HENNEBERGER: We, at the request of GLO,
25 and in cooperation with HUD and the NAACP and LULAC, the

1 City of Galveston, the Galveston Housing Authority have
2 engaged in more than a hundred hours of direct negotiation
3 to construct a fair housing agreement which complies with
4 the law and is satisfactory to all the parties. It is
5 satisfactory to the City of Galveston, it's satisfactory
6 to the housing authority, it's satisfactory to the GLO,
7 it's satisfactory to the complainants, it's satisfactory
8 to the NAACP, it's satisfactory the League of United Latin
9 American Citizens, it's satisfactory to Gulf Coast
10 Interfaith, it's satisfactory to the legal representatives
11 of the public housing residents who were living in the
12 units at the time the units were demolished, Lone Star
13 Legal Aid. We're all parties to that agreement.

14 What you have before you is a piece of that
15 agreement. Unfortunately, it's only a small piece,
16 there's more to come. But this is a -- we have worked
17 consistently with HUD, directly with HUD, with FHEO, with
18 CPD and PIH. We have had meetings, face-to-face meetings
19 here at this Capitol, we've had countless telephone calls,
20 we've had direct negotiations in Galveston. There have
21 been direct negotiations which we have not been party
22 between the secretary of HUD and Galveston officials and
23 the housing authority officials at which the results were
24 those which Toni read you, which is a clear directive do
25 this. HUD froze the money for the disaster recovery

1 program for the City of Galveston and said: Until you do
2 this deal, you don't get any more money.

3 This is not like voting rights, this is fair
4 housing, it's still Civil Rights Act but it's a different
5 Civil Rights Act. There is no pre-clearance process in
6 fair housing, there is no opportunity to go to HUD -- of
7 course, there is no pre-clearance process in voting rights
8 anymore either, but there used to be, and it used to be
9 that the state could say is this okay, is this doing to
10 work, give me a letter, show me that this passes the
11 standards of the Civil Rights Act. Fair housing does not
12 work that way.

13 And I admire Toni for attempting to get a
14 letter from HUD that says we pre-clear your fair housing
15 agreement, and maybe that's going to be possible, but the
16 Fair Housing Act transfers the responsibility to you to
17 make a decision about what affirmatively furthering fair
18 housing constitutes. And I would suggest to you that the
19 State of Texas, through the General Land Office, has made
20 that decision that this agreement constitutes
21 affirmatively furthering fair housing and constitutes
22 compliance with the Fair Housing Act. They have done that
23 based on the assurances that have taken place in hundreds
24 of hours of negotiation.

25 I wish I could feel like we could snap our

1 fingers and we could get HUD to send us a letter and say
2 if you just do this, everything is okay. Maybe they can
3 do that, maybe they can't. If they can't, the
4 responsibility still lies here. You certify, the governor
5 certifies that the State of Texas will affirmatively
6 further fair housing every time he submits an application
7 for grant assistance from HUD. And HUD delegates that
8 responsibility in a form of government devolution to this
9 state to make that decision, and ultimately you're going
10 to have to make it.

11 I hope that HUD would give you a letter. I'm
12 here to tell you, I'm here to assure you that every
13 conversation we've had with every level of HUD has been
14 you must do this. This is an extremely complicated fair
15 housing agreement, it's also an extremely good fair
16 housing agreement. In all my years of doing this work, I
17 have never seen an agreement which has had more public
18 input, and I say this with all sincerity, this is not just
19 gratuitously saying that compromise gets to the best
20 thing, but where we started out and where the city started
21 out and where the housing authority started out, any one
22 of those programs implemented individually as a fair
23 housing solution is worse than the composite of this
24 project, the Magnolia project and 388 scattered site units
25 I've done this for a long time.

1 I will tell you that, as somebody whose whole
2 life is about fair housing and equal treatment of the
3 poor, that this agreement is the best fair housing
4 settlement I have ever seen anywhere in the United States,
5 and I believe that with all my heart. And I think if you
6 want to roll up your sleeves and sit down with us, I'll
7 show it to you, I'll show you how it works, I think you
8 can see it. There's no precedent for the type of mixed
9 income development that's going to be built at Cedar
10 Terrace here.

11 Understand, you hear a lot about mixed income
12 units. Well, mixed income units is okay, we'll have some
13 60 percent of MFI units, but wink-wink, nod-nod, you can
14 put Section 8, Section 8 tenants can come in and occupy
15 all those units and you can have a 100 percent subsidized
16 development. Well, what the negotiations led to was
17 McCormack Baron being willing to do a deal that says no
18 more than 51 percent of the units in this development will
19 be occupied by a person who has any form of government
20 housing subsidy. I don't know of any other agreement that
21 comes to that level of standard. This is going to be
22 probably the first truly mixed income development ever
23 undertaken.

24 In addition to that, it cuts the number of
25 units enormously from the number of units that used to be

1 there an puts people into apartments that are -- you hear
2 a lot about Class A, well, my complaint with my friends
3 with McCormack Baron here is their costs are so high, they
4 are building stuff that is really unprecedented in terms
5 of costs, and part of the reason is they're storm-proofing
6 these things. The doors, the windows, the parking
7 podiums, all those type of things, are hugely expensive in
8 this development.

9 So add on top of that the next piece that
10 you're going to have to confront which is 388 scattered
11 site units, and that will be extremely controversial.
12 You're going to hear Magnolia after this, I presume, if
13 we're allowed to go forward and implement this, and then
14 there will be 388 scattered site units, and the General
15 Land Office itself is undertaking the identification of
16 sites for those 388 units and the direct contracting for
17 the reconstruction of those units. The state is doing
18 that part, and that will be very controversial because
19 we're talking about putting public housing in high
20 opportunity, higher income neighborhoods. There's going
21 to be lots of opposition to that.

22 But all in total, this is a model for a fair
23 housing agreement, and despite the protestations of those
24 who really don't want to see low income housing back on
25 Galveston Island, I'm here to tell you today that this is

1 what the Fair Housing Act was designed to achieve, and I
2 believe it is in all our interests, the residents, the
3 state, the citizens of Galveston, to move forward with
4 this and to move forward with it quickly.

5 MR. OXER: Any questions of John? I have a
6 couple. How many units were there before the hurricane?

7 MR. HENNEBERGER: Oh, gosh. Now, see, I will
8 get the number wrong.

9 MR. OXER: Was it 90 or was it 900?

10 VOICE FROM AUDIENCE: 569.

11 MR. OXER: In that one site? We're talking
12 about one site next to a power line. How many were there?

13 MR. HENNEBERGER: There were three developments
14 originally.

15 MS. JACKSON: Actually, four developments.
16 Palm Terrace also.

17 MR. HENNEBERGER: On Cedar Terrace, how many
18 units?

19 MS. JACKSON: On Cedar Terrace.

20 VOICE FROM AUDIENCE: I believe it was around
21 130.

22 MR. OXER: So basically half the number of
23 units which will be more or less twice the size that they
24 were. Is that fair?

25 MR. HENNEBERGER: No. They're going to be less

1 units in reconstruction than there were before, and of
2 those units that are rebuilt, only 51 percent of them are
3 going to be in public housing as opposed to 100 percent of
4 them. So you're going from like 130 down to 62 public
5 housing units. Now, there will be market rate unit on the
6 site and they will be guaranteed to be full unsubsidized
7 market rate units.

8 MR. OXER: So this one site next to this power
9 corridor here has all 569 units and there are going to be
10 62?

11 MR. HENNEBERGER: No.

12 MR. OXER: That's what I'm asking. How many
13 were there before on this site that we're considering now.

14 MS. JACKSON: On this site there were 131
15 units.

16 MR. OXER: Okay. Now there's going to be 62.

17 MS. JACKSON: No, sir. There were 131 public
18 housing units on this site. We are rebuilding back 122
19 units but 62 of those are going to be public housing.

20 MR. OXER: So it's a fraction of these in a
21 larger development.

22 MS. JACKSON: Correct.

23 MR. OXER: That's the part that wasn't clear.

24 MS. JACKSON: Right. So the balance will be
25 market rate.

1 MR. OXER: So once we get past the HUD issue on
2 this and their approval -- which I'll assume, for purposes
3 of discussion, under the agreement that you've mentioned,
4 John, and I'm sure it's taken the time to go through all
5 this -- I, frankly, am happy that I wasn't a party to the
6 wrangling on it. Okay? We make enough omelets in here
7 every time we meet anyway. But once you get past that and
8 assuming that HUD has said go on this and the financing
9 works, you're betting on or assuming that the mixed
10 income, the truly mixed income where you have above the 60
11 percent AMI and below the 60 percent, where no more than
12 these 62 units are able to be public housing -- supported
13 by public housing financing. Is that correct?

14 MS. JACKSON: Public housing and project-based
15 Section 8, the combination.

16 MR. OXER: Any sort of state-based housing
17 support, no more than the 62 units. And the question I
18 have, and I can hear it echoing, resonating two seats down
19 from me, does this constitute a way to mitigate the impact
20 where you're concentrating poverty?

21 MS. JACKSON: Yes, sir.

22 MR. OXER: John, say it in the record.

23 MS. JACKSON: I'm sorry.

24 MR. OXER: I want you to say it too.

25 MR. HENNEBERGER: Yes.

1 MR. OXER: Good.

2 MR. HENNEBERGER: It represents, in my opinion,
3 one of the few real commitments to deconcentrate poverty.

4 Again, when you hear mixed income in the context of a
5 normal tax credit deal, we all know the law normally
6 requires Section 8 units -- people with a Section 8
7 voucher can come in and occupy the units. That's not
8 going to happen here.

9 MR. IRVINE: If all 62 public housing units are
10 occupied and there is an open market rate unit and a
11 household comes and says I would like to rent that market
12 rate unit, I have a voucher, you must say no.

13 Mr. HENNEBERGER: Yes.

14 MS. JACKSON: I knew you were going to ask that
15 question. The Galveston Housing Authority actually
16 revised their administrative plan, and what that
17 administrative plan now says is that no mixed income
18 development that is developed by the Galveston Housing
19 Authority will have more than 51 percent of subsidy in
20 that property, nor can a tenant -- because ordinarily, the
21 way vouchers work, ordinarily a tenant can actually pay a
22 portion of their subsidy. Say, for instance, just to use
23 easy math, if they can pay up to \$50 of subsidy and they
24 have a \$100 voucher and the unit is \$150, they can pay the
25 \$50 difference. The administrative plan further states

1 that in a mixed income development, a tenant is not
2 allowed to actually make a contribution, therefore, that
3 51 percent cannot be exceeded.

4 (General talking and laughter.)

5 MR. IRVINE: So my question --

6 MR. OXER: Go ahead.

7 MR. IRVINE: Well, my question is probably
8 something that needs to happen offline with lawyers.

9 MS. JACKSON: It's been vetted.

10 MS. BINGHAM ESCAREÑO: Is there one more public
11 speaker?

12 MR. OXER: Do we have another public speaker?
13 Okay, Meg, sure, come on.

14 Don't go away, John.

15 MS. MANLEY: I see a lot of confused looks, so
16 I want to be perfectly clear about this. This is
17 something housing authorities have done around the
18 country. We, as a private developer, cannot turn away
19 vouchers nor can we make that decision to restrict 51
20 percent of the units. Perfectly clear about that. A
21 housing authority has absolutely the discretion to say
22 here's what we want to happen with the subsidy that's
23 coming through us and we don't want more than 51 percent
24 subsidy at either of these houses. Then we, as
25 developers, have to abide by their administrative plan,

1 but as a private developer, no. For the confusion I saw,
2 we cannot make that commitment. We commit to follow their
3 plan which has been amended to restrict subsidy at these
4 two sites.

5 Does that help?

6 MR. OXER: Yes.

7 MS. JACKSON: And actually, just to follow that
8 up, to speak of HUD approval, any time a housing authority
9 does a revision to its administrative plan, we have to
10 make that revision, make that revision public, leave it
11 out to the public for 45 days of public comment, then we
12 submit it to HUD and HUD approves it. So this revision
13 has been approved by HUD.

14 MS. BINGHAM ESCAREÑO: I have a question for
15 John.

16 MR. OXER: Ms. Bingham.

17 MS. BINGHAM ESCAREÑO: Was the Galveston
18 Housing Authority's revised plan an expectation of the
19 overall plan to restore all those units to Galveston? In
20 other words, did the bigger think tank require the housing
21 authority to make those revisions so that no more than 51
22 percent were subsidized?

23 MR. HENNEBERGER: It was a very interesting
24 process. The housing authority board chair and vice-chair
25 and another board member, who were part of the negotiating

1 team, said, We know what this is going to be in the end,
2 you say it's going to be half public housing and half
3 other thing, well, it will be nicest housing in Galveston
4 so everybody who got a Section 8 voucher is going to go
5 there because they can't be turned away. And we scratched
6 our head. I'm an advocate for poor people. Right? You
7 know, normally I'd be like going: No, you've got to let
8 them in.

9 But this is a fair housing agreement and this
10 is a very hard-fought and very carefully structured fair
11 housing agreement. And the best thinking in this country
12 about how do you fix public housing is you do it through
13 mixed income housing, that you don't over-concentrate poor
14 people. So we found ourselves, Texas Appleseed and my
15 organization, found ourselves on the side of the housing
16 authority, and looking at McCormack Baron and looking the
17 GLO, and looking at HUD, frankly, and convincing them
18 that, yes, that makes sense to us, if we say it's mixed
19 income, let's make it mixed income.

20 And in this case, because this is so important,
21 there's never been a fair housing issue in Texas, even
22 with Young v. Kemp and the Dallas ICP case, and all these
23 other things, there's never been one that's been vetted at
24 the level that this one has been vetted. I mean, there
25 are people on the street in Galveston who will talk to you

1 about the details of this and about the failures of public
2 housing, and they're right, and this fixes it, in my
3 opinion.

4 MR. IRVINE: Has this structure been vetted
5 with the Service, with the IRS?

6 MR. HENNEBERGER: The service plan?

7 MR. IRVINE: No. The IRS, whether the building
8 is eligible to claim credits.

9 MS. MANLEY: No, we've not done that, but the
10 LURA will run with the tax credit units, so we're deed
11 restricting the 62 units, so those units are eligible for
12 tax credits. We won't have that deed restriction on the
13 other units so they don't have to follow the Section 42.
14 And actually, Section 42, they really delegate this issue
15 of vouchers to the state level, and then that's further
16 delegated, and if a housing authority amends their
17 administrative plan, that's where you get this kind of
18 flexibility. This has been done in Atlanta and several
19 other large areas very successfully when facing this issue
20 of re-concentrating and how to prevent that from block-
21 busting over again.

22 MS. JACKSON: And that's no different than
23 other developments that we've done where all of the units
24 did not claim tax credits.

25 MR. IRVINE: Yes, but in those other units, if

1 someone came to an open unit and said I want to rent the
2 unit, you could not turn them away because they happen to
3 have a voucher.

4 MS. JACKSON: Again, because the housing
5 authority has the ability to set out specific parameters
6 for their subsidy, and that is allowable by HUD, and
7 again, that has been vetted through HUD.

8 MR. IRVINE: I understand it's been vetted
9 through HUD, so you state, I'm just asking if the Internal
10 Revenue Service says yes, we're cool with that.

11 MS. JACKSON: We did not, to be perfectly
12 honest, as it relates to that piece of it, consider
13 vetting it through the Internal Revenue because it was a
14 fair housing piece in the public housing subsidy.

15 MR. DUFFY: Mr. Irvine, Mike Duffy, McCormack
16 Baron.

17 I just wanted to clarify a couple of things.
18 The entire development will be subject to the LURA. The
19 LURA will specifically state that at any given time the
20 development must have at least so many units, the greater
21 of units of square footage as tax credit units. The
22 market rate or mixed income units will be spread and
23 dispersed throughout. I believe we have 20 or so
24 buildings that comprise this development. The units will
25 be all integrated, all the buildings will be subject to

1 the next available unit rule.

2 This whole issue with the authority deciding at
3 no time do they want more than 51 percent of this site to
4 be subsidized, to have operating subsidy with it, does not
5 in any way our responsibilities and obligations under
6 Section 42 to have a tax credit project that complies with
7 all of those rules.

8 MR. OXER: So you're confident this will
9 satisfy the rules of the IRS under Section 42.

10 MR. DUFFY: Absolutely.

11 MR. OXER: And where I was going -- we're
12 getting there, Toni -- granted it satisfies the issue
13 about de-concentrating poverty because we don't want to do
14 that. I want to make sure that the LURA doesn't restrict
15 two buildings that would be under this. So whatever the
16 next housing unit comes up, when the next unit comes up,
17 whatever it is, if you're at 61 units on public support
18 for housing and somebody has a voucher, they can get it.
19 Right?

20 MS. JACKSON: That's correct.

21 MR. OXER: If you have 62, then it's the 63rd
22 unit, then they can't rent that one, even if it's an
23 available unit.

24 MR. DUFFY: They could rent it if they wanted
25 to, they just wouldn't be able to use the assistance of

1 the voucher. The way, practically, the owner and the
2 management agent deals with circumstances such as this,
3 because as an owner and subject to what's called a
4 regulatory and operating agreement that we have with the
5 housing authority that is providing the subsidy to us, we
6 have to abide both by the Section 42 restrictions, we also
7 have to abide by the rules set forth by the authority for
8 their operating subsidy programs.

9 And so what we have to do is we have to accept
10 every tenant that walks in the door and wants to rent a
11 unit, and to the extent it is a tenant that is seeking
12 assistance in a unit that's being provided operating
13 assistance from the authority, we have to take in all
14 their information, take their application and send them
15 over to the authority to meet with the authority's staff
16 that processes and operates their public housing and
17 Section 8 programs to make sure they will be eligible.

18 MR. OXER: So you're not going to be the one
19 that's required to walk this narrow path between these two
20 tall tectonic plates that will eventually squash you if
21 you get in the wrong place on them.

22 MR. DUFFY: You got it.

23 MR. OXER: The operational side of it is
24 something that I don't think you want.

25 MR. DUFFY: In what respect?

1 MR. OXER: In deciding who does and doesn't get
2 it.

3 MS. JACKSON: Well, he has it from the
4 management side, but the operating subsidy still remains
5 with the housing authority.

6 MR. DUFFY: As an owner/property manager, we
7 will evaluate each individual tenant based on the merits
8 and whether or not they meet our leasing criteria, without
9 regard to whether or not they're going to be a person that
10 will live in a unit that has operating subsidy or not.
11 We'll evaluate their income, we'll evaluate their past
12 tenancy, we'll do site visits, so we will evaluate
13 everyone that walks in the door.

14 MR. OXER: Okay. Let's get to a summary on
15 this because we're going to beat this senseless, I'm sure.
16 You, Mr. Duffy, are satisfied this will meet the IRS
17 Section 42 requirements.

18 MR. DUFFY: Absolutely.

19 MR. OXER: Toni, you're satisfied that they'll
20 meet the three components of HUD.

21 MS. JACKSON: Yes, sir, I am.

22 MR. OXER: And John, you're satisfied it will
23 meet the conciliation requirements.

24 MR. HENNEBERGER: This meets the conciliation
25 agreement requirements.

1 MR. OXER: Let's go for it.

2 MR. McWATTERS: I have a couple of questions
3 for the three of you. The first one is that will any of
4 the market rate units be built with Section 42 credits,
5 the funds?

6 MR. DUFFY: No.

7 MR. OXER: How will they be differentiated if
8 they're scattered throughout the site.

9 MR. DUFFY: Well, that's sort of the beauty of
10 the model. The way the model works is no one knows
11 whether your neighbor is a public housing resident or a
12 Section 8 resident or someone paying full rent.

13 MR. McWATTERS: No, I'm not talking about that.
14 I'm talking about money coming from the United States
15 taxpayers that someone could argue is used to build a
16 market rate unit. I mean, you're telling me that's not
17 going to happen.

18 MR. DUFFY: Correct. The credits are generated
19 off of those units that are income and rent restricted.

20 MR. OXER: Now, are those identified
21 specifically? Are they specific units or are they the
22 next units available?

23 MS. JACKSON: No, they're not specific units,
24 but the debt is carried on the market rate units.

25 MR. OXER: So what you're actually saying is

1 for the income that's going to support that debt, there's
2 a varying location of that pool of units that actually
3 supports that debt.

4 MR. DUFFY: Correct. And each year we will
5 present to the state, who does the compliance on this,
6 which units in that particular year are the tax credit
7 units. I think all the state is going to particularly
8 care about, the housing finance agency, is which are tax
9 credit and which are not. And they will also have to meet
10 certain restrictions that I believe, when you approve this
11 deal, there are so many one-bedrooms that have to be tax
12 credit, there are so many two-bedrooms that have to be tax
13 credits, so many three. So in any given year, we will be
14 telling you which unit is a tax credit unit and which unit
15 is not. But yes, they float among the entire complex, so
16 at any given time, a one-bedroom in building 1 could be a
17 tax credit unit, the next year it could be a market rate
18 unit, and then back to a tax credit the year after that.

19 MR. OXER: So is Patricia going to establish
20 somebody to just have an office for them to sit there and
21 manage all this for you.

22 MR. DUFFY: I don't know who Patricia is.

23 MR. OXER: Patricia Murphy, chief of
24 Compliance.

25 For those of you following at home and can't

1 see this, that little red dot on his forehead.

2 (General talking and laughter.)

3 MR. DUFFY: I actually have full faith and
4 confidence that the State of Texas housing finance agency
5 has this already.

6 MR. McWATTERS: I have one more question.

7 MR. OXER: Professor McWatters.

8 MR. McWATTERS: I've heard some talk over the
9 last couple of minutes about this project being bifurcated
10 between affordable and market rate units, and that that
11 somehow solves the fair housing issue. I'm thinking maybe
12 it solves the fair housing issue with respect to those
13 units, but I'm more concerned from a fair housing
14 perspective about the larger community, specifically this
15 part of Galveston, which my understanding it's a heavily
16 poverty area, limited opportunity, limited jobs, limited
17 public services and the like. Please explain to me how
18 having 62 market rate units in one complex somehow solves
19 that fair housing problem.

20 MR. HENNEBERGER: Yes. And you've hit the nub
21 of what has to be achieved under the fair housing
22 requirements. There are 388 units to be built on a
23 scattered site basis in high opportunity, low poverty, and
24 low minority concentrated areas in addition to these
25 units. Originally 569 units were all located, except

1 Magnolia Homes which was sort of located north of
2 Broadway -- the pre-Ike units were all in what would be
3 considered higher poverty, higher minority -- minority was
4 marginal, but lower opportunity areas.

5 This takes 569 units in those impacted
6 neighborhoods and reduces them to 62 and Cedar Terrace,
7 and 148 total. It goes from 569 in those neighborhoods to
8 148. The other units are all being located in areas where
9 public housing has never been, family public housing has
10 never been located.

11 MR. OXER: I'm sorry to interrupt about this,
12 John, but there's a question that I think Mark is trying
13 to get to, and that is this particular project -- Toni,
14 jump in here -- this particular project that we've got 62
15 of these public housing units and the balance of the 122
16 constitute market rate, if somebody comes to us and make
17 the accusation that we're still concentrating poverty in
18 there because all of these are back in this low
19 opportunity area, what I'm trying to get to is to make
20 sure that when we consider this we're looking at all 569
21 units as a unit and this is just a component of it, this
22 piece of it so that nobody can say yes, you put them all
23 back where they were, you screwed up because you've
24 reconcentrated the poverty.

25 MS. JACKSON: And that is correct because you

1 only put in a portion of what was originally there at
2 those two sites and the rest of them will be scattered.
3 But as it relates to those two sites specifically, the
4 site and neighborhood standards review which is done by
5 Fair Housing, does allow for an exception as it relates to
6 when you are building back on the same property if you are
7 building back 50 percent of the units, and that is what
8 we're doing here, we're building less than the number of
9 public housing units that were originally there.

10 MR. McWATTERS: It would have been helpful to
11 have heard this story earlier. Okay? It would have been
12 helpful to hear a systemic plan: 569 units before, where
13 they were located, 569 after, where they're located, and
14 give us some metrics on those neighborhoods. But instead,
15 you're putting us in an awkward situation. The first
16 rattle out of the box is approve something in a really low
17 opportunity area, with the promise or expectation, pie in
18 the sky, blue sky, whatever you want to call it, that
19 maybe in the future more units will be built in high
20 opportunity areas to balance it out. But sitting where
21 I'm sitting, I don't know if those future high opportunity
22 units are coming or if it's feasible.

23 MR. HENNEBERGER: They are required under the
24 conciliation agreement, and there is a written agreement
25 that has been signed and approved and voted on by the City

1 of Galveston, the Galveston Housing Authority Board of
2 Commissioners, the General Land Office has accepted it,
3 and we as complainants have accepted it.

4 The agreement that we've signed as the
5 conciliation agreement says 569 units have to be rebuilt
6 in Galveston in a manner that affirmatively furthers fair
7 housing, and we are using the leverage that we have -- you
8 know, we would not approve this but for the decision to
9 drastically reduce the number of units in the areas north
10 of Broadway which are the historical low income areas.
11 There are people who disagree with that decision, but that
12 is the required fair housing outcome. We have drastically
13 reduced it.

14 We as complainants can't control the staging of
15 this but we have an agreement and we will enforce our
16 agreement with the GLO, who is out for bids now on real
17 estate acquisition on the 388. And I guess I want to warn
18 you, you know, there may be phase two and three of this
19 that comes before you. It may come before you, but it is
20 required that it will happen.

21 MS. JACKSON: But right now there's a high
22 likelihood that it won't come before you because currently
23 the 388 are scattered sites and it would only come before
24 you if it is using some type of funding from TDHCA, tax
25 credits or something like that. They will be using

1 project-based vouchers but that comes through HUD, so
2 currently, as it is set out right now, the only thing that
3 will come before this Board is Cedar Terrace and Magnolia
4 because of the tax credits but the full plan won't be
5 coming before this Board.

6 MR. OXER: Okay. So the summary on this is
7 this is a component of a much larger plan, the
8 conciliation agreement. I'm trying to look out for the
9 interests of those people, the low income folks down there
10 that need the housing, John. I know how much it's needed.

11 I was down there Tuesday, as I said. But I'm also trying
12 to look out for the best interests of the Department that
13 we don't set ourselves up and get shot in the head, like
14 we've done before, because of something we were trying to
15 do the right thing and somebody says we don't like that
16 because you concentrated them all right back where they
17 were. That's what I don't want to have happen.

18 MR. HENNEBERGER: And you clearly have not.
19 You have radically deconcentrated public housing from
20 where it was previously in a manner that virtually has no
21 precedent for Hope VI type of development in Texas, that I
22 know of, at his level of deconcentration.

23 MR. McWATTERS: If the contract is fulfilled,
24 all the conditions precedent to building all those other
25 units come to pass. I mean, for example, let's say you

1 had just completed, just cut the ribbon on the 400th unit
2 and then you came to us with this project, well, it would
3 be an entirely different fair housing analysis than this
4 being the first rattle out of the box and then looking to
5 the future.

6 MR. HENNEBERGER: Well, I wish it all could
7 come together at the same time, but that's not kind of how
8 development seems to work. I mean, I'm as frustrated as
9 anybody in this room that I'm standing here in October of
10 2013 talking about rebuilding public housing under an
11 agreement that I thought we'd settled in May of 2010. But
12 here's where you and the complainants can be on the same
13 page, you know, if you want to say that this needs to move
14 forward, all these activities, let's not stop this one
15 deal, this deal has to go, but let's agree, TDHCA and the
16 complainants, that this has got to go the way it's been
17 outlined. We are going to insist that this affirmatively
18 further fair housing per our agreement.

19 MR. OXER: All right. And to answer your
20 question, Mark, my interpretation on this is the
21 deconcentration on the poverty that John is referring to
22 is the fact that they're building 122 units in this area
23 and only 62 of them would be, the other 60 which are going
24 to be a quantifiable market rate units, but chief over
25 here is going to be able to characterize that they are,

1 and so that helps to ameliorate some of that or mitigate
2 some of that concern. That, in itself, should be enough,
3 I think, that we could show the dispersal of this poverty
4 to re-engage it in the larger population.

5 MS. DEANE: Mr. Chair, if I could just say
6 something from a legal standpoint. Ms. Jackson earlier
7 said, circling back around to some affirmation or letter
8 from HUD, Ms. Jackson has already said she thinks that she
9 can get that from HUD. I understand Mr. Henneberger is
10 saying that normally HUD doesn't weigh in ahead of time
11 and give fair housing determinations, but apparently from
12 everything I'm hearing, they already have, they have
13 verbally supposedly told everybody the kinds of
14 information that we're looking for. So in essence, all
15 we'd really be asking them to do is will you commit to
16 writing what we understand you have already verbally
17 represented.

18 MR. OXER: Would you ask them to tell us what
19 they told you.

20 MS. DEANE: Can we circle back around and get
21 that letter?

22 MS. JACKSON: When they reopen.

23 MR. OXER: Well, great. You know, there's some
24 advantages to them not being open.

25 (General laughter.)

1 MS. DEANE: Apparently, they've already said
2 these things, they've already made these representations,
3 but it's all verbal and it's all secondhand.

4 MR. THOMAS: Can we move in the direction of
5 affirmatively asking that we get that, as staff has asked,
6 and that I think we desperately need to be able to get
7 some clarity here and move forward?

8 MS. DEANE: Can HUD commit to writing what they
9 have apparently already represented.

10 MS. JACKSON: I would ask that you consider our
11 tax credits with that and not hold us up.

12 MR. OXER: I understand your point. You've got
13 your tax credits, you've got to worry about the December
14 19 deadline that's looming large. I'm convinced that
15 after the degree of discussion and negotiation that John
16 and all the components of the discussion that each of you
17 represented that this is going to work with respect to
18 each one of you. I'm okay with that. My own sense of
19 this is I'd like to move forward with this, but I also
20 would like to make sure that you know we really do want
21 some documentation of that. If we vote to approve this
22 and move forward, the number one --

23 MS. JACKSON: I will continue to stay in touch
24 with Tim, Barbara and Cameron.

25 MR. OXER: And I want you to continue to stay

1 in touch with Secretary Donovan.

2 MS. JACKSON: Well, as soon as he returns to
3 work. Well, actually, he is at work. He is at work.

4 MR. OXER: He's got a cell phone, the cabinet
5 is in business.

6 MS. JACKSON: He's at work.

7 MS. DEANE: My legal recommendation actually
8 would be that any vote today would be conditioned upon
9 getting that written affirmation from HUD.

10 MR. OXER: She's the counselor, what can I say?

11 MS. JACKSON: And as I indicated before, and
12 Barbara, I would ask that we be allowed to work with you
13 as it relates to what HUD is, in fact, willing to give us.

14 MS. DEANE: Absolutely, absolutely.

15 MR. OXER: John, did you have something else?

16 MR. HENNEBERGER: We believe their
17 responsibility to make the determining regarding
18 affirmatively furthering lies with the state, and if HUD
19 does not choose to provide this information, we still have
20 a conciliation agreement which requires that 569 units be
21 rebuilt in a manner that affirmatively furthers fair
22 housing. We've done our best to get there. If for
23 whatever reason HUD does things, doesn't deem it
24 appropriate to write the letter the way you want it
25 written, I would urge you to consider a conversation with

1 HUD, between the top level of HUD and your Board chair, or
2 something like that.

3 I just have not seen HUD doing pre-clearance on
4 fair housing stuff. I know from an attorney's standpoint
5 you're trying to get safe harbor from a lawsuit from
6 somebody else, but HUD doesn't pre-clear fair housing
7 stuff, they wait until somebody files a complaint, which
8 we did.

9 MS. DEANE: But apparently in this situation
10 they have already made those statements, and so we're not
11 asking them to do any more pre-clearance.

12 MR. HENNEBERGER: You're just asking them to
13 put it in writing.

14 MS. DEANE: Put it in writing what apparently
15 they've already said.

16 MR. THOMAS: With all due respect, Mr. Chair,
17 we're beating the absolute bejeezus out of this horse.

18 (General laughter.)

19 MR. OXER: And the respective bejeezii that we
20 have beaten today, it's getting pretty tiring too.

21 MR. THOMAS: Thank you.

22 MR. OXER: Okay. Let's do this. I tell you
23 what, hold on. We've been at this for a couple of hours,
24 they're getting itchy. We're going to take a ten-minute
25 break. Okay? Everybody go get a glass of water, take a

1 deep breath, walk around a little bit, and we'll be back
2 in here ten minutes till on that clock and then we'll
3 finish this up.

4 (Whereupon, at 3:43 p.m., a brief recess was
5 taken.)

6 MR. OXER: All right. It's five minutes of.
7 We have one more public comment on this item

8 MR. DENSON: Thank you very much, Mr. Chairman,
9 for letting me speak. I've been here all day, came from
10 Galveston, and I appreciate it. I know it's been a long
11 day for everybody, I really do. I've been here through
12 all of it with you.

13 I wanted to bring up a couple of points. One,
14 John did say, and it's very important that John said, the
15 conciliation --

16 MR. OXER: Who are you?

17 MR. DENSON: Oh, I'm sorry. I'm Richard Denson
18 and I'm from Galveston, Texas.

19 John did say that the conciliation agreement
20 says you must rebuild its 569 units and they must
21 affirmatively further fair housing. It's very important
22 for you to know that it says 569 units to affirmatively
23 further fair housing, it doesn't say minus 42, minus 68 or
24 minus 75, it says 569 units. So it's not an either/or, it
25 says they all must affirmatively further fair housing, and

1 I couldn't agree more with that.

2 Now, Ms. Manley from MBS brought up a very
3 important point on these developments, and that was that
4 the rules that they're going to be managed by MBS are
5 brought forth by the Galveston Housing Authority, they're
6 just implementing them. Well, if they go back to the
7 housing authority and say: Hey, we can't fill these
8 market rate units because of the location, we're about to
9 be bankrupt, what do we do? Well, how about if we just
10 change the rules. They have that authority, and all of a
11 sudden you have all Section 8 in public housing units.

12 You're in a 60 percent impoverished census
13 tract in Cedar Terrace. If everything went perfect with
14 their market rate units, you're at a 56 percent
15 impoverished census tract. If everything failed and they
16 had to do all the Section 8 vouchers, you're at a 64
17 percent impoverished census tract. Do you really see a
18 lot of movement there? You're really not doing a whole
19 lot of anything and you're not affirmatively furthering
20 fair housing on those units.

21 Another thing is that MBS, the last time I was
22 here, seemed to really give a consensus that the City of
23 Galveston is behind this. I think John was saying that
24 Galveston Housing Authority is behind this. I helped this
25 mayor get elected and Mayor Rosen and I are very good

1 friends -- he's not a good golfer but we're good friends
2 anyway -- and this last election that we had was a
3 sweeping one issue election on public housing. Six out of
4 seven people elected opposed the rebuilding of public
5 housing on these sites. That's the only reason they were
6 elected.

7 After that, the mayor did get a letter, and
8 it's in here, it was the one from the Galveston Housing
9 Authority. He took it and threw it aside, didn't pay
10 attention to it, and he was writing letters in the
11 newspaper saying we should continue with the voucher
12 program because it gives people freedom of choice to live
13 where they feel it's best for their lives. Then he got
14 summoned to Washington, D.C. and he got taken into
15 Secretary Donovan's office, where he leaned across the
16 table and said to him and Buddy Hertz, the chairman of the
17 Galveston Housing Authority: If you do not give MBS this
18 contract and you do not build these sites on that
19 location, you will not receive one penny of infrastructure
20 funding, not one dime.

21 He said -- and you nailed it, Mr. Chairman --
22 he said it was like having a gun put to my head. And he
23 said, What did you expect me to do, Rich? And I said, You
24 know, Mr. Mayor, I'm not going to hold it against, you did
25 what you said what you were going to do, and if they're

1 going to try to bankrupt our city, I know you don't have
2 an option. And they didn't, so they voted to continue
3 letting the money flow, because Jerry Patterson was
4 cutting it off, and he did and he didn't think twice about
5 it.

6 So that's really the rest of the story about
7 how this evolved. The only time you've ever heard from
8 the people of Galveston was during that election and they
9 spoke loud and clear about rebuilding on these footprints.
10 Since then you haven't heard a word from them. All you've
11 heard is threats and intimidations. Just read the
12 letters, they're nothing but threats and intimidation.
13 They're threats to tell them that if they don't do this,
14 they don't get any money.

15 And you've got to remember, we went from 58,000
16 to 47,000 people. At the same time, the real estate
17 market tanked in 2008. At the same time, our property
18 taxes were down, the city was getting less revenue. We
19 were devastated and we had great infrastructure needs, we
20 needed the money and we still do. So what do you expect
21 them to do? They honestly had no idea, so they continued
22 with it.

23 I want you to think about this. The census
24 tract you're being asked to build in is a 90 percent
25 minority census tract, 60 percent impoverished census

1 tract, it's the poorest census tract in the entire
2 Galveston County. There are no stores, services, there
3 are empty blighted buildings. It looks like Beirut bombed
4 out area, it really does. It is devastatingly sad. I
5 hope you drove by it when you were there, I really do. It
6 is a very high crime rate, and it's just really sad, and
7 it really tears me up in my heart to think anybody would
8 want to put someone there, because there are better sites.

9 And Mr. Chairman, everybody that keeps saying
10 Galveston is all a flood plain is wrong. It's not. Do
11 you know the seawall is not in the flood plain? Do you
12 know three blocks behind the seawall is not in the flood
13 plain? I own houses all along Galveston behind the
14 seawall within two to three blocks, I'm not even required
15 to have flood insurance for the bank loan.

16 Are there sites available? Yes. 6.5 acres for
17 sale, been for sale for years, on the seawall. Down at
18 77th Street another site on the seawall where there was
19 170 apartment units that were mowed down after Ike. Right
20 over behind the Randall's there's a five-acre site
21 surrounded by two Class A apartment complexes, two hotels
22 across the street and a Walmart within walking distance.
23 There are sites available that affirmatively further fair
24 housing; these two are not the sites.

25 I'm not sitting her telling you don't rebuild

1 public housing in Galveston, I'm telling you don't build
2 them there. And personally, I would have thought Ms.
3 Manley would have gone to those sites and gone straight to
4 the housing authority and told Buddy Hertz: Hey, it's a
5 good idea to build mixed income down here but not there,
6 let's find someplace else, put those for sale, transfer
7 the revenue, let's buy something.

8 Plus, from what I understand, the Galveston
9 Housing Authority has \$17 million still left over in
10 insurance proceeds, so they've got money to buy something
11 with. I think good land that would affirmatively further
12 fair housing should be what they'd want and should be what
13 they should do. It's a lot better than not doing that.

14 In the fair housing material that you had here,
15 you really hit the question here: the specific proposed
16 transaction complies fully with the Fair Housing Act and
17 does not create disparate impact in Urban Region 6. It
18 actually does create disparate impact, according to Dr.
19 McClure. Dr. McClure, the last time I spoke to you, I
20 gave you a study, a 65-page study that he did. He's an
21 expert in urban studies, he's a professor at the
22 University of Kansas.

23 He was hired by the City of Galveston to do an
24 in-depth study. They gave him, I think it was, \$20,000 to
25 do an in-depth study, and he did it, and he answered two

1 weeks ago in front of the Galveston City Council that this
2 does not affirmatively further fair housing at Magnolia or
3 at Cedar Terrace, neither one. He's an expert in this
4 field. He laughingly says when he's not working for HUD
5 as a contractor, he's usually in court testifying against
6 them because they violate the Fair Housing Act all the
7 time.

8 So unless you have somebody that can refute Dr.
9 McClure's study, or MBS or somebody has something that
10 says we have expert opinions that say this does
11 affirmatively further fair housing, besides somebody's
12 word or a phone call from someone at HUD, then I think you
13 need to take Dr. McClure's report to heart. It's a 65-
14 page report that just simply says here are all the reasons
15 you shouldn't build here, and he's an expert witness in
16 court cases all over the country, and he will be in the
17 court case that we'll file.

18 I'm not a plaintiff in the case, the public
19 housing residents that used to live there are. They're
20 the ones saying don't you dare put us back over there.
21 They're the ones saying why are you taking away my freedom
22 of choice. They're the ones saying, you know what, I
23 would rather live within a community like I can right now
24 than be segregated from a community in an area that floods
25 and is blighted.

1 28th Street, which you saw, Mr. Chairman, down
2 in Galveston where that Cedar Terrace site is, I used to
3 own a home at 15th and Mechanic and that home is roughly
4 six feet off the ground. It flooded with three feet of
5 water. That was nine feet of water. And I keep reading
6 you are worried about six inches for parking. That isn't
7 going to do anything.

8 MR. OXER: I think it was six feet.

9 MR. DENSON: Six feet. Well, that might help,
10 but still nine feet of water is a lot of water to go
11 against. The properties that I have by the seawall didn't
12 flood at all, didn't have a problem, and there are sites
13 there. There are better sites than this and I think the
14 people deserve better, myself.

15 The conciliation agreement --

16 MR. OXER: Mr. Denson, I'm going to have to ask
17 you to sum it up. We're running on a clock, we're about
18 to lose our quorum here.

19 MR. DENSON: Okay. I'm sorry. The
20 conciliation agreement does not state that public housing
21 has to include mixed income, it does not say anything
22 about tax credit or market rates, it does say you have to
23 affirmatively further fair housing, and it does not
24 endorse, mandate or demand that you provide tax credits
25 for this development.

1 Thank you very much for your time.

2 MR. OXER: All right. Any questions from the
3 Board?

4 MS. BINGHAM ESCAREÑO: I have two quick
5 questions.

6 MR. OXER: Let's hear them.

7 MS. BINGHAM ESCAREÑO: I'm not sure they're for
8 the current speaker, they're trivia questions. One is
9 Magnolia, does it have the same power line issue or will
10 it?

11 (Reply from audience.)

12 MR. OXER: I'm sorry, you can't do it from over
13 there, you've got to get to the mike.

14 MS. JACKSON: No, it does not. I'm sorry.
15 Toni Jackson, Coats Rose.

16 MR. OXER: Thank you.

17 MS. BINGHAM ESCAREÑO: And does anybody know
18 why Oleander isn't getting rebuilt?

19 MS. JACKSON: Because there was more
20 controversy about the location of Oleander, and so it was
21 finally determined, as John mentioned, all of the
22 discussions that have taken place, took Oleander off the
23 table for the moment.

24 MR. HENNEBERGER: John Henneberger.

25 It was a matter of great importance to us that

1 there were a large number of units in Oleander and it was
2 too many units north of Broadway, and we insisted that
3 that property be not developed and sold.

4 MS. BINGHAM ESCAREÑO: So then like we would
5 conclude that HUD didn't require that all the units go
6 back to where they had been previously.

7 MR. HENNEBERGER: Oh, explicitly HUD said on
8 many occasions that were not happy with any program that
9 would rebuild back on Oleander or all of the -- rebuild
10 all the housing back on the existing sites.

11 MS. BINGHAM ESCAREÑO: Okay. Thank you.

12 MR. OXER: With that said, John and Toni, that
13 they were not happy with rebuilding all those sites,
14 reconcentrating all of those locations --

15 MS. JACKSON: Because, again, remember it was
16 four locations, and so we're building back -- there were
17 40 units of senior housing built on the first location and
18 then these next two, so that's why Oleander, as the
19 largest of all the sites, was taken off the table.

20 MR. OXER: Okay. So they didn't want you to
21 build them all back and they asked you not to do that, so
22 you're doing a dispersal, but the housing authority has
23 only these -- Galveston GHA has only got these two sites?

24 MS. JACKSON: That is correct. These are the
25 only sites that the Galveston Housing Authority has, so

1 the scattered sites, that program actually is going to be
2 carried out by GLO to actually identify the sites and to
3 actually build on the sites.

4 MR. HENNEBERGER: John Henneberger.

5 Technically, Galveston Housing Authority, I believe, still
6 owns Oleander.

7 MR. OXER: What's the intended disposition with
8 Oleander?

9 MS. JACKSON: We're actually looking for
10 options. The board, in fact, spoke of an option this past
11 week. Unfortunately, I can't speak about that.

12 MR. OXER: No. I'm just saying they can either
13 sell it for commercial or industrial or something, but
14 they intend to dispose of the property out of the
15 portfolio.

16 MS. JACKSON: Right. But even whatever we do
17 with it, we'll still have to get HUD approval on that.

18 MR. OXER: Okay. Anything else, Leslie?

19 MS. BINGHAM ESCAREÑO: No, sir.

20 MR. OXER: Sign in, say who you are.

21 MR. McINTYRE: I'm Steven McIntyre. I'm the
22 other person from Galveston that's here to testify today.

23 Just three quick points. Mr. Denson doesn't
24 speak for all of Galveston, obviously. On September 28,
25 2012, that negotiated deal, that plan that was sent to GLO

1 that was worked out between the housing authority, the
2 local advocates, the advocates in Austin, Lone Star Legal
3 Aid and the City of Galveston officials, they represent
4 more of Galveston than Mr. Denson and his friends.

5 On August 28, just a month or two ago, the
6 mayor and the city council sent a proclamation to the
7 Martin Luther King celebration supporting mixed income
8 housing once again.

9 Gosh, it was three weeks ago, perhaps, the
10 McClure report was presented to the city council, that Mr.
11 Denson reported to you all just a moment ago about how
12 wonderful it was and how you ought to rely upon it. The
13 city council considered it, they paid for it, and they
14 voted six to one to not take any legal action on it. Then
15 they voted five to two not to even do any legal research
16 based upon it, to basically drop the subject That's how
17 much they thought about the McClure report.

18 And then finally, today you received a letter
19 from the city manager once again pointing out that we need
20 to have the Cedar Terrace and Magnolia Homes rebuilt. I
21 think the city manager, under the direction of the city
22 council, speaks more for the City of Galveston than Mr.
23 Denson and his friends.

24 Second, there was two documents presented to
25 you at the last meeting last month about this. It was a

1 letter from a group called the collaborating organizations
2 that supported your action on the waivers, and it was
3 NAACP, LULAC, the Galveston County Coalition for Justice,
4 Gulf Coast Interfaith and Northside Task Force. That
5 letter was not in the packet because it was too late to
6 get to you, but it wasn't included in the packet today
7 either. I sent an email to Cameron. I think if he can
8 update your packet, it will be in there.

9 And then likewise, there was a three or four
10 page letter from Michael Allen, an attorney in Washington,
11 D.C., who some consider the premier fair housing lawyer in
12 the country, and I think he pretty much addresses the fair
13 housing arguments that Mr. Denson tries to bring up today,
14 and does not think very much of them. That letter also
15 was not in your packet, and I would encourage staff to get
16 that in your packet so that you all can read it.

17 That's all. Thank you.

18 MR. OXER: Thank you. Any questions of Mr.
19 McIntyre?

20 (No response.)

21 MR. OXER: Good. We had tabled this item to
22 consider the discussion before we made this motion. We
23 are now to the point of having an open item, we need now a
24 Board motion to consider.

25 MR. THOMAS: I would need to withdraw my motion

1 to table, I guess, if we want to proceed with considering
2 it.

3 MR. OXER: We're un-tabling this.

4 MR. THOMAS: I withdraw my motion to table.

5 MS. BINGHAM ESCAREÑO: I think I seconded and
6 I'm fine.

7 MR. OXER: I think so too. That was last
8 October, wasn't it?

9 (General laughter.)

10 MR. THOMAS: I do have a question around these
11 transmission lines, Mr. Chair. A representation was made,
12 I believe by Ms. Manley, that these transmission lines are
13 all over -- the implication was that they were on every
14 block, and I want to make sure we're making a clear
15 distinction. I think we're not talking about regular
16 power lines, we're talking about heavy duty transmission
17 lines.

18 MR. OXER: High voltage transmission lines.

19 MR. THOMAS: High voltage. So that would
20 probably have been an overstatement or a misstatement.
21 Correct? Cameron, are you aware?

22 MR. OXER: I can tell you there are not high
23 voltage transmission lines all over. There's a backbone
24 that runs down through this particular area and there are
25 substations, and it drops off and it goes into a network

1 into this.

2 MR. THOMAS: I still have very, very serious
3 concerns about those transmission lines. This is a safety
4 issue that gives me great pause and concern if something
5 were to happen.

6 MR. OXER: Meg, you've also -- I don't mean to
7 interrupt there, Robert -- you've also indicated this
8 letter indicates that these transmission poles were
9 reinforced?

10 MS. MANLEY: Meg Manley, McCormack Baron.
11 They're built to withstand 135 mile per hour hurricane
12 force sustained winds, and they have been rebuilt since
13 the last hurricane, Ike.

14 MR. DUFFY: Meg, sorry. I want to make a
15 clarification. They withstood the last hurricane, they
16 did not fall. All 130 units of public housing that were
17 there on the site before did not have one pole fall on
18 them.

19 MR. THOMAS: I understand. I guess my
20 question -- and I appreciate you bringing everything out,
21 and unless there's going to be new information, I'd like
22 to keep moving forward -- I guess my concern is, Mr.
23 Chair, that, with all due respect, that withstanding 135
24 mile per hour winds, having been reinforced after
25 Hurricane Ike will be little consolation. I promise you,

1 this Board will hear if something happens. So I have some
2 concerns, and I believe that it would be appropriate for
3 us to seek some additional support or guidance on what
4 might potentially be done with those transmission lines.

5 I guess you need it in the form of a motion,
6 don't you?

7 MR. OXER: No.

8 MR. THOMAS: No? Okay. I was trying to read
9 your face.

10 MR. OXER: That's right. I don't play poker
11 well either.

12 With respect to these transmission lines, I
13 know the type of poles. If they've been reinforced, I
14 mean, I'm to the point now that I'm satisfied that if
15 CenterPoint is satisfied with those, then I don't have any
16 issue with those, not to mention the fact that HUD says
17 they want to put these back here and have done an
18 evaluation of the site for some environmental consequences
19 or aspects, then that has to have been taken into account
20 also.

21 I know the issue in moving forward with this,
22 but at some point we're asking for letters from HUD or
23 some sort of -- come on, Megan, get up here.

24 MR. IRVINE: While Megan is coming up, I think
25 that the issue really is one of granularity. I mean, we

1 are talking about a specific site with specific
2 requirements for waivers, and the standards set out in our
3 rules is that waivers are only granted where it's
4 established that there is a policy or a requirement in
5 Chapter 2306 that otherwise would not be met, that they
6 are necessary to meet those requirements. So it really is
7 a very fact-specific issue which, to me, has to be made in
8 the context of the conciliation agreement, not in the
9 context of the Galveston housing plan, it's in the context
10 of this particular deal.

11 MS. SYLVESTER: I just wanted to clarify a
12 point. Megan Sylvester, Legal Services.

13 Toni spoke of a couple of different reviews HUD
14 is going to do, and one of the reviews that HUD is going
15 to do is what's commonly termed a site and neighborhood
16 standard review, and we're very familiar with this because
17 that's the kind of review we do on our HOME multifamily
18 properties. However, on our HOME multifamily properties
19 we only do that for new construction and it's a much
20 higher standard that one has to meet.

21 This property, and I confirmed with Toni, is
22 having a different level of site and neighborhood standard
23 that is a less stringent standard because it's being
24 treated as if it were rehabilitation of units and not a
25 new construction. So while something like the poles might

1 have been considered in that kind of review if it was a
2 new construction, I don't want to speak for HUD but I do
3 not believe that is something that they would consider in
4 the level of review that they are doing.

5 They're also doing what is called a Part 58
6 environmental review and that's a result of the CDBG
7 Disaster Recovery funds that are going into that, and that
8 is going to be a full review. I am not sure if the high
9 voltage poles are something that would be considered in
10 that review, but in any case, we do not have that review
11 back from HUD at this time.

12 And that's all.

13 MR. OXER: So essentially what you're saying,
14 the real differentiation on this, and I'm trying to find a
15 path through what Tim said, absent a conciliation
16 agreement -- which, while I appreciate John Henneberger's
17 contribution and the effort that's been made to make all
18 this work for the Fair Housing Act -- absent a
19 conciliation agreement, were this site to be considered
20 for new construction under the Tax Credit Program, it
21 would not be able to proceed without waivers on the
22 transmission lines and the flood zone.

23 MS. SYLVESTER: That is correct.

24 MR. OXER: Well, let's focus on the
25 transmission lines. So if that's the case, then it has to

1 be considered now as reconstruction or rehabilitation of
2 an existing site.

3 MR. DORSEY: We just don't have definitions
4 that line up perfectly. We're considering this new
5 construction under our statutory requirements, and under
6 our QAP it is considered new construction.

7 MR. OXER: Okay. That's where I was headed
8 trying to figure that out.

9 MS. JACKSON: It's not apples to apples.

10 MS. DEANE: And let me just mention, as well,
11 that Megan had indicated to me also that the types of
12 approvals and review that HUD will be doing will not
13 address the specific fair housing concerns that we have
14 and that we definitely do need to get the letter from HUD.

15 MS. JACKSON: Toni Jackson, Coats Rose.

16 I went back to my notes and HUD did begin their
17 Fair Housing site and neighborhood standards review and
18 had a meeting with us on July 18 of this year, and they
19 did not have any questions or concerns raised as it
20 related to the electrical poles, and we have responded to
21 most of the information that they asked for additional
22 information on.

23 MR. OXER: So essentially, and I understand
24 their point, okay, but we have 2306 and our QAP that we
25 have to deal with. Right?

1 MR. DORSEY: Correct.

2 MR. GANN: I have one general question that I
3 just didn't get to ask. May I ask that?

4 MR. OXER: Please, Mr. Gann.

5 MR. GANN: Why wouldn't this site chosen second
6 and that other site was chosen first? What was the reason
7 for choosing this site over the other site?

8 MS. JACKSON: You mean Oleander that we're not
9 building back on, or Magnolia?

10 MR. OXER: Magnolia.

11 MR. GANN: Magnolia is being used, isn't it?

12 MS. JACKSON: Magnolia is next up in line, yes.

13 MR. GANN: Oleander, why didn't you chose
14 Oleander instead of this site?

15 MS. JACKSON: Oleander, there were some other
16 issues about the location of that and what was surrounding
17 it as well, and based on all the parties coming together,
18 there was a preference because of the historic
19 neighborhood of Cedar Terrace versus Oleander, it was a
20 more commercial area, and so there was more of a desire to
21 stay in the neighborhood and be back towards the Strand.
22 But it was a number of things that came in all the
23 conversations as to all of the sites.

24 MR. THOMAS: I think I'm ready to try to craft
25 a motion.

1 MR. OXER: Okay. Just a second. Meg has got
2 another comment.

3 MS. MANLEY: Yes. I want to point out that
4 part of the request in this waiver specifically was
5 Subchapter B, Section 10.101(a)(3) of your rules provide
6 that rehab developments that have ongoing and existing
7 federal assistance from HUD can be redeveloped
8 irrespective of the presence of undesirable site features.

9 And our interpretation, with this site, again, it goes
10 back to not quite fitting in a box, it is a redevelopment
11 of a site that would have had continual housing assistance
12 and subsidy had the hurricane not taken the housing down,
13 so the subsidy will be immediately reapplied once the
14 housing is built.

15 And so we feel that this site, with the
16 restrictions it has for being a public housing site, falls
17 within the spirit of that portion of the rule, and that
18 was a specific issue that we pointed out when we made this
19 request. It's not simply like let's ignore, we said we
20 feel like we line up better with the spirit of this
21 regulation that recognizes that certain of these public
22 housing and assisted sites have constraints on them.

23 MR. OXER: Because the power lines were there
24 before the houses were knocked over.

25 MS. MANLEY: Right. It's not like a developer

1 who gets to choose a site comes in and says, Hey, I read
2 your rules but I want to ignore them. So we just
3 literally are in a bit of a box there.

4 MR. OXER: Okay. Any other comments from the
5 Board?

6 (No response.)

7 MR. OXER: Cameron, do you have anything else
8 to add?

9 MR. DORSEY: No, not unless you have a
10 question.

11 MR. OXER: I don't think I do.

12 Robert, would you like to take a shot at it?

13 MR. THOMAS: Yes, sir. I was trying to craft
14 it. I would like to move that the Board issue conditional
15 approval of this project subject to the following: number
16 one, that the staff receive and negotiate a HUD letter
17 addressing the concerns of the Board; two, that there be
18 an engineering report regarding the option to either
19 relocate the high voltage transmission lines or confirming
20 their safety, given the very sensitive nature of this
21 housing project -- and three -- well, I guess we've got
22 maybe enough comfort on the water.

23 MR. OXER: On the flood? Yes.

24 MR. THOMAS: On the flood. So it would just be
25 subject to those two conditions then.

1 MR. OXER: Hold on just for a second. Toni,
2 you said that CenterPoint has been very reluctant to give
3 you much more information?

4 MS. JACKSON: Because of Homeland Security.

5 MR. OXER: CenterPoint things we're all
6 terrorists.

7 MR. THOMAS: That's why I said an engineering
8 report. If they can't get it, that's fine, from
9 CenterPoint.

10 MS. JACKSON: Right. And we are getting a
11 release tomorrow.

12 MS. MANLEY: We're sending in a form tomorrow
13 to try to get more information..

14 MS. JACKSON: Yes. We're still trying to get
15 information. And then on the first one --

16 MR. THOMAS: Wait, wait, wait. We don't even
17 have a second on my motion.

18 MS. JACKSON: I'm sorry.

19 MR. OXER: I'm clarifying some things.

20 MS. JACKSON: And I was just trying to clarify
21 also before a second. You wording that staff receive and
22 negotiate a HUD letter.

23 MR. OXER: We can't do that.

24 MR. THOMAS: I'm sorry. Clarification. Staff
25 communicating, because obviously the Board can't continue

1 to speak to you. You said you didn't want to have your
2 hands tied, so you're speaking to HUD but you need to
3 speak to somebody on our behalf.

4 MS. JACKSON: That's what I was clarifying,
5 because like I said, I wrote down that you said staff
6 receive and negotiate. But you want us to get the letter
7 but we can continue to work with staff in terms of the
8 work.

9 MR. THOMAS: To confirm that it meets the
10 concerns of the Board.

11 MR. McWATTERS: And bring it back to the Board.
12 And also, I would suggest that this be condition
13 precedent. Instead of approving it and then going, I
14 would say don't approve anything, let's get this stuff and
15 review it and go from there.

16 MR. THOMAS: Good point.

17 MR. McWATTERS: But I'm not sure how.

18 MR. THOMAS: So there would be a condition
19 precedent to approving that we receive a HUD letter that
20 is negotiated by the constituents, whoever you all are
21 visiting with HUD, and that it be confirmed to meet the
22 concerns raised by the Board, by the staff and brought
23 back to the Board, number one. And number two, that the
24 development provide an engineering report confirming the
25 option to either move these specific transmission lines or

1 to confirm the safety of these specific poles and
2 transmission lines in light of the sensitive nature of
3 this development.

4 MS. JACKSON: And I'm sorry, I recognize I'm
5 speaking before you have a second.

6 MR. OXER: That's all right. Go ahead.

7 MS. JACKSON: I would just like to reiterate to
8 the Board it's very similar to the earlier situation in
9 terms of the TEFRA hearing. I mean, the notice would have
10 conditions that we would meet and have to provide to the
11 staff. Do we really have to come back to the Board for
12 this?

13 MR. THOMAS: Yes.

14 MS. JACKSON: Because we have a real timing
15 issue here.

16 MR. THOMAS: I gotcha. For my vote, yes.

17 MR. OXER: I recognize your point, Mr. Thomas,
18 that that's the issues you need to have resolved, but we
19 can delegate to the executive director to receive that
20 information and be satisfied for that. Recognizing that
21 the timing for the end of the bond reservation period,
22 December 19, as I recall, so you've got to be moving
23 forward on this with the assumption that those are going
24 to work.

25 MS. JACKSON: Right.

1 MR. OXER: I can tell you from the engineering
2 side on the transmission poles, you can't afford to move
3 them, they're going to tell you how much they can
4 withstand and whether or not the failure is going to be
5 lateral or linear, with every expectation that it's going
6 to be linear.

7 MS. DEANE: Mr. Chair, if I could mention, the
8 last time there were conditions imposed and it was -- I
9 won't use the word delegated to staff, but it was
10 determined that the executive director could decide if the
11 conditions had been met, we had issues with, for example,
12 the Bond Review Board on that, that they felt like it had
13 to come back to the Board. So I would suggest that to
14 avoid running into those types of issues again that it
15 should come back to the Board.

16 MR. OXER: Okay. Well, there's the point on
17 that. And with respect to the timing, I'm trying to be
18 sensitive to your bond reservation period, so our next
19 Board meeting is November 7. Does that give you time
20 after that?

21 MS. JACKSON: I guess only to the extent that
22 the first requirement has us working with HUD, so I'm
23 being very optimistic that they'll be open again next week
24 and we will get back on this.

25 MR. OXER: Well, if, as was presented to us,

1 that they said you don't get any of this other money
2 unless you do this, they would at least give some
3 deference to our request for some documentation that they
4 said this needs to get done, so what we're asking is for
5 them to document that. I should think you'd be able to
6 get a letter like that out. And I understand your point,
7 Toni, that you can't speak on behalf.

8 MS. JACKSON: Again, exactly. I mean, I will
9 work diligently with Tim and Barbara to work out what we
10 can get.

11 MR. OXER: Okay. All right. We've been in the
12 process of structuring a motion here by Mr. Thomas.
13 Robert, would you like to restate that again?

14 MR. THOMAS: I will try, sir.

15 I move that the Board -- help me with the
16 language about the condition precedent.

17 MR. McWATTERS: That as a condition precedent
18 to the approval or denial of the two waivers.

19 MR. THOMAS: Receive -- what Mark just said --
20 receive from the developer the letter from HUD addressing
21 the concerns raised by the Board, and that will be
22 provided to the Board, and then two, receiving the
23 engineering report regarding the option to either move the
24 lines or to confirm the safety of the lines, of the poles
25 in regards to this sensitive project, that if there's a

1 failure, how are they likely to fail and which direction.

2 MR. OXER: Just as a clarification to that, as
3 a point say that it doesn't say no, they won't fail, but
4 if they fail, what would they be and in which direction.
5 I've broken enough things and mashed up a few things in
6 our development lab that everything will break, the
7 question is what does it take to break it.

8 MR. GANN: Are you ready for a second?

9 MR. OXER: I believe we are.

10 MR. GANN: I'll second the motion.

11 MR. OXER: Okay. Motion by Mr. Thomas, second
12 by Mr. Gann to do what he just said. Meg has got some
13 more comment.

14 MS. MANLEY: We are very concerned about the
15 timing on this. We are going to march into the 30 days
16 toward the closing with a structure that's being
17 documented in scores of legal documents and scores of
18 legal time being spent so that we can meet our November 15
19 deadline without any certainty of this reservation. I
20 would submit to you today that Mr. Henneberger and all the
21 testimony you've heard, we've been in this process of
22 confirming with HUD for a very long time, I would request
23 that we follow up the testimony with a confirmatory
24 letter.

25 I think that the evidence that has been

1 presented today through testimony is very compelling that
2 HUD has been very much an integral part of this from step
3 one and there's not some surprise lingering out there that
4 they're not supporting what's going on and we're very
5 concerned about the number of people, from government
6 folks, to GHA folks, to all of the attorneys and the
7 architects who are drawing on both sites, to have no
8 certainty today that our structure is going to work.
9 Because if we go 30 days and for some reason that letter
10 from HUD isn't exactly what you want it to be, we're in a
11 whole other pickle in 30 days. We need to know that we
12 can march forward and close this deal. There are so many
13 people working on this. I'm very, very concerned.

14 MR. THOMAS: So you'll work closely then with
15 staff.

16 MS. MANLEY: Absolutely.

17 MR. THOMAS: We've heard your comments loud and
18 clear, very articulate. Your presentation is amazing, and
19 we understand your issues, and I'm sorry that I'm only two
20 months into this, I wish we had this discussion a year
21 ago, but that having been said, I think that the good
22 faith that you all clearly show with our staff will show
23 that our staff has good faith and will work with you.

24 MR. OXER: And essentially, to your point, Meg,
25 if I read this correctly or listen to this correctly,

1 we're saying approve the bond reservation --

2 MR. THOMAS: Well, a condition precedent is
3 getting these things, and then if we get these things,
4 then we can come back.

5 MR. OXER: Mark, this is differentiated from
6 the earlier one that we gave them theirs with the
7 expectation that if it didn't work, their deal would
8 collapse. What they're asking for is a reservation of the
9 4 percent credits, and we're asking to back this up with
10 these things. What his motion says is they don't get the
11 reservation until they deliver that documentation to us,
12 and that's going to take another month. Is that correct?

13 MR. McWATTERS: I think it would be a good idea
14 to hear from our counsel about the viability or
15 feasibility, the appropriateness of the condition
16 precedent versus a condition subsequent here.

17 MS. DEANE: Well, obviously, I understand their
18 concerns, so I'm speaking strictly in terms of
19 representing the Board and the interests of the Board. My
20 recommendation would be that it be a condition precedent.

21 What you don't want to get into is a dispute after the
22 fact as to whether or not they have their waivers in their
23 hand because they at least believe in their minds that
24 they have met the conditions, and therefore, I've got my
25 waiver and I'm out of here.

1 It's a lot cleaner to have more certainty as to
2 when you actually satisfy the conditions and get your
3 waivers, because the Board would be voting and saying
4 today you get your waivers. So to me, the condition
5 precedent representing the Board's interests would be a
6 preference from my standpoint.

7 And considering the issues that we had last
8 time with the Bond Review Board over trying to do some
9 kind of conditions after the fact, I think that to avoid
10 those issues as well. If we can have everything taken
11 care of before the vote is taken, it will resolve -- we
12 will not have any of the same issues we had last time with
13 the Bond Review Board.

14 MS. JACKSON: And that's why I just didn't
15 understand what's the difference in the one earlier,
16 because, again, you gave them a condition, and as long as
17 it's met, but you approved their tax credits, and that's
18 all we're asking is for that same consideration that you
19 approve our tax credit determination today, and then on
20 that tax credit determination, as is the case with all of
21 us when we've gotten these, is that if you have
22 conditions, they are set out, and as Cameron stated
23 earlier, the 30 days in which we have to return it signed,
24 we have those conditions met.

25 MS. DEANE: Specifically where there are

1 conditions that would require any kind of staff input or
2 staff approval, those were a huge problem.

3 MR. DORSEY: Correct. Because I saw Cynthia
4 and Meg talking just briefly and I know exactly what they
5 were talking about, that was a TDHCA bond issue that has
6 to go back through BRB, this is a local issue that doesn't
7 go through the same process so they may not run into the
8 same issues. Just as clarification, but not to take away
9 from any of the other points.

10 MS. DEANE: I understand that completely. My
11 point is more that if the issue was raised there, it could
12 be raised elsewhere, and especially bond issues, we want
13 them to be very clean. And whether it goes back through
14 the Bond Review Board or not, the issue could still be
15 raised by someone, it's still out there. And
16 particularly, we don't want to have a situation where it
17 could be alleged as delegating to staff to do some kind of
18 approval. It really has to come back to the Board.

19 MR. IRVINE: Can I step out for just a second?

20 MR. OXER: Yes. All right. Everybody take a
21 time out. We're losing our attorneys here, and I think
22 we're about to lose our quorum. We've got enough for a
23 quorum, as long as you can stay, Leslie. We'll have to
24 wait and hear back from them here in a minute.

25 (Off the record at 4:37 p.m. and back on the

1 record at 4:38 p.m.)

2 MR. OXER: Okay. Any words of wisdom,
3 Counsels?

4 MR. IRVINE: I was just going to say that under
5 the Board's own rule with regard to the granting of
6 waivers, you need to make a finding about the necessity of
7 the waivers, and I believe that really the HUD response is
8 sort of the predicate to making that finding. So that's
9 why I believe as an operational matter it really does need
10 to come back to the Board.

11 MR. OXER: Let's be clear on that. I know you
12 were clear on that, but that's from a legal standpoint.
13 I'm a simple engineer, tell me what you just said.

14 MR. IRVINE: Basically something that's
15 specific to the Board's concerns on this site from HUD
16 forms the necessary reason for the granting of the
17 waivers. It is established as their necessity.

18 MS. JACKSON: So Tim, technically then the vote
19 today would not really mean anything because you have to
20 come back next month for a vote.

21 MR. OXER: So in this case, do we defer action
22 till next time or vote on it now with conditions
23 precedent?

24 MR. IRVINE: Unless the Board believes that the
25 other testimony that's been provided establishes the

1 necessary predicate.

2 MR. OXER: Well, my own belief in this, and
3 I'll speak for myself on this only, my own belief is, I
4 trust the integrity of those that have commented today,
5 and I know that there was a lot of discussion and there's
6 been a lot of wrangling and a lot of wailing and moaning
7 and gnashing of teeth on this one, so I frankly don't want
8 to see this deal unravel because of a quirk. I
9 personally, this is my interpretation, I personally
10 believe that the condition precedent or that the need to
11 apply to grant this waiver has been established by what
12 the commenters have made, the information they've
13 presented. So given that, I would be inclined to vote for
14 the waiver to keep the deal moving so that they didn't
15 miss that deadline.

16 The real problem is it's October, we should
17 have been talking about this in line, you know, April, but
18 that's what it took. Like I said, if it was easy, anybody
19 could do it. That's why we've got us here. I'm putting
20 in for a raise, though, for the record.

21 (General laughter.)

22 MR. OXER: With that, I believe the conditions
23 have been satisfied to meet the requirement dealing with
24 the issue associated dealing with HUD in putting this
25 project in place have been met. Does anybody care to

1 make that? As chair I don't make the motion.

2 MR. THOMAS: Well, I've already made a motion
3 and it's been seconded.

4 MR. OXER: Who seconded it?

5 MR. GANN: I did.

6 MR. OXER: All right. So the motion is to do
7 this as a condition precedent.

8 MR. THOMAS: Correct, which would require them
9 to come back with the information so that we can confirm
10 that if a failure of the electrical lines takes place,
11 that it's not going to create danger for the residents of
12 this. Because we still have two waivers that we'd have to
13 give, we'd have to give the water waiver, which it sounds
14 like, just from hearing people's comments from the Board
15 is not really going to be something that would cause us
16 concern, but I've got no comfort level about the
17 electrical waiver. And quite frankly, I've got no real
18 comfort, with all due respect, no real comfort about,
19 particularly with the competing testimony, giving it equal
20 weight because I don't have any reason not to, I have real
21 concerns about what is going to actually come from HUD,
22 given what I understand is the -- what do we call it, the
23 multi-headed animal?

24 MR. OXER: The hydra, the HUD hydra, the HUDra,
25 is that right? It's getting late, folks.

1 (General laughter.)

2 MR. THOMAS: So we can vote on that, Mr. Chair,
3 and if the vote is no, then we'll proceed, but I think
4 that's an important thing for us to consider.

5 MR. OXER: So the point is, and Counsel,
6 Barbara, you were saying that having the information in
7 hand gives us more satisfaction that the documentation
8 required for the waiver.

9 MS. DEANE: Well, I think the issue -- it's six
10 of one, half a dozen of the other, I mean, you're going to
11 make it a condition precedent and it's going to have to
12 come back to the Board, you're going to make it a
13 condition after the fact, it's still got to come back to
14 the Board. The timing either way is going to be the same
15 thing because you can't delegate to staff to approve it.

16 MR. OXER: So conditions subsequent or
17 conditions precedent, either one, they have to come back
18 to the Board with the documentation.

19 MS. DEANE: Right. In order to see if the
20 conditions have been satisfied, it's still got to come
21 back to the Board. Again, my preference, just thinking
22 solely in terms of the Board and the interests of the
23 Board, would be to make it a condition precedent so it's
24 very clean. But either way, like I said, it's going to be
25 coming back to the Board, so I'm not sure that there's a

1 tremendous advantage to be gained in making a condition
2 subsequent because it's still got to come back to the
3 Board.

4 MS. BINGHAM ESCAREÑO: I have a question of
5 clarification. If we were to grant the waivers and we
6 have to articulate for the record the rationale for why
7 the waiver satisfies some other element, then how would we
8 articulate that for the record? I mean, in the past when
9 we've granted a waiver, we have to say for the record why
10 the waiver is necessary to satisfy some other aspect.

11 MS. DEANE: Right. This is the rule. It says:
12 A requested waiver must establish how the waiver is
13 necessary to address circumstances beyond the applicant's
14 control, and how, if the waiver is not granted, the
15 Department will not fulfill some specific requirement of
16 law or purpose or policy set forth in Texas Government
17 Code, Chapter 2306.

18 MR. OXER: Now, does 2306 include a component
19 that says we have to deal with HUD regulations?

20 MS. BINGHAM ESCAREÑO: Yes, that's my question.

21 MR. OXER: And that's the linkage to it because
22 it's a HUD conciliation agreement. Is that correct? Doe
23 that seem correct?

24 MS. DEANE: It is a HUD conciliation agreement.
25 I would have to look to find a specific statement that

1 would link that in. I feel that probably there is some
2 way -- there's possibly some way to articulate that. I
3 think probably that's something that the applicant is
4 supposed to articulate as part of their waiver request as
5 to how they believe it ties in, but that is something
6 that's supposed to be stated on the record before a waiver
7 is granted.

8 MS. JACKSON: It is a conciliation agreement of
9 which TDHCA is a party.

10 MR. OXER: So it's essentially a contractual
11 obligation we have. Okay, John, we're getting there.

12 MS. BINGHAM ESCAREÑO: Are you going to take a
13 vote on the current one?

14 MR. OXER: So what you're talking about is the
15 one that's the condition precedent?

16 MR. THOMAS: Yes.

17 MR. OXER: All right. There was a motion by
18 Mr. Thomas, second by Mr. Gann. Would you like to read it
19 one more time so we've got it clear?

20 MR. THOMAS: Only if it could be read back from
21 the record since I change it every time.

22 MR. OXER: Okay. Well, essentially it's to
23 provide the waiver given the condition precedent that it
24 satisfy the Board's inquiry with regarding the HUD --

25 MS. DEANE: Do you want me to further

1 complicate things just a little bit? The Board could
2 appoint a committee to determine if the conditions have
3 been met. I'm just going to throw that out there. And
4 the committee could meet between now and the next Board
5 meeting.

6 MR. OXER: That's a good one to hear.

7 MS. DEANE: I'll just throw that out there.

8 MS. BINGHAM ESCAREÑO: As opposed to delegate
9 it to the executive director.

10 MS. DEANE: You can't delegate it to staff.

11 MR. OXER: And we're trying to be sensitive to
12 the bond reservation deadline. I think that's a great
13 solution.

14 MR. THOMAS: So I would like to amend my
15 motion, Mr. Gann, if you'll accept it, that we do all the
16 things we already said, but that we ask the chair to
17 appoint a subcommittee responsible for confirming that the
18 conditions precedent have been met.

19 MR. OXER: As soon as possible.

20 MR. THOMAS: As soon as possible.

21 MR. GANN: I agree.

22 MR. OXER: Okay. Motion made by Mr. Thomas, as
23 modified, second by Mr. Gann, as modified. Question by
24 Ms. Bingham?

25 MS. BINGHAM ESCAREÑO: One more question. So

1 then that would not require them to come back to the
2 Board. In other words, if the committee is satisfied, the
3 Board is delegating the authority to be satisfied to the
4 committee of the Board, and then they don't have to wait
5 the whole month to come back.

6 MR. OXER: Correct. What it does is it
7 behooves you to get out there and get your engineering on
8 this and take care of it as soon as possible, and then get
9 it to us.

10 Okay. Elegant solution once we finally got
11 there.

12 Is there any other public comment? And the
13 right answer is no.

14 (General laughter.)

15 MR. OXER: Motion by Mr. Thomas and second by
16 Mr. Gann to what they just said. All in favor?

17 (A chorus of ayes.)

18 MR. OXER: Opposed?

19 (No response.)

20 MR. OXER: There are none. It's unanimous.
21 The committee is going to be made up of myself, Mr. Thomas
22 and Mr. Gann.

23 Cameron, do you have anything else?

24 MR. DORSEY: Jean has two, hopefully, quick
25 ones.

1 MS. LATSHA: Jean Latsha, Housing Tax Credit
2 Program manager. And yes, I'll be quick.

3 Item 3(b) is a request for an extension of
4 commitment expiration date. Staff issued a commitment to
5 Villas of West Mountain about a month ago. The short
6 story is the applicant as not able to obtain funding to
7 achieve a certain number of points that were originally
8 awarded on that application, so staff essentially was
9 recommending that the extension be denied and their
10 Housing Tax Credit award rescinded. The applicant has
11 since withdrawn his request but staff would appreciate it
12 if the Board would take action on the rescission of the
13 tax credits.

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

15 MR. OXER: Motion by Mr. Gann to approve staff
16 recommendation. Do I hear a second?

17 MR. McWATTERS: Second.

18 MR. OXER: Second by Professor McWatters. Is
19 there any public comment?

20 (No response.)

21 MR. OXER: Very well. All in favor?

22 (A chorus of ayes.)

23 MR. OXER: Opposed?

24 (No response.)

25 MR. OXER: There are none. It's unanimous

1 amongst the now four of us. We do maintain our quorum.

2 Next item, Jean.

3 MS. LATSHA: Very quickly, item 3(c). This
4 item is four subsequent tax credit awards that were made
5 off the waiting list. This recommendation was contingent
6 upon the denial of the extension request which has been
7 withdrawn. So I am happy to answer any questions.
8 There's a time line on page 4 of the write-up that lays
9 out how tax credits were returned to the Department and
10 how staff determined the next eligible application on the
11 waiting list. I'm happy to answer any questions about it,
12 but if you don't have any, we could just make those four
13 awards.

14 MR. THOMAS: Mr. Chairman, move to adopt
15 staff's recommendation.

16 MR. OXER: Motion by Mr. Thomas to approve
17 staff recommendation. Is there a second?

18 MR. McWATTERS: Second.

19 MR. OXER: Second by Professor McWatters. Is
20 there any public comment?

21 (No response.)

22 MR. OXER: All in favor?

23 (A chorus of ayes.)

24 MR. OXER: Opposed?

25 MR. OXER: There are none.

1 Okay. We seem to be at the end of the stated
2 agenda and now we're at the point in our agenda where we
3 have the opportunity for public comment on matters other
4 than items for which there were posted agenda components.
5 Do we have any public comment?

6 MR. KAHN: Barry Kahn, developer from Houston.

7 MR. OXER: Three minutes.

8 MR. KAHN: There was a packet given out. I've
9 got three things and I think other people gave me time
10 based on this.

11 There was a packet that was handed out to the
12 Board that looks like this which the first page shows what
13 the rents have been the past ten years in Houston.
14 Basically we've had 1 percent rent increase. The second
15 page is taking a typical tax credit application and the
16 way it's underwritten on a 1.2 to 1 debt service coverage,
17 and you can see it gets past ten years. The third page is
18 if you go back to an income growth assumption of 1 percent
19 instead of 2 percent, which is the underwriting
20 standard -- and I'm not suggesting going back to 2
21 percent, I'm going somewhere with this on compliance --
22 you will see with only a 1 percent increase you don't even
23 get to year ten.

24 So at the last Board meeting I brought up a
25 request to exclude housekeeping issues. The fourth and

1 fifth pages in this is a list of housekeeping issues that
2 the industry has come up with, and you know, basically
3 it's all housekeeping type issues. There is one issue on
4 the second page talking about overgrown vegetation where
5 it occurs by a neighbor. In other words, if a neighbor
6 has growth next to a fence, like a chainlink fence next to
7 your property and his trees grow over and vines go
8 through, it gets to be questionable whether we have the
9 right to go in and cut the neighbor's property,
10 particularly if it doesn't affect any of our common
11 elements.

12 Some of these things that we get gigged on,
13 we're not sure we have the right to even correct. Like if
14 there is a cable connected to a computer across the floor
15 of a room, do we even really have a right to remove the
16 tenant's cable. Do we have a right to remove a tenant's
17 furniture.

18 The next four pages are pictures from the HUD
19 website and the HUD website is referred to on these two
20 pages previously. The first shows a picture of a hole.
21 We're asking that a hole two inches or smaller not be
22 included and be housekeeping and not something rising to a
23 Level 1 under the Department's inspection standards. As
24 you will see, this s a huge hole which HUD, from its
25 website, is using as an example of a hole.

1 The next page shows mildew covering more than
2 four square feet, and what we're trying to get out of is
3 cleaning a tenant's mildew on their window sills and in
4 their bathtubs, but we get gigged for that now and we have
5 to clean it and it goes on one's permanent record now.

6 The third page from the HUD website shows
7 blocked egress. We aren't talking about a movable piece
8 of furniture, we're talking about boards being nailed on a
9 wall on the exterior of the unit. And again, this is a
10 HUD standard that they're putting out as an example.

11 And then the fourth page where they talk about
12 overgrown vegetation, it has to do with a common area of
13 the property, and trees, as you can see, they're up
14 against the building -- or maybe this picture isn't as
15 good -- but it's not an adjoining property's overgrowth,
16 it's the property's overgrowth which is something an owner
17 does have control over.

18 But again, I'm trying to expand the issue of
19 what should a developer be responsible for and what
20 shouldn't a developer be responsible for.

21 Then after the first three pages -- and the
22 reason for the first three pages is just to show we're
23 being pressed financially, we don't need any other
24 financial pressures, in particular with older properties.

25 But there's a suggestion in Section 1.5(c)(2) of the

1 previous participation rules be modified where if you
2 can't correct an issue, like there's a fair housing form
3 and it's not filled out and somebody moves out, you can't
4 make that prior tenant sign the form. The way the rules
5 are written right now it permanently stays on your record,
6 it continues to go up to EARAC, and so what we're
7 suggesting if something can't be corrected but the
8 procedure has been corrected, that it's not an issue that
9 goes to EARAC.

10 And the other thing that I'm suggesting is that
11 there be some sort of way for somebody who has many
12 properties to be not unfairly penalized because they have
13 a lot of properties compared to somebody who has one
14 property. For instance, if somebody has 20 properties and
15 they have eight items, let's say, that float their way up
16 to EARAC, it's not the same as somebody having one
17 property and having two or three items by way of
18 percentage. So I'm suggesting when EARAC does review
19 stuff that they take into consideration maybe divide by
20 the number of properties somebody has to factor how they
21 determine whether or not somebody passes or doesn't pass
22 the EARAC standard.

23 My second group of comments is a personal one,
24 and thirdly, I've got some TAAHP comments with the QAP.
25 But on revitalization zones, the definition was changed

1 this year, and last year revitalization area had been
2 vetted or had been approved by everyone in the City of
3 Houston. That standard has been made tougher this year.
4 Houston cannot meet the standard.

5 So what I am suggesting is that there be an
6 alternative -- and I know the city is going to say let's
7 focus it a little tighter -- that for regions other than
8 Region 3 -- and I realize the rule was tightened for
9 Region 3 to meet certain court standards, and I'm not
10 objecting to what's being obligated for Region 3 -- but
11 the Department is trying to protect themselves by applying
12 the general theory statewide, but that for other regions
13 that one can use the revitalization plan terms that were
14 agreed upon last year.

15 Secondly, for DR zones that they don't have to
16 have a commitment by application for DR funds, and this is
17 what the City of Houston is going to go along with, is
18 that anything that's in a DR determined area, that that
19 qualify as revitalization.

20 So I'm asking that both the DR zones as well as
21 the broader revitalization zones that have been previously
22 approved by the Department qualify as an alternative on
23 the Region 3 revitalization zones as far as what qualifies
24 for revitalization.

25 Next there's a handout that was given to you

1 that was put together by TAAHP. Normally we wait till the
2 last meeting to present this, however, we like to get it
3 in front of the Board for their consideration so they can
4 be thinking about it. When you get the information at the
5 final meeting, everything gets rushed, as we see today,
6 things can take a long period of time, and then fair
7 consideration is not able to be given to the matter, so we
8 are trying to get the issues out in front of the Board.

9 A couple of things I'd like to point out is one
10 has to do with seniors. Seniors are being excluded from
11 certain regions and certain sub-regions. The suggestion
12 is that not more than 65 percent of the tax credits can be
13 allocated in that region. And I'm going to use Region 6
14 which I know very well, and this ties to the
15 revitalization reason. If you exclude seniors, in the
16 west half of Houston you aren't going to get neighborhood
17 support for families, it's just not going to happen. I
18 mean, I've been caught in lynch groups and a lot of other
19 people can testify to the same.

20 You've seen all sorts of objections in the
21 past, for those who have been on the Board, as far as
22 stuff in Fort Bend, as far as stuff in Katy, as far as
23 stuff in northwest Houston. So then you're left to the
24 east side of town and those aren't necessarily high
25 opportunity areas, so if they aren't revitalization areas,

1 you can't get the boost. Well, things have to be
2 feasible, we're going to lose the 9 percent flat rate,
3 more than likely, which means every development is going
4 to lose about 17 percent in credits.

5 The City of Houston is going to focus all their
6 soft money to homeless, so if you aren't doing a homeless
7 component, it probably doesn't work for a tax credit deal.
8 Unless it's all homeless and you have the service
9 function, there's going to be no soft money. I mean,
10 deals are going to have to be feasible, otherwise, we're
11 going to have a region like Region 6 that may not even be
12 able to fulfill its \$9- or \$10 million allotment, and the
13 region is desperate for housing.

14 So I'm asking personally for the
15 revitalization, but two, TAAHP is asking that 65 percent
16 of the credits in a sub-region can go to senior
17 developments, and where there's only one tax credit
18 allocation in a sub-region, that that can be seniors
19 because there's some sub-regions that are totally excluded
20 from seniors where there's only going to be one deal.

21 MR. OXER: You need to wrap it up, Barry.
22 We're running late.

23 MR. KAHN: Yes. Then as far as underserved
24 areas, the request from membership is that there be one
25 point for a qualified elderly development.

1 On the 811 issue, it's pretty much mandated,
2 like for Region 6 and certain regions to qualify have to
3 follow 811. You've heard before these rules are unclear.
4 We'd just like it to be drafted in a way that people have
5 the option to go with 811, they don't have to. Because if
6 you don't know what the rules are, it's pretty hard to
7 follow it and we all know how difficult it is working in
8 this program when you're following the rules, much less
9 when you don't even know what the rules are.

10 And the last thing, again, it ties to making
11 deals feasible from a financial standpoint, recommendation
12 number 18, with the leveraging of private, state and
13 federal resources, that the numbers be moved from 7, 8 and
14 9 percent to 8, 9 and 10 percent, again, to make deals
15 feasible.

16 And I believe Audrey Martin is going to finish
17 up on a couple of other TAAHP comments, and others have
18 some other comments. Thank you.

19 MR. OXER: Good. Thanks.

20 MS. MARTIN: Good afternoon, Board members.
21 I'm Audrey Martin and I am here today on behalf of TAAHP.

22 I'm going to point out three other items from
23 the TAAHP letter that you all have in front of you. There
24 are 22 recommendations on that letter. We want to just
25 highlight seven today. Barry has covered four, I'm going

1 to cover three more. And all of these comments were
2 achieved through a TAAHP QAP and Multifamily rule meeting
3 and they were developed as consensus items, so individual
4 members will also present their own comments that weren't
5 a consensus of the membership. So what you see before you
6 are just those comments that the group was able to reach
7 consensus on.

8 First, recommendation number 11 is related to
9 the commitment of development funding by local political
10 subdivisions. This section of the QAP provides scoring
11 incentives for developers to seek funding from cities,
12 counties and governmental instrumentalities for their
13 developments, and it outlines different scoring levels
14 based on different levels of funding. These levels are
15 based on the population of a place where a development is
16 located, as well as incorporating a per-unit funding level
17 cap as well.

18 So TAAHP membership has observed that there are
19 decreasing pots of funds available to these local
20 jurisdictions and based on that observation, TAAHP
21 membership is recommending a reduction to the amount of
22 funds required to achieve the different scoring levels
23 under the local political subdivision funding QAP item.

24 Additionally, in 2013 the QAP allowed for a
25 lesser level of points for those applications located in

1 jurisdictions where the local jurisdiction provided a
2 support resolution and basically said we would provide
3 funding to your development but we don't have funding
4 available. And so the 2014 QAP draft does not have that
5 provision, and TAAHP is recommending that that provision
6 be incorporated back into the 2014 QAP as it was in the
7 2013 QAP.

8 The next recommendation I want to talk about is
9 recommendation number 14 which is related to community
10 revitalization plan scoring item for rural areas
11 specifically. The 2014 draft QAP, like the 2013, offers
12 options for developers in rural areas to achieve points
13 under the CRP scoring item by being located in areas that
14 show growth and expansion indicators which the QAP
15 measures as close proximity to new or planned
16 infrastructure improvements, meaning road improvements,
17 water improvements, and sewer improvements.

18 The radius for measurement that's in the QAP is
19 a quarter mile. This was the same radius that was used in
20 2013. The experience of TAAHP membership in 2013 was that
21 the quarter mile radius was very limiting in allowing us
22 to be able to find good real estate based on visibility,
23 access, different things. There could be a site just
24 outside of a quarter mile that was more favorable than the
25 site within a quarter mile.

1 So anyway, TAAHP members are recommending that
2 the radius be increased from a quarter mile to one mile.
3 TAAHP feels that this change would allow more latitude to
4 choose quality real estate, while still locating in areas
5 where growth and expansion indicators are present.

6 Finally, I want to comment quickly on cost of
7 the development per square foot. That's recommendation
8 number 16. This scoring item within the QAP provides
9 incentives for developers to keep their construction costs
10 below certain ceilings, essentially based on the type of
11 the development, as well as location. TAAHP supports this
12 methodology. We just feel that kind of based on what
13 we're seeing in construction pricing that the dollar
14 figures outlined in the QAP are just a little bit too low.

15 What we're seeing is that dollar figures approximately
16 \$10 per square foot higher pretty much for every scoring
17 level are more in line with what we're seeing in
18 construction pricing. So TAAHP is recommending a \$10 per
19 square foot increase for each level outlined.

20 And also on the cost per foot scoring item,
21 there is one point provided for applications that present
22 a cost per square foot figure that is within 5 percent of
23 the mean cost per square foot for all like applications in
24 the current scoring round. So TAAHP is recommending a
25 deletion of that provision because it rewards luck rather

1 than merit.

2 So that concludes my comments. Thank you so
3 much.

4 MR. OXER: Thanks, Audrey.
5 Cynthia.

6 MS. BAST: Good afternoon. Cynthia Bast of
7 Locke Lord. Thank you very much, Board, for your
8 perseverance.

9 I am here today representing Granger MacDonald
10 and his companies. He is out of state today and he asked
11 me to provide you with just a couple of comments with
12 regard to the draft rule that are out for public comment
13 and that will be adopted at the upcoming Board meeting.

14 First, with regard to the compliance rules, he
15 asked me to say ditto Barry Kahn. That's probably enough,
16 but let me just say what's important to him is that the
17 committee consider the size of a developer's portfolio.
18 He has been in this business for a very long time and owns
19 numerous properties, and so that perspective needs to be
20 maintained.

21 He, like many of the developers out there, is
22 also very concerned about the housekeeping issues. I
23 think what you heard from Mr. Kahn is that there seems to
24 be some difference between maybe what HUD puts out there
25 as here's an interior unit issue and perhaps what the

1 actual owners are finding in their inspections. But what
2 I think Mr. Kahn did not say is that these particular
3 issues are very, very costly and time-consuming for the
4 property owners. I've had multiple property owners tell
5 me that preparing for an inspection because of these
6 housekeeping concerns can take hundreds of man hours that
7 cost them a whole lot of money. Moreover, the tenants
8 themselves do have rights. So I think everyone seeks to
9 find some sort of solution on that issue.

10 The second issue relates to the QAP. Again,
11 touched on by Mr. Kahn but I'll provide a little bit more
12 detail, and that has to do with certain counties not being
13 eligible for qualified elderly developments. This is new
14 this year and it is a huge concern. For instance, one of
15 the counties is Kendall County and Mr. MacDonald asserts
16 that he owns the 298 units of elderly housing in Kendall
17 County and he has a multi-year waiting list. So why would
18 Kendall County be cut off when he has a multi-year waiting
19 list, why would they be cut off from additional elderly
20 development.

21 I don't think that there has been an adequate
22 vetting of the data that has been utilized to analyze this
23 and determine which counties should be excluded here.
24 Moreover, besides what the developers think, what do the
25 cities and counties think about that kind of

1 ineligible. It's a very significant change, and if
2 this is something that TDHCA believes is important because
3 there's an overabundance of elderly developments or a
4 glut, that's fine, but I think this is the kind of thing
5 where it needs more time to be presented and vetted with
6 regard to the numbers and what are we including, what are
7 we excluding for perhaps the 2015 QAP.

8 So those are the conclusion of the comments and
9 I do appreciate your time. Thank you.

10 MR. OXER: Thanks, Cynthia.

11 MS. CHAPA-JONES: Hi. I'm Veronica Chapa-
12 Jones. I'm the deputy director for grants management and
13 compliance with the City of Houston Housing and Community
14 Development Department.

15 Everyone looks really tired, so I'm just going
16 to crystallize the mission-critical issues for the City of
17 Houston regarding this year's Qualified Allocation Plan
18 and we'll provide additional detail in the written
19 comments we provide to staff.

20 So most importantly, we want to echo the
21 comments that have been made about qualified elderly
22 developments. It's a concern for us, the data and
23 methodology wasn't published, because we simply don't
24 understand why we would want to restrict elderly housing,
25 what the numbers and the figures were to make that

1 restriction, and so we would advocate for a more graduated
2 approach with a clear understanding of the data so that we
3 can partner in that decision-making if we really need to
4 decrease the amount of elderly development in the City of
5 Houston.

6 The second issue that I want to talk about is
7 the idea of supportive housing which was peppered
8 throughout the QAP with different scoring mechanisms. One
9 of the things where I have failed to communicate to you is
10 a permanent supportive housing initiative that we have
11 with the City of Houston that would dovetail very nicely
12 with some of the supportive housing initiatives that TDHCA
13 is doing today.

14 Some details about that particular program.
15 The initiative is projected to end chronic homelessness by
16 2016. We actually quantified how many units would be
17 necessary to end chronic homelessness, the services that
18 would need to be provided. We've put \$20 million dollars
19 of housing and homeless bond funds to a vote. We have
20 authorization to use \$12 million as additional gap
21 financing over the next two years. We have a homeless
22 czarina out of the mayor's office that is bringing all the
23 departments together, including the Houston Housing
24 Authority to give vouchers which I think will be really
25 critical when we're talking about doing permanent

1 supportive housing that is meaningful for the residents
2 and that provides the services that we know they need for
3 permanent transition.

4 So interestingly, when you're going through the
5 QAP, what we'll be arguing for is to allow for parity for
6 scoring where a location jurisdiction that has done
7 tremendous planning like the City of Houston -- I'm not
8 doing it justice, lots of work has gone into that -- it
9 would make us stand out as partners very, very well, so
10 we're going to make recommendations where we can make
11 ourselves shine together in that particular area in the
12 scoring mechanism.

13 And the third issue that I want to talk
14 specifically about is the idea of the revitalization plan.
15 I don't know if John Henneberger is still here -- he is,
16 and Mattie. We collaborated on the disaster recovery
17 areas in the City of Houston on putting together a really
18 comprehensive planning process. It took a year, it
19 included Texas Low Income Housing Information Service,
20 Appleseed, the Texas Organizing Project, hundreds of folks
21 in public meetings, with Shirretts, a national planning
22 firm helping us develop a 900-page document, a lot of
23 tremendous work. HUD headquarters has asked us to write
24 this up as a concept for a national model.

25 Interestingly, I do not believe personally that

1 we could meet the criteria established in the QAP for a
2 revitalization plan because they're so prescriptive and
3 they have a very particular mission. So the idea that
4 what we're doing in the disaster areas isn't
5 revitalization, clearly, if you've been part of the
6 process, you can see that is what we're committed to
7 doing, in addition to infrastructure, housing dollars and
8 other local resources.

9 So what we'll be asking for is the
10 consideration to look at that and partner in looking with
11 Tim and Cameron, and of course, Barbara, on how we can
12 meet the goals of the revitalization plans that the state
13 wants to have as a part of its scoring mechanism and meet
14 it with this disaster recovery activity that has been
15 tremendous, another national case study, and an
16 opportunity for us to shine together.

17 So you'll get more details in writing and I'm
18 happy to answer questions next time.

19 MS. MCGUIRE: Good afternoon, Chairman and
20 members of the Board. My name is Ginger McGuire and I'm
21 speaking on behalf of the Rural Rental Housing
22 Association. I also have notes from Dennis Hoover who had
23 to leave. He was also speaking on behalf of the Rural
24 Rental Housing Association. I will do my best to say
25 twice as much in half the time and follow it up with

1 written comments.

2 Rural Rental Housing is an association made up
3 of members, 715 project members, who have projects built
4 with 515 financing. I'm happy to explain what the 515
5 financing is to you all whenever you want to know more
6 about that, but it's housing that was financed by USDA,
7 much of it built 35 to 50 years ago. The average income
8 of our residents is \$10,800 overall, and these projects
9 are all rural and they're very much in need of
10 rehabilitation. They rely almost exclusively, at this
11 point, on low income housing tax credits to accomplish
12 that goal.

13 Our first recommendation -- and I have three
14 things in this category -- has to do with the opportunity
15 index. First of all, thank you very much for your
16 addition last Board meeting of the two elderly amenity
17 additions. We think that's very important. Fifty-six
18 percent of the residents in these 515 apartments are
19 elderly and we think this recognizes their need for
20 services, and we appreciate your addition of that and
21 support it.

22 Secondly, items 1 through 4 and items 6 through
23 7 deal with the mileage that was mentioned earlier by
24 TAAHP. The rural areas are not built on a density,
25 they're very spread out. A community of 3,000 residents

1 can go for miles in all directions, so a quarter of a mile
2 is really not applicable in a rural area. These
3 communities have very little money for infrastructure and
4 rehabilitation and anything else that goes on, so a mile
5 in this category is, we feel, too short, two miles is
6 better. If there's anything in that community that serves
7 the needs of those residents, then it serves the whole
8 community.

9 And the third thing I want to say about this
10 particular category is item number 5 which talks about the
11 quartiles, first and second quartiles, it's the same
12 issue. Excuse me, I'm going to go to Dennis's notes here.

13 The smaller the town, the more likely it is to be covered
14 by only one census tract, so either all of the town is in
15 the tract or all of the town is out of the tract, and so
16 what we're doing is selecting towns. It really does not
17 fulfill TDHCA's efforts with the conciliation agreement
18 because we're selecting one town or the other since
19 there's one census tract within the whole community. We'd
20 like to see that disappear, the first and second quartile
21 in the rural areas.

22 Next recommendation, we would like to see at-
23 risk exempted from the opportunity index altogether. We
24 feel that these developments are desperately in need of
25 rehab. Our owners are going halfway, three-fourths of the

1 way down sometimes their list of properties that
2 desperately need rehab and they are picking them on what
3 scores well as opposed to which developments really need
4 the rehabilitation. That's happening over and over again,
5 and we feel like this is contributing to the further
6 decline of these older properties in particular.

7 I'll try and speed this up. Recommendation
8 number three, the distances again from the community in
9 the community revitalization projects where it mentions a
10 quarter mile, and TAAHP spoke to that. Again, we'd like
11 to say we think two miles is more appropriate in rural
12 communities.

13 Recommendation number 4 is the construction
14 cost per square foot, and we did some data analysis on
15 that. These costs are not really -- they can't be
16 pinpointed on one basis, they're regional in nature.
17 Larger developments have a cost benefit to the larger
18 development. Smaller developments are less cost-effective
19 to build, their costs are higher many times. In the
20 Panhandle right now, it is very hard to find labor,
21 they're all going to the oilfields, same with West Texas,
22 same with South Texas. Labor is all over the place.

23 We did an analysis of five different properties
24 getting a geographical dispersed representation, and the
25 site work plus the bricks and sticks, just the basic cost

1 of construction, ranged from \$87.62 to \$113.24. Average
2 cost of, again, site work, bricks and sticks, was \$86.78.

3 If you add the 6 percent general requirements to that and
4 2 percent of the overhead, you come up with a \$93.72 per
5 square foot cost. We would like to see and respectfully
6 request that those costs be raised at least \$15.

7 I'll put the rest of it in writing. Thank you
8 very much.

9 MR. OXER: Good. Thank you.

10 MR. DIETRICH: Good evening, Mr. Chairman,
11 ladies and gentlemen. I'm Steve Dietrich, downtown
12 development director for the City of Corsicana.

13 I came before you last month and gave some
14 comments on the proposed QAP, and you may recall at the
15 time I spoke rather generally about the need to level the
16 playing field for adaptive reuse projects which tend to be
17 in central business districts or other areas that are
18 lower income and which puts them at a competitive
19 disadvantage to the project in high opportunity areas.

20 Further, I believe I commented that doing such
21 a rules change would not only help to achieve affordable
22 housing objectives but it will also bolster historic
23 preservation efforts and economic revitalization in rural
24 areas, such as Corsicana.

25 Since the last meeting, our team has been in

1 contact with TDHCA staff and we are prepared at this point
2 to present some specific language that we would
3 respectfully request that you consider adding as an
4 augmentation to the QAP, and if you don't mind, I'll just
5 read these. This has to do with Chapter 11.9, Section 5
6 of the QAP, Extended Affordability or Historic
7 Preservation.

8 Paragraph (a): In accordance with the Code,
9 each development is required to maintain its affordability
10 for a 15-year compliance period, and subject to certain
11 exceptions, and additional 15-year extended use period.
12 Development owners that agree to extend the affordability
13 period for a development of 35 years total may receive
14 one point.

15 Or paragraph (b): An application proposing the
16 use of historic rehabilitation tax credits for at least 80
17 percent of the development project, calculated as the
18 lesser of the square footage or the unit count, and
19 providing a letter from the Texas Historical Commission
20 determining preliminary eligibility for said credits may
21 qualify to receive eight points.

22 The addition of these points will counteract
23 the unintended bias, we believe, of the opportunity index,
24 further development of affordable housing for Texans,
25 spread the availability of low income housing tax credits,

1 help communities achieve their community development and
2 historic preservation needs, and provide for the highest
3 possible reuse of existing municipal infrastructure and
4 other resources.

5 Thank you for your consideration of this
6 request.

7 MR. OXER: Thank you, Mr. Dietrich.

8 MR. SERRAN: Jim Serran, developer, Serran
9 Company Landmark Group.

10 Just to reiterate, that's the point I'm on, I'm
11 working with about eight towns in Texas, Corsicana,
12 Texarkana, I think you've heard from several of them, and
13 the biggest point, House Bill 500 just passed the state
14 tax credit worth 25 percent in the state, and I work in
15 about twelve states, and that's unheard of that a non
16 income tax state has a state historic tax credit. And
17 what they're saying is, I think, to me, we want to save
18 some old properties, and I've got a lot of communities
19 that I'm working with that want to do exactly that.

20 And I think that the nut of it is we can do the
21 things that he's talking out, putting the vacant buildings
22 back on the tax rolls, reusing existing infrastructure,
23 blah-blah-blah, all that smart growth, and I can do it for
24 about a third less. And when I use the federal historic
25 and a state historic, I've got 40 percent equity not

1 coming from you.

2 So my major point is I don't think you've had
3 time as a staff, they just passed that law, they're still
4 writing how they're going to distribute that law, the
5 House bill for state credit, but there are buyers, the
6 banks, the insurance companies for that credit, it's worth
7 85 to 88 cents is what I'm hearing. And if you would
8 allow that to be included as a layering stack in your
9 pile, we can do a lot more with less and it does five
10 things instead of one thing. Even if there's a cap on it
11 in a waterfall system, you're still going to get more bang
12 for your buck, a third more. My guess is instead of using
13 \$10,000 a unit low income credit, I'll use \$7,000 because
14 I've got other layers.

15 So we're going to put all this in writing. I
16 think you're getting some letters from Texas Downtown
17 Association, Texas Historical, there's a lot of people
18 behind it and you're going to be hearing about it, but
19 just wanted to follow up. It's numbers to me and they
20 make sense to you guys.

21 Thank you.

22 MR. OXER: Great. Thanks, Jim.

23 Bobby.

24 MR. BOLLING: Bobby Bolling, developer from El
25 Paso, for the record.

1 Welcome, Mr. Thomas, to the Board.

2 MR. THOMAS: Thank you.

3 MR. BOLLING: I didn't want to speak but last
4 Board meeting that you met I left early and I read the
5 transcript and watched the video and you had several
6 public housing authorities come talk to you about the same
7 issue regarding points given to themselves with their own
8 funds that you heard hours of testimony on last year. You
9 did the right thing last year at the end, you voted
10 unanimously to make a level playing field between private
11 developers and PHAs. I assume that they're going to now,
12 since they came at the last meeting, at the November
13 meeting come and use everything they have to try to make
14 you change your mind and go back on what you did last
15 year.

16 I want to tell you that nothing has changed,
17 there's no new information that would make their case more
18 plausible or better than it was last year. One thing did
19 change, though, is the state attorney of the State of
20 Texas reaffirmed what you did last year was legal, even
21 with a request from a legislator who was favorable to the
22 PHA side of that issue.

23 I don't want to get into the details of it at
24 this point, I know you're not considering voting on the
25 QAP. I think there's probably some letters you're getting

1 from some legislators, but I do want to advise you on
2 that, that a lot of those legislators are just getting one
3 side of the story. We just had a session that ended,
4 there was no bill that addressed this that told you what
5 you were doing was wrong and that you should do it a
6 different way. If they thought that this was that strong
7 of an issue, 31 of them in the Senate and 149 of them in
8 the House could have authored a bill, none of them did.

9 I would submit to you that if they hear the
10 other side of the story from the private developers
11 instead of just what they're getting from the PHAs and
12 valued it and weighed it carefully, like you did last
13 year, they would probably arrive at the same conclusion
14 you arrived at last year.

15 So I'll come with more information. I guess
16 we're going to have this knock-down drag-out fight again
17 this year. There are no new issues.

18 Mr. Thomas, I'd love to spend some time with
19 you and maybe talk to you about what the issue is in
20 further detail. I know you guys are tired at this point.

21 We went through this for hours last year at the podium,
22 and again, I applaud what you did last year, you made a
23 level playing field, and I just want to encourage you to
24 keep the playing field level. There shouldn't be a
25 preference for the type of developer that applies for a

1 tax credit. And that's the crux of the issue, Mr. Thomas,
2 is the public housing authorities, the PHAs, want to have
3 a point item whereby because they're a local political
4 subdivision, their own funds count for points when they
5 are the applicant.

6 MR. THOMAS: I understood the distinction.
7 Thank you.

8 MR. BOLLING: Okay. Thank you. And so no new
9 issue, just want to reiterate that this is still Texas and
10 private developers still should have the same rights when
11 they compete with their government. So thank you.

12 MR. OXER: Okay. Is there any other public
13 comment?

14 (No response.)

15 MR. OXER: Any comment from staff? We're going
16 to step this down, everybody gets a chance to speak. Any
17 comment from staff? Any comment from staff on the dais?

18 MR. IRVINE: No.

19 MR. OXER: Any comment from any of the Board
20 members?

21 (No response.)

22 MR. OXER: Okay. I get the last word as
23 chairman. Thank you everybody for your persistence.

24 (Timer beeped; general laughter.)

25 MR. OXER: All right. With that, I'll

1 entertain a motion to adjourn.

2 MR. GANN: So moved.

3 MR. THOMAS: Second.

4 MR. OXER: Motion by Mr. Gann, seconded by Mr.
5 Thomas. All in favor?

6 (A chorus of ayes.)

7 MR. OXER: Opposed?

8 (No response.)

9 MR. OXER: There are none. We'll see you on
10 November 7.

11 (Whereupon, at 5:30 p.m., the meeting was
12 concluded.)

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C E R T I F I C A T E

MEETING OF: TDHCA Board of Trustees

LOCATION: Austin, Texas

DATE: October 10, 2013

I do hereby certify that the foregoing pages, numbers 1 through 293, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Housing and Community Affairs.

(Transcriber) 10/17/2013
(Date)

On the Record Reporting
3636 Executive Ctr Dr., G-22
Austin, Texas 78731