

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

John H. Reagan Building  
Room JHR 140  
105 W. 15th Street  
Austin, Texas

June 28, 2018  
8:00 a.m.

MEMBERS:

J.B. GOODWIN, Chair  
LESLIE BINGHAM ESCAREÑO, Vice Chair  
PAUL BRADEN, Member  
ASUSENA RESÉNDIZ Member  
SHARON THOMASON, Member  
LEO VASQUEZ, 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	11
ROLL CALL	
CERTIFICATION OF QUORUM	
CONSENT AGENDA	
ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:	12
EXECUTIVE	
a) Presentation, discussion, and possible action on Board meeting minutes summary for April 26, 2018	
LEGAL	
b) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Sunrise Village Phase I (HOME 532336 / CMTS 2722)	
MULTIFAMILY ASSET MANAGEMENT	
c) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement:	
01051 El Dorado Village Brownsville	
01058 Rosemont of Highland Gardens	
Harlingen	
d) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application:	
15121 The Glades of Gregory-Portland	
Gregory	
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e) Presentation, discussion, and possible action regarding Change in Ownership Structure of Development Owner and Developers Prior to Issuance of IRS Forms 8609s for Various Developments	
f) Presentation, discussion, and possible action regarding a Placed in Service Deadline Extensions:	

## 15185 LaMadrid Apartments Austin

## HOUSING RESOURCE CENTER

- g) Presentation, discussion, and possible action on the final 2018 State of Texas Consolidated Plan: One-Year Action Plan

## HOUSING CHOICE VOUCHER PROGRAM

- h) Presentation, discussion, and possible action on the Section 8 Program 2019 Annual Public Housing Agency Plan for the Housing Choice Voucher Program
- i) Presentation, discussion, and possible action authorizing the Department to submit a Registration of Interest for U.S. Department of Housing and Urban Development Veterans Affairs Supportive Housing vouchers within Fort Bend and Galveston counties, and if successfully awarded, to operate such program

## PROGRAM CONTROLS AND OVERSIGHT

- j) Presentation, discussion, and possible action to authorize the Director of Program Controls and Oversight and his/her designees to assign, transfer and/or sell defaulted single family loans to nonprofit organizations, and units of local governments and through various approaches to otherwise manage, secure and dispose of Department's foreclosed single family assets

## ADMINISTRATION

- k) Presentation, discussion, and possible action to adopt a resolution regarding designating signature authority and superseding previous resolutions in this regard

## NEIGHBORHOOD STABILIZATION PROGRAM

- l) Presentation, discussion, and possible action authorizing amendments to the Neighborhood Stabilization Program 3 Contract and Program Income Reservation Agreement

## COMMUNITY AFFAIRS

- m) Presentation, discussion, and possible action on the Program Year 2018 Department of Energy Weatherization Assistance Program

## Health and Safety Plan

- n) Presentation, discussion, and possible action on awards for Federal Fiscal Year ("FFY") 2018 Community Services Block Grant Discretionary Funds for education and employment services to Native American and Migrant Seasonal Farm Worker populations

## MULTIFAMILY FINANCE

- o) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits with another Issuer  
18419 St. John's Apartments San Antonio
- p) Presentation, discussion, and possible action on Inducement Resolution No. 18-022, Park Yellowstone, for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority on the 2018 Waiting List and a waiver relating to 10 TAC §10.101(b)(8), related to Development Accessibility Requirements
- q) Presentation, discussion, and possible action on staff determinations regarding Application disclosures under 10 TAC §10.101(a)(2) related to Applicant Disclosure of Undesirable Site Features:
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| 18086 | The Village at Overlook Parkway<br>San Antonio |     |
| 18091 | Lavon Senior Villas Garland                    |     |
| 18099 | Waters Park Studios Austin                     |     |
| 18217 | Cypress Creek at Santa Fe<br>Santa Fe (Pulled) | 12  |
| 18274 | Hill Court Villas Cranbury                     | 105 |
| 18314 | Reserves at Maplewood<br>Wichita Falls         |     |
| 18320 | Seaside Lodge Seabrook                         |     |
| 18370 | Heritage Tower Longview                        |     |
| 18383 | Provision at Lake Houston Houston              |     |

## BOND FINANCE

- r) Presentation, discussion, and possible action on Resolution No. 18-025 authorizing publication of Public Notice for Mortgage Credit Certificate Program

## RULES

- s) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC §1.7, Staff Appeals Process, and 10 TAC §1.8, Board Appeals Process; and an order proposing new 10 TAC §1.7, Appeals Process, and directing publication for public comment in the Texas Register
- t) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC §1.10, Public Comment Procedures, and an order proposing new 10 TAC §1.10, Public Comment Procedures, and directing publication for public comment in the Texas Register
- u) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC §1.13, Contested Case Hearing Procedures, and an order proposing new 10 TAC §1.13, Contested Case Hearing Procedures, and directing publication for public comment in the Texas Register
- v) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC §1.16, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers, and an order proposing new 10 TAC §1.16, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers, and directing publication for public comment in the Texas Register
- w) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC §1.17, Alternative Dispute Resolution and Negotiated Rulemaking, and an order proposing new 10 TAC §1.17, Alternative Dispute Resolution, and new 10 TAC §1.12, Negotiated Rulemaking, and directing publication for public comment in the Texas Register
- x) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC §1.18, Colonia Housing Standards, and directing publication for public comment in the Texas Register

- y) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC §1.19, Reallocation of Financial Assistance, and an order proposing new 10 TAC §1.19, Reallocation of Financial Assistance, and directing publication for public comment in the Texas Register
- z) Presentation, discussion, and possible action on an order proposing the read option, without changes, of 10 TAC §1.22, Providing Contact Information to the Department, and directing publication for public comment in the Texas Register
- aa) Presentation, discussion, and possible action on orders adopting amendments to 10 TAC Chapter 23, Single Family HOME Program Rules Subchapter F, Tenant-Based Rental Assistance Program, §23.61 concerning Tenant-Based Rental Assistance ("TBRA") General Requirements, and directing publication in the Texas Register
- bb) Presentation, discussion, and possible action on an order adopting repeal of 10 TAC Chapter 7, Subchapter A, General Provisions, and 10 TAC Chapter 7, Subchapter B, Homeless Housing and Services Program, and an order adopting new 10 TAC Chapter 7, Subchapter A, General Provisions, and 10 TAC Chapter 7, Subchapter B, Homeless Housing and Services Program, and directing publication in the Texas Register

#### CONSENT AGENDA REPORT ITEMS

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    - iii. Approval of the Housing Finance Division annual operating budget
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- ITEM 4: BOND FINANCE
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18033 The Miramonte Fifth Street 166

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18043 Huntington at Miramonte Fifth 166  
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18047 Miramonte Single Living Fifth 166  
Street

18053 Alazan Lofts San Antonio

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18096 Patriot Park Family Plano

18138 Lancaster Senior Village Houston

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18162 Guadalupe Villas Lubbock

18166 The Legacy at Buena Vista  
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18186 Avanti at Greenwood Corpus Christi

18221 Cypress Creek Apartment Homes at  
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17510 Brook Haven Supportive Housing Rockdale

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PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS	none
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P R O C E E D I N G S

1  
2 MR. GOODWIN: Good morning and welcome to the  
3 June 28 Texas Department of Housing and Community Affairs  
4 Board meeting.

5 We'll start out with a roll call.

6 Ms. Bingham?

7 MS. BINGHAM ESCAREÑO: Here.

8 MR. GOODWIN: Mr. Braden?

9 MR. BRADEN: Here.

10 MR. GOODWIN: Mr. Goodwin is here.

11 Ms. Reséndiz?

12 MS. RESÉNDIZ: Present.

13 MR. GOODWIN: Ms. Thomason?

14 MS. THOMASON: Present.

15 MR. GOODWIN: Mr. Vasquez?

16 MR. VASQUEZ: Here.

17 MR. GOODWIN: We do have a quorum.

18 I will ask Tim to lead us in the Pledge of  
19 Allegiance.

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

22 MR. GOODWIN: We will start with our consent  
23 agenda and we have a couple of adjustments to the consent  
24 agenda. Under item 1(q) we are pulling for later date  
25 consideration file number 18217 Cypress Creek at Santa Fe,

1 and we are moving item 18274 Hillcort Villas to an action  
2 item. And I believe that is all the consent agenda items  
3 unless anybody else has anything they'd like to see pulled  
4 from the consent agenda for discussion.

5 (No response.)

6 MR. GOODWIN: If not, I would take a motion to  
7 approve the consent agenda.

8 MS. RESÉNDIZ: So moved.

9 MR. GOODWIN: And a second?

10 MS. THOMASON: Second.

11 MR. GOODWIN: It's been moved and seconded.

12 Any discussion?

13 (No response.)

14 MR. GOODWIN: All those in favor say aye.

15 (A chorus of ayes.)

16 MR. GOODWIN: Opposed?

17 (No response.)

18 MR. GOODWIN: Okay. The consent agenda has  
19 passed, consent agenda and report items.

20 We'll move into the action items and we're  
21 starting with number 1, a report from our Audit and  
22 Finance Committee and the Audit and Finance Committee  
23 chairman, Ms. Thomason.

24 MS. THOMASON: Thank you, Mr. Chairman.

25 The Board's Audit and Finance Committee met at

1 7:30 this morning. We received updates on the status of  
2 actions to address both prior audit issues as well as  
3 status of various ongoing audit activities, both internal  
4 and external. We reviewed updates to the Audit Charter to  
5 address the fact that this committee has expanded its  
6 scope to encompass certain financial matters. The  
7 committee also had a report from staff that's leading the  
8 efforts to develop the operating budget for the second  
9 year of the biennium.

10 The committee has recommended three items for  
11 action for this Board. Because they come from a  
12 committee, no second will be required. The Audit and  
13 Finance staff are here to answer any questions that you  
14 may have.

15 The first item is a recommendation to approve  
16 the updated Internal Audit Charter, a copy of which can be  
17 found at tab 3(a)(i) in your board materials. So we need  
18 to vote on that.

19 MR. GOODWIN: Okay. Any discussion, any  
20 questions?

21 (No response.)

22 MR. GOODWIN: All those in favor say aye.

23 (A chorus of ayes.)

24 MR. GOODWIN: Opposed?

25 (No response.)

1 MS. THOMASON: The next item will be the  
2 approval of the annual operating budget, a copy of which  
3 can also be found at tab 3(a)(ii) of your board materials.

4 This is within the appropriate resources set forth in the  
5 General Appropriations Act and it reflects a conservative  
6 approach to the use of the resources that are entrusted to  
7 the agency. It addresses continued management of the  
8 salary budget, provisions for updating equipment to ensure  
9 information security, and the marketing initiative  
10 associated with Texas Homeownership activities. If the  
11 Board will vote.

12 MR. GOODWIN: Any questions or discussion?

13 (No response.)

14 MR. GOODWIN: If not, all in favor say aye.

15 (A chorus of ayes.)

16 MR. GOODWIN: Opposed?

17 (No response.)

18 MS. THOMASON: Our last item for approval is  
19 the annual Housing Finance Division operating budget, a  
20 copy of which can be found at tab 3(a)(iii) of your board  
21 materials. This is a subset of the operating budget that  
22 we just approved, addressing only those resources tied to  
23 the traditional housing finance activities of the  
24 Department that are provided for in the Department's  
25 appropriations.

1 MR. GOODWIN: Any questions or discussion?

2 (No response.)

3 MR. GOODWIN: All in favor say aye.

4 (A chorus of ayes.)

5 MR. GOODWIN: Opposed?

6 (No response.)

7 MS. THOMASON: That concludes our items.

8 MR. GOODWIN: The next item is item 4, Bond  
9 Finance. Did we miss something?

10 MR. IRVINE: 3(b).

11 MR. GOODWIN: Oh, I'm sorry. 3(b), the report  
12 and possible action related to income averaging. Marni.

13 MS. HOLLOWAY: Good morning, Chairman Goodwin,  
14 members of the Board. The item is report and possible  
15 action on guidance related to income averaging for  
16 amendments, compliance monitoring and future qualified  
17 allocation plans.

18 Out of the 2018 spending bill, we received an  
19 increase in our cap for 9 percent credits, 12-1/2 percent,  
20 so that's great, and we're getting that for four years.  
21 Also in that item was an amendment to Section 42 that  
22 creates this income averaging set-aside that owners may be  
23 able to access in the future. So any TDHCA commentary on  
24 this new concept of income averaging will be based on  
25 assumptions regarding how the Internal Revenue Service has

1 previously addressed its oversight of the other elections  
2 which is 20 percent of units at 50 percent of AMI or 40  
3 percent at 60 percent of AMI. That's all that's been  
4 available in the past.

5 We have no ability to say with any authority  
6 just how the IRS will ultimately approach any issues that  
7 may arise under an income averaging election. Regardless  
8 of conclusions and any Board action or rule, if the IRS  
9 provides a different interpretation, it is controlling of  
10 how we must address any aspects under the Internal Revenue  
11 Code. So at present all we have is the statute. The IRS  
12 has not issued any guidance regarding income averaging and  
13 there's no indication that they're likely to do that soon.

14 Nonetheless, the statute clearly allows an income  
15 averaging election to be made now and the IRS has updated  
16 its 8609 form to provide for that election. They have not  
17 revised the instructions to account for the changed form.

18 We can speculate how the IRS might approach the  
19 income averaging election by applying principles employed  
20 in the handling of the other two elections and using a  
21 reasonable plain reading meaning of the statute creating  
22 the new election. This would seem to be an attractive  
23 option but it's not our statute to construe. At a  
24 minimum, it appears that with respect to monitoring an  
25 income averaged election property, we will clearly need to



1 determine that the property's average is at or below the  
2 60 percent level. If fewer than 40 percent of the units  
3 are in compliance, that's occupied by qualified households  
4 at or below their respective rent levels, we will need to  
5 report this to the IRS.

6 If an applicant submitted an application in  
7 this or an earlier cycle, it would have used one of these  
8 previous elections, the 20 at 50 or the 40 at 60 because  
9 that's all that was available at application. And they  
10 may decide to change course and elect income averaging  
11 when they get to their 8609s. In that case, we may need  
12 to look at it again in REA to make sure that it remains  
13 financially feasible and utilizes no more credits than  
14 necessary to ensure feasibility to construct and operate  
15 through the credit period. This may entail obtaining more  
16 market data to support reasonable capture rates for the  
17 new income bands, and depending on the scope of the  
18 changes, it may be necessary for the applicant to undergo  
19 a formal amendment process. The greater array of income  
20 bands may affect the demographics of the eligible tenant  
21 population and may require a new assessment of fair  
22 housing considerations, including the distribution of  
23 accessible units.

24 Regarding future qualified allocation plans,  
25 there were questions as to what sorts of income

1 distributions utilizing an income averaging election would  
2 further some specific policy objectives and how would  
3 those policy objectives rank if they each garnered points.  
4 So your board item goes through a series of questions that  
5 may come up in the future as policy issues. For example,  
6 if a specific market area had a very high percentage of  
7 households in the 70 or 80 percent income bands who have  
8 great difficulty in finding housing, should that be a  
9 policy objective to serve those households, or should we  
10 be focusing on 20 percent households. The income  
11 averaging item expanded the households that we can serve,  
12 expanded the bands, the income bands, so where previously  
13 we had generally worked with 30 percent, 50 percent and 60  
14 percent, now we're going from 20 percent up to 80 percent  
15 in 10 percent increments, so it's a much broader range of  
16 households. So we will need to look at how that broader  
17 range impacts financial feasibility.

18 We held a roundtable on May 25 to discuss these  
19 questions with the development community. As we are able  
20 to gain better understanding of income averaging,  
21 hopefully with some IRS guidance, we will continue to  
22 update the Board.

23 MR. GOODWIN: Questions? Did I understand that  
24 this election, once made by the developer, is irrevocable?

25 MS. HOLLOWAY: It is irrevocable, yes, sir.

1 MR. GOODWIN: So we can stand in the situation  
2 the IRS has passed this statute but we don't necessarily  
3 have an interpretation of how it is going to work, and we  
4 have a set of rules that apply to this same thing and how  
5 are we going to take our rules and apply it to an IRS  
6 statute that's a little unclear.

7 MS. HOLLOWAY: Exactly. Particularly looking  
8 at the 2019 QAP, we're looking at how do we incorporate  
9 income averaging into that QAP. You know, is it  
10 appropriate to do that this year when we don't really know  
11 what the long term impact of that would be.

12 MR. GOODWIN: Is this something planned to be  
13 taken up with the QAP Committee?

14 MS. HOLLOWAY: Potentially, yes.

15 MR. GOODWIN: Any other questions or comments?  
16 Did you want to speak, sir?

17 SPEAKER: I do.

18 MR. GOODWIN: Okay. Please stand up and sign  
19 in. We have a rather long agenda today so we're going to  
20 strictly enforce our three minute limit.

21 MR. SUGRUE: I'll be brief. My name is Mike  
22 Sugrue, Stoneleaf Companies, and I'm here to speak about  
23 the income averaging because we have properties in  
24 lease-up right now and we're turning people away who are  
25 over 60 percent income but under 80 percent income who

1 could qualify. It is a very complicated issue, obviously,  
2 of balancing. If I were to get an 80 percent tenant, it  
3 does not mean 80 percent rent particularly but it could be  
4 mean somewhere between 60 and 80, and what does that do to  
5 the other rents and does it give me enough room to dive  
6 deeper and get a 20 percent tenant somewhere or not, so it  
7 is very complicated.

8 I've had conversations with Patricia and it is  
9 an issue that needs to be addressed somewhat quickly, I  
10 guess, because the properties that do not have 8609s and  
11 are in lease-up are kind of in limbo. The original intent  
12 of the law was to use it for existing properties as well  
13 as new properties, but we do know that the 8609, once an  
14 election is made, is irrevocable, so only those without  
15 8609s seem to qualify at the present time.

16 NCSHA has given a lot of guidance and  
17 questions, et cetera, and we do believe that the IRS will  
18 be somewhat delinquent in their guidance, so if they would  
19 respond like we all would like them to respond, give us  
20 clear direction, it would be easier for everyone. So now  
21 they're leaving it to the states to step out and say,  
22 okay, we're going to allow this or we're not going to  
23 allow that. So I ask that you please consider it and give  
24 us some guidance so those of us in lease-up can take  
25 advantage of the law as it exists.

1 Thank you.

2 MR. GOODWIN: Thank you.

3 Any other comments?

4 MR. IRVINE: If I might just address those  
5 sentiments and questions. I think that while we can't  
6 project what the IRS is going to say definitively about  
7 the operation of the election, I think we can say  
8 definitively two things. One, whatever you have  
9 previously represented to receive an award of an  
10 allocation, if in electing the income averaging you would  
11 make any changes to what was previously represented, you  
12 need to go through an amendment process. If you need to  
13 go through an amendment process, that will probably  
14 trigger some reduced but still substantial underwriting  
15 reassessment, as previously described, probably to  
16 substantiate capture rate issues.

17 Assuming that you've got now an approved award  
18 of an allocation that lines up with what it is you're  
19 proposing to do under an income averaging election, the  
20 right to make that election is a federal issue and we  
21 can't say yes or no to it. It's simply something that by  
22 federal law you have the right to elect it. So the real  
23 issue is keeping whatever you're doing in line with  
24 whatever this Board has approved.

25 MR. SUGRUE: Sure. And I agree with that, Tim,

1 and I think if you chose X number of 30s, X number of 50s,  
2 et cetera, those remain, and because it's 30 or less, a 30  
3 may become a 20 or a 50 could become a 20, although I  
4 doubt you'd get that deep. But I agree with that, we got  
5 points for certain elections, we need to keep those  
6 elections the same. We're not looking to open the gates  
7 and say go helter-skelter.

8 MR. GOODWIN: Any other discussions?

9 (No response.)

10 MR. GOODWIN: I guess we need a motion to  
11 accept this report.

12 MS. BINGHAM ESCAREÑO: So moved.

13 MR. GOODWIN: Second?

14 MR. BRADEN: Second.

15 MR. GOODWIN: It's been moved and seconded.

16 Any further discussion?

17 (No response.)

18 MR. GOODWIN: If not, all those in favor say  
19 aye.

20 (A chorus of ayes.)

21 MR. GOODWIN: Opposed?

22 (No response.)

23 MR. GOODWIN: Now we're moving on to item  
24 number 4. Good morning, Monica.

25 MS. GALUSKI: Good morning, Mr. Chairman,

1 members of the Board. I'm Monica Galuski, and we are here  
2 to discuss item 4(a) which is the presentation, discussion  
3 and possible action on Resolution 18-023, authorizing the  
4 issuance and delivery of Texas Department of Housing and  
5 Community Affairs Series 2018 issuer notes, approving the  
6 form and substance of related documents, authorizing the  
7 execution of documents and instruments necessary or  
8 convenient to carry out the purposes of this resolution.

9 MR. GOODWIN: Let me interrupt you just a  
10 second, and let the record reflect that Mr. Braden has  
11 left the room.

12 Go ahead.

13 MS. GALUSKI: Thank you.

14 So the Department assists low, very low and  
15 moderate income homebuyers through its Single Family  
16 Mortgage Loan Program provided through the Texas  
17 Homeownership Division. Currently all loans originated  
18 under this program receive a fixed rate first mortgage  
19 loan and a 30-year zero percent interest non-amortizing  
20 second loan, the proceeds of which are used to fund down  
21 payment and closing cost assistance for the borrower.  
22 Funding this assistance can be a challenge. The  
23 Department receives ongoing fees on the first mortgage  
24 loans and some repayments on the seconds but receipts do  
25 not yet keep pace with the outflow. In a few years there

1 should be enough liquidity in the indentures to self-fund  
2 the DPA, the down payment assistance, but in the meantime  
3 we look for economic sources for these funds.

4 The Department closed its first issuer note for  
5 down payment assistance in September of 2016 through which  
6 Woodforest National Bank provided \$10 million for down  
7 payment assistance funding. This item seeks approval for  
8 three issuer notes, one with Woodforest for \$7.5 million,  
9 one with Tolleson Private Bank for \$2.5 million, and one  
10 with Hancock Whitney Bank for \$2 million, providing a  
11 total of \$12 million for down payment and closing cost  
12 assistance.

13 MR. GOODWIN: That was back in 2016?

14 MS. GALUSKI: I'm sorry. What?

15 MR. GOODWIN: That was in 2016?

16 MS. GALUSKI: No. This is what's proposed  
17 today.

18 MR. GOODWIN: What's proposed today?

19 MS. GALUSKI: Right. In 2016 we took \$10  
20 million and it was all with Woodforest National Bank.  
21 This time Woodforest actually syndicated this and brought  
22 in two additional lenders who were seeking CRA credit and  
23 so we've got a total of \$12 million being provided with  
24 the three notes. Interest rate is 3.5 percent paid  
25 quarterly over the seven-year term. All principal would



1 be due August 8 of 2025 unless earlier repaid, and there  
2 are no prepayment penalties, we can repay it any time.  
3 Cost of issuance for the transaction will not exceed  
4 \$200,000, and a subordinate lien on the Department's  
5 Single Family Mortgage Revenue Bond trust indenture is  
6 being pledged as security for the notes.

7 Staff recommends approval of Resolution 18-023,  
8 and I would be happy to answer any questions that anyone  
9 may have.

10 MR. GOODWIN: Any questions?

11 MS. BINGHAM ESCAREÑO: Monica, when did you say  
12 that there would be sufficient liquidity behind it?

13 MS. GALUSKI: It in part depends on our volume  
14 which, as you know, has significantly grown, but we're  
15 looking at a three to four year period on our projections.

16 MR. GOODWIN: Any other questions?

17 (No response.)

18 MR. GOODWIN: If not, do I hear a motion?

19 MS. BINGHAM ESCAREÑO: Move to approve.

20 MR. GOODWIN: Second?

21 MS. RESÉNDIZ: Second.

22 MR. GOODWIN: All in favor say aye.

23 (A chorus of ayes.)

24 MR. GOODWIN: Opposed?

25 (No response.)

1 MR. GOODWIN: Thank you, Monica.

2 On to item 4(b).

3 MS. GALUSKI: Item 4(b) is presentation,  
4 discussion and possible action on Resolution 18-024,  
5 authorizing --

6 MR. GOODWIN: Let the record reflect Mr. Braden  
7 has rejoined us.

8 MS. GALUSKI: -- authorizing the issuance,  
9 sale and delivery of Texas Department of Housing and  
10 Community Affairs Single Family Mortgage Revenue Bonds,  
11 2018 Series A, approving the form and substance of related  
12 documents, authorizing the execution of documents and  
13 instruments necessary and convenient.

14 At its May 24 meeting, the Board approved the  
15 initiation of a Single Family Mortgage Revenue Bond issue.  
16 Both a tax-exempt and a taxable series were contemplated.  
17 Based on current market conditions and other factors,  
18 staff is not recommending moving forward with the taxable  
19 series at this time. With this item, staff is seeking  
20 approval for the issuance of Texas Department of Housing  
21 and Community Affairs Single Family Mortgage Revenue Bonds  
22 2018 Series A. The bonds will be tax-exempt. Total bond  
23 proceeds, which is the par amount of the bonds plus any  
24 premium realized on the sale of those bonds, will not  
25 exceed \$150 million. We expect that at least a portion

1 for the bonds will be sold at a premium.

2           Proceeds will be used to purchase Ginnie Mae  
3 mortgage-backed securities which will be backed by newly  
4 originated mortgage loans and to fund all or a portion of  
5 the related down payment assistance, lender compensation,  
6 second loan servicing fees and costs of issuance related  
7 to the bonds. The bonds are scheduled to price in late  
8 July and to close in mid September. We expect to invest  
9 bond proceeds in a guaranteed investment contract, or a  
10 GIC, until used to purchase the mortgage-backed securities  
11 and to pay the related mortgage loan costs. The  
12 unexpended proceeds redemption is July 1 of 2019. That's  
13 when you would call bonds related to any bond proceeds you  
14 had not used to purchase mortgage-backed securities with,  
15 but since we're averaging almost \$50 million a month right  
16 now with tax-exempt eligible mortgage loans, we're not  
17 expecting to need an unexpended proceeds column.

18           The Department contribution, including amounts  
19 to be used for down payment and closing cost assistance,  
20 lender compensation, cost of issuance and servicing fees,  
21 won't exceed \$12 million, and we're expecting it to  
22 actually be about half of that because we're expecting to  
23 generate about \$6 million on bond premium. So in that  
24 case, bond premium and Department contribution is going to  
25 equal the total outflow. You have to remember the down

1 payment assistance and the lender compensation alone is  
2 almost \$10 million.

3 The transaction does result in a positive  
4 present value benefit to the single family indenture.  
5 Staff is recommending approval of Resolution 18-024, and I  
6 would be happy to answer any questions that anyone may  
7 have.

8 MR. GOODWIN: Any questions? A motion to  
9 approve?

10 MR. BRADEN: Move to approve.

11 MR. GOODWIN: Second?

12 MR. VASQUEZ: Second.

13 MR. GOODWIN: All in favor say aye.

14 (A chorus of ayes.)

15 MR. GOODWIN: Opposed?

16 (No response.)

17 MS. GALUSKI: Thank you.

18 MR. GOODWIN: Thank you, Monica.

19 So we're moving on to multifamily action item  
20 number 5, we're going to go a little out of order here.  
21 We actually had an item on here that was tabled at last  
22 month's meeting which was item (h) 17510 Brookhaven  
23 Supportive Housing, and we're going to take that first.

24 Do we need a motion to pull it off the table,  
25 Beau, since it's posted?

1 MR. ECCLES: No. It's posted.

2 MR. GOODWIN: Okay. All right.

3 MS. HOLLOWAY: Item 5(h) is presentation,  
4 discussion and possible action on a request for waiver of  
5 rules for Brookhaven Supportive Housing. This is direct  
6 loan application number 17510.

7 Brookhaven Limited submitted a direct loan  
8 application under the 2017-1 NOFA for the new construction  
9 of 30 single family units, known as Brookhaven Supportive  
10 Housing in Rockdale. This proposed development is  
11 composed of single family homes serving a supportive  
12 housing population. The application requests \$1-1/2  
13 million in direct loan funds from the supportive housing  
14 soft repayment set-aside. They have proposed restricting  
15 13 of the 30 units to 30 percent of AMI.

16 The direct loan rule requires an applicant to  
17 provide 20 percent equity is the only source of Department  
18 funding for the development, as is the case with  
19 Brookhaven, so this doesn't have any tax credits  
20 associated with it, it's just direct loan and a private  
21 lender. This equity requirement prevents over-leveraged  
22 developments that would put our funds at risk and assists  
23 us in meeting the federal requirement that we determine  
24 the borrower's financial capacity.

25 The applicant requested a waiver of the

1 requirement so they could move forward with zero percent  
2 equity which was presented at the March 22 meeting. You  
3 voted to table the waiver request until Real Estate  
4 Analysis had an opportunity to review the application and  
5 consider the waiver request as part of their feasibility  
6 analysis. REA staff has been unable to reach a clear  
7 feasibility conclusion due to inconsistent information  
8 regarding proposed construction costs, operating expenses,  
9 financing structure and tenant populations. As a result,  
10 we informed the applicant on June 1 that a recommendation  
11 to deny the waiver request would be presented to the  
12 Board.

13 The applicant has asserted that they will meet  
14 the 20 percent equity threshold from a property tax  
15 exemption, land donation, reduced developer fee and sweat  
16 equity. In the materials provided for the board book,  
17 they point out the reduced costs that will be available  
18 with the nonprofit owner acting as the contractor, thereby  
19 saving the contractor fee and sales tax on the materials.

20 All of these resources are important but ultimately they  
21 are cost savings provided to the development rather than  
22 equity.

23 The waiver rule requires the development owner  
24 to establish how the waiver is necessary to address  
25 circumstances beyond the development owner's control and

1       how, if the waiver is granted, the Department will better  
2       serve the policies and purposes in our statute. The  
3       applicant has asserted that good cause for granting the  
4       waiver would be to provide affordable housing in an  
5       economically disadvantaged area of the state, helping the  
6       Department meet its annual CHDO commitment deadline --  
7       which would not apply because this loan would be funded  
8       with TCAP funds so it's not a CHDO loan -- affirmatively  
9       furthering fair housing, and fulfilling Section 504  
10      requirements.

11                 These assertions do not adequately address the  
12      owner equity requirement and a meaningful substitute for  
13      owner equity has not been offered which leads staff to  
14      recommend denial of the waiver request.

15                 MR. GOODWIN: Any questions?

16                 (No response.)

17                 MR. GOODWIN: Do I hear a motion to approve  
18      staff's recommendation?

19                 MR. BRADEN: I'll move to approve staff's  
20      recommendation.

21                 MR. GOODWIN: Second?

22                 MS. THOMASON: Second.

23                 MR. GOODWIN: Any discussion?

24                 (No response.)

25                 MR. VASQUEZ: I do have a question. What

1 percentage did the Department calculate as the equity  
2 contribution?

3 MS. HOLLOWAY: So at the front-end there's zero  
4 owner equity going into this transaction, and the rule  
5 requires 20 percent.

6 MR. VASQUEZ: Okay. All right.

7 MR. GOODWIN: Any other discussion, questions?  
8 (No response.)

9 MR. GOODWIN: If not, all in favor say aye.  
10 (A chorus of ayes.)

11 MR. GOODWIN: Opposed?  
12 (No response.)

13 MR. GOODWIN: Okay. Moving on with item 5(a).

14 MS. HOLLOWAY: Item 5(a) is presentation,  
15 discussion and possible action regarding the issuance of  
16 Multifamily Housing Revenue Bonds for Riverside Townhomes.  
17 This is Series 2018, Resolution 18-026, and a  
18 determination notice of housing tax credits.

19 Riverside Townhomes is located in Austin. This  
20 is the acquisition and rehabilitation of 128 units serving  
21 a general population. The property was originally  
22 constructed in 1970. All of the units will be rent and  
23 income restricted at 60 percent of AMI with the exception  
24 of one employee-occupied unit. Currently all of the units  
25 are covered by Project Based Section 8 HAP contract.



1 Riverside Townhomes is located in a census  
2 tract that exceeds a 40 percent poverty rate for  
3 individuals. The poverty rate for the census tract has  
4 exceeded 40 percent since 2012 and is at 58.2 percent  
5 currently. The neighborhood surrounding the property has  
6 substantial new development and redevelopment is expected  
7 in a city experiencing a boom period. Home values have  
8 been increasing since 2000 in this Montopolis area. New  
9 projects in the area include the Oracle Flagship campus,  
10 luxury apartments and restaurants. Staff believes that  
11 this new development supports a conclusion that the  
12 development site should be considered eligible.

13 This transaction involves a Fannie Mae  
14 multifamily pass-through mortgage-backed security. The  
15 mortgage loan will be originated by the Department to the  
16 borrower on the closing date and funded with the bond  
17 proceeds. Simultaneously with the closing the loan will  
18 be assigned to the Fannie Mae lender and funds used by the  
19 lender to acquire the loan will be deposited into the  
20 collateral account to secure the bonds. In this respect  
21 the transaction mirrors prior FHA 221(d)(4) multifamily  
22 transactions where the project will be 100 percent cash  
23 collateralized at all times, thus offering protection for  
24 the bondholders.

25 Approximately 10 to 15 days from the closing

1 date, Wells Fargo Multifamily Capital will assign the loan  
2 to Fannie Mae and in exchange Fannie will deliver the  
3 mortgage-backed securities to the trustee. The trustee  
4 will use the funds in the collateral account to purchase  
5 the mortgage-backed securities which will be used to  
6 secure the bonds from this point forward. Payment on the  
7 bonds will be guaranteed by Fannie Mae.

8 Under the proposed structure, the Department  
9 will issue tax-exempt fixed rate bonds in an amount not to  
10 exceed \$20 million. It's currently sized at \$19 million.

11 The bonds will have an interest rate that mirrors the  
12 pass-through rate on the mortgage-backed securities,  
13 currently estimated to be 3.6 percent, which does not  
14 include servicing or guarantee fees. The loan will have a  
15 term of 16 years and a 35-year amortization. The bonds  
16 will have a maturity date of December 31, 2036 and are  
17 anticipated to have a AAA rating by Moody's.

18 EARAC has reviewed the applicant's compliance  
19 history and the REA report associated with this  
20 development and has made a positive recommendation. So  
21 staff makes the following recommendations regarding this  
22 item: we recommend that the site for Riverside Townhomes  
23 be found eligible; we recommend that the issuance of up to  
24 \$20 million in tax-exempt Multifamily Housing Revenue  
25 Bonds be approved; we recommend that the issuance of a

1 determination notice of \$1,025,043 in 4 percent housing  
2 tax credits, subject to previous participation and  
3 underwriting, be approved; and we recommend that the Board  
4 accepts the conditions of the issuance, including the  
5 previous participation conditions, and affirms that  
6 failure to fulfill these conditions may subject the  
7 applicant to penalties, including debarment.

8 I'll be happy to take any questions.

9 MR. GOODWIN: Questions?

10 (No response.)

11 MR. GOODWIN: If not, do I hear a motion?

12 MS. BINGHAM ESCAREÑO: Move staff's  
13 recommendation.

14 MR. GOODWIN: Second?

15 MR. VASQUEZ: Second.

16 MR. GOODWIN: We have a motion, moved and  
17 seconded. All in favor say aye.

18 (A chorus of ayes.)

19 MR. GOODWIN: Opposed?

20 (No response.)

21 MS. HOLLOWAY: Item 5(b) is presentation,  
22 discussion and possible action regarding the issuance of  
23 Multifamily Housing Revenue Bonds for Oaks on Lamar, this  
24 is Series 2018, Resolution 18-027, along with a  
25 determination notice of housing tax credits.

1           Oaks on Lamar is in Austin. It is the  
2 acquisition and rehabilitation of 176 units serving the  
3 general population. The property was originally  
4 constructed in 1966. All of the units will be rent and  
5 income restricted at 60 percent of AMI, with the exception  
6 of one employee-occupied unit. Currently 74 units are  
7 covered by a Project Based Section 8 HAP Contract and  
8 another 22 vouchers are expected to be received from the  
9 Marble Falls Housing Authority. With the additional  
10 vouchers the development will be substantially financed  
11 with federally subsidized funding, and therefore, lends  
12 itself to the waiver provision under Section 42 to qualify  
13 for the acquisition credits considering that the  
14 development has not been held by the same owner for at  
15 least 10 years. This is discussed in greater detail in  
16 the Real Estate Analysis report.

17           The financing structure for this transaction is  
18 identical to the Riverside Townhomes structure that we  
19 just discussed, with the exception that while the  
20 Department will issued tax-exempt fixed rate bonds in an  
21 amount not to exceed \$20 million, it is currently sized at  
22 \$16 million.

23           So staff makes the following recommendations:  
24 that the issuance of up to \$20 million in tax-exempt  
25 Multifamily Housing Revenue Bonds for Oaks on Lamar,

1 Series 2018, Resolution 18-027 be approved; that the  
2 issuance of a determination notice of \$979,784 in 4  
3 percent housing tax credits, subject to the previous  
4 participation and underwriting conditions, be approved;  
5 and that the Board accept the conditions of this issuance,  
6 including the conditions for the previous participation  
7 and underwriting, and affirm that failure to fulfill these  
8 conditions may subject the applicant to penalties,  
9 including debarment.

10 I'll be happy to take any questions.

11 MR. GOODWIN: Any questions?

12 (No response.)

13 MR. GOODWIN: Do I hear a motion to approve  
14 staff's recommendation?

15 MS. THOMASON: I move.

16 MR. GOODWIN: So moved. Do I have a second?

17 MR. BRADEN: Second.

18 MR. GOODWIN: It's been moved and seconded.

19 Any further discussion?

20 (No response.)

21 MR. GOODWIN: All in favor say aye.

22 (A chorus of ayes.)

23 MR. GOODWIN: Opposed?

24 (No response.)

25 MR. GOODWIN: Moving on to item 5(c), and

1 Marni, as I understand on 5(c) we're going to take the two  
2 San Antonio first, that's 18053 and 18054.

3 MS. HOLLOWAY: Yes. We have received a request  
4 to put those at the top of our item today.

5 MR. GOODWIN: Okay.

6 MS. HOLLOWAY: So this is presentation,  
7 discussion and possible action on staff determinations  
8 regarding undesirable neighborhood characteristics.

9 So under the Multifamily Rules related to  
10 undesirable neighborhood characteristics, if a development  
11 site has any of the characteristics described in the rule,  
12 the applicant must disclose the presence of those  
13 characteristics at the time the application is submitted  
14 and present documentation of mitigating factors that  
15 support the determination that there is a high probability  
16 and reasonable expectation that the undesirable  
17 characteristic will be sufficiently mitigated or  
18 significantly improved by the time the development is  
19 placed in service.

20 Under the rule the Board has final decision-  
21 making authority in making an affirmative determination or  
22 finding the site ineligible. Should the Board make the  
23 determination that the site is ineligible based on this  
24 report, the termination of the application resulting from  
25 that action is not subject to appeal.

1                   Staff is unable to make a determination that  
2 acceptable mitigation for undesirable neighborhood  
3 characteristics was submitted for applications 18020 St.  
4 Elizabeth Place, 18038 3rd Street Lofts, 18053 Alazan  
5 Lofts, and 18054 Piedmont Lofts. Staff is therefore  
6 unable to make a recommendation regarding site eligibility  
7 and requests the Board's determination. In addition,  
8 because acceptable mitigation, as described in the rule,  
9 was submitted for application 18250 Sweetbriar Hills,  
10 staff will be recommending that the Board find that  
11 development site eligible. I'll be telling you about that  
12 one when we get there.

13                   So we have received this request that  
14 applications 18053 and 18054 be taken up first, so I'll  
15 get started. Alazan Lofts is located in San Antonio.  
16 This application proposes the new construction of 88 units  
17 serving general population. The census tract in which the  
18 development site is located has a poverty rate of 67.6  
19 percent which is nearly 75 percent higher than the  
20 threshold limit of 40 percent. The rules regarding  
21 mitigation of poverty require evidence that the poverty  
22 rate has decreased over the five-year period preceding the  
23 date of the application or that the census tract is  
24 contiguous to a census tract with a poverty rate below 20  
25 percent.

1           The applicant reasons that the high poverty  
2 rate stems from the fact that the residents of the current  
3 public housing development comprise much of the census  
4 tract's population and therefore deeply skew the poverty  
5 rate. The applicant claims that opportunities for upward  
6 mobility and self-improvement abound in the area and  
7 residents of the Avenida Guadalupe neighborhood currently  
8 have access to the services of several nonprofits and  
9 social organizations that have the intent to promote  
10 economic mobility, to bolster housing stability and to  
11 reduce poverty in the neighborhood. The cite close  
12 proximity to high income areas and jobs in downtown San  
13 Antonio, being within a 20-minute driver of over 213,000  
14 high paying jobs, and active work with community  
15 stakeholders by the San Antonio Housing Authority. They  
16 also cite the housing authority's application for Choice  
17 Neighborhoods grants.

18           A third party request for administrative  
19 deficiency related to this application indicates that the  
20 San Antonio Housing Authority will not receive the HUD  
21 Choice Neighborhoods grant that is critical to the  
22 revitalization of the community. The RFAD states that the  
23 poverty rate in the census tract has actually worsened  
24 over a five-year period and property values in the census  
25 tract have increased in value over the last five years at



1 a rate much less than the city as a whole, indicating that  
2 gentrification is not a factor.

3 In response to the RFAD, the applicant states  
4 that area revitalization does not depend solely on the  
5 Choice Neighborhoods grant, as the area is located in a  
6 City of San Antonio tax increment reinvestment zone whose  
7 funding was documented during our review of the concerted  
8 revitalization plan, so we've accepted that TIRZ funding  
9 is available in that area through the concerted  
10 revitalization plan. The response outlined core  
11 competencies and recent accomplishments of the housing  
12 authority that focus on resident self-sufficiency.

13 The applicant believes that replacing the  
14 current development with a mixed income development will  
15 result in increased incomes and a lower poverty rate for  
16 the census tract. Census data on poverty rates and median  
17 incomes for the tract suggest that little has changed  
18 regarding these indicators, both have remained at nearly  
19 the same levels with no clear trend of improvement. The  
20 demolition and reconstruction of the existing public  
21 housing calls for the inclusion of 13 market rate units  
22 which may help to increase incomes but is unlikely that a  
23 poverty rate over 62 percent will quickly decrease to the  
24 threshold of 40 percent or below.

25 Staff is unable to determine that the poverty

1 rate will be sufficiently mitigated or significantly  
2 improved by the time the development is placed in service  
3 and cannot make a recommendation regarding this item.

4 As regards crime, the Part 1 violent crime rate  
5 for this census tract is 37.09 incidents per 1,000 people,  
6 according to Neighborhood Scout; our threshold is 18. The  
7 applicant states that the actual crime rate is much lower  
8 and provided data from the San Antonio Police Department  
9 that indicates the crime rate is at 16.48 percent in 2015  
10 and 22.7 percent in 2016; no data for 2017 was provided.

11 In response to the RFAD and administrative deficiency, the  
12 applicant provided a letter from San Antonio Police  
13 Department Chief William McManus that includes crime data  
14 for 2017, indicating a violent crime rate of 12.2 percent.

15 The letter attributes the decrease in crime to  
16 initiatives undertaken by the police department.

17 Because evidence of a positive trend and  
18 continued improvement in the crime rate has been provided,  
19 staff recommends that the site be found eligible regarding  
20 the crime.

21 Regarding blight, the applicant disclosed that  
22 the development site is located within 1,000 feet of two  
23 vacant commercial properties and three boarded up homes.  
24 According to the applicant, much of the blight will be  
25 mitigated through the development of the site because

1 Alazan Lofts encompasses the bulk of the remaining vacant  
2 property in the neighborhood that has become overgrown and  
3 encouraged neglect. Staff conducted a site visit and  
4 confirmed this statement, noting that the development  
5 itself would indeed remove blight. There are some  
6 blighted properties outside of the development footprint  
7 but the structures do not meet the description in rule  
8 regarding blight, so staff believes that no mitigation is  
9 required for blight at this site.

10           Regarding schools, Tafolla Middle School has an  
11 Improvement Required rating since 2014. The application  
12 does not include documentation from a school official with  
13 oversight of the school explaining how the school will  
14 progress towards meeting the goals and objectives of the  
15 campus improvement plan. So under our rule, any school in  
16 the attendance zone that has not achieved Met Standard for  
17 three consecutive years and has failed by at least one  
18 point in the most recent year, unless there's a clear  
19 trend indicating imminent compliance shall be unable to  
20 mitigate due to potential for school closure as an  
21 administrative remedy pursuant to Chapter 39 of the Texas  
22 Education Code.

23           The RFAD correctly states that neither the  
24 application or the campus improvement plan identify  
25 improvements made over the last year and the

1 accountability summaries indicate the school is falling  
2 further and further behind each year. In response to the  
3 RFAD, the applicant provided a letter from San Antonio  
4 Independent School District chief innovation officer  
5 describing the resources and initiatives that have been  
6 directed to the school, including a targeted improvement  
7 plan, a campus turnaround plan, and over \$25 million in  
8 2016 bond funds allocated to the school. The letter  
9 states that the school's Index 2 student progress scores  
10 which increased from 26 in 2015 to 29 in 2017 is just one  
11 point below the target score and that the middle school is  
12 within only four points of meeting its target score for  
13 three of the four indices. The letter also mentions after  
14 school programs and other initiatives.

15           The letter from the school official provides  
16 information indicating a high level of investment in the  
17 school by the school district, however, because no  
18 evidence of a positive trend and continued improvement has  
19 been provided, and because the school has had an  
20 Improvement Required rating for four years, staff is  
21 unable to recommend eligibility regarding this issue.

22           The applicant requested a waiver of the  
23 presence of undesirable neighborhood characteristics rule  
24 but the waiver request did not include the documentation  
25 required by the rule. So we are discussing poverty and

1 schools. Staff is not able to make a recommendation on  
2 those items. We did find the mitigation acceptable for  
3 blight and crime.

4 I'd be happy to take any questions.

5 MR. GOODWIN: Any questions?

6 MS. HOLLOWAY: It's a bunch of information.

7 MR. GOODWIN: It is a bunch of information. So  
8 realistically, this discussion here this morning is over  
9 whether this site is eligible based on the poverty issue  
10 and the school issue.

11 MS. HOLLOWAY: Yes.

12 MR. GOODWIN: There's no reason to hear  
13 testimony about crime or blight at this stage.

14 MS. HOLLOWAY: Exactly.

15 MR. GOODWIN: So I think we have people that  
16 want to speak, so before we do that, I'll hear a motion to  
17 entertain comments.

18 MS. BINGHAM ESCAREÑO: So moved.

19 MR. GOODWIN: Second?

20 MS. RESÉNDIZ: Second.

21 MR. GOODWIN: All in favor say aye.

22 (A chorus of ayes.)

23 MR. GOODWIN: Opposed?

24 (No response.)

25 MR. GOODWIN: Okay. We will take comments.

1 Again, I would remind you that we've got a three-minute  
2 limitation.

3 MR. ARECHIGA: Hello. My name is Jason  
4 Arechiga with the NRP Group and I will try to make this as  
5 quick as possible. I am actually going to discuss just  
6 very briefly both deals, Alazan and Piedmont, which is  
7 next on the list. The 18054 has a similar issue with  
8 schools and staff may have a similar comment to that too,  
9 so I'll discuss them both and try to make it as quick as  
10 possible. In both cases staff is recommending denial of  
11 the mitigation measures. These concern, of course, the  
12 middle schools that we were discussing, Tafolla in the  
13 case of Alazan and Poe in the case of Piedmont Lofts.

14 A brief history of San Antonio. There were  
15 nine applicants this year in San Antonio for full  
16 application. Of these, six are in the urban core, and of  
17 the urban core deals, five have poorly performing middle  
18 schools. Four of these were required to submit an  
19 undesirable characteristic request RFAD. Village of  
20 Roosevelt, Artisan at Ruiz, Alazan Lofts and Piedmont  
21 Lofts, those are the four. All of these projects had  
22 similar issues with schools which is to say that at least  
23 one of the three zoned schools did not meet standard. The  
24 middle schools in particular failed to meet standard in  
25 2017 and the two preceding years, so that's Poe Middle

1 School with Piedmont and Page Middle School with  
2 Roosevelt, they failed for the two. Tafolla, which is for  
3 Alazan, has failed for four years, as Ms. Holloway  
4 mentioned, and Irving for the Artisan at Ruiz has failed  
5 for five years, so notably most middle schools in San  
6 Antonio's urban core have not met standard in 2017 and  
7 many did not meet standard in 2016 and 2015, and as a  
8 results, SAISD is wholesale restructuring all of these  
9 schools.

10 TDHCA staff has determined that that two of the  
11 four urban core projects have successfully mitigated their  
12 educational issues, and those are the Village at Roosevelt  
13 and the Artisan at Ruiz. These two developments had  
14 schools that failed to meet standard longer than the  
15 schools at Alazan and Piedmont, and in a nutshell the  
16 SAISD plan for these schools are very similar to the plans  
17 for Alazan and Piedmont, save for a potential option of  
18 closing the school and sending the children to a charter,  
19 magnet or different school. Perhaps that's the  
20 difference, but I don't see how closing a school mitigates  
21 that school, the solution is unclear.

22 The two developments before you this morning,  
23 that is Alazan and Piedmont, Alazan specifically with this  
24 item, were not found to mitigate the school issues even  
25 though the schools have not been performing poorly for as

1 long as the other school and the others schools that did  
2 receive mitigation, and SAISD has a robust mitigation plan  
3 in place for each, just like they did for the two that  
4 were approved, and in fact, one of ours has the same staff  
5 person overseeing the turnaround plan as the school that  
6 was approved.

7 I'll finish this comment with saying I think  
8 it's fair to assume that SAISD will be providing the same  
9 level of expertise and resources across the district and  
10 would not implement a plan that is likely to fail at any  
11 of its schools. And we simply wish to see consistency  
12 among the rules, we're not asking for the other  
13 application to be terminated as well.

14 MR. GOODWIN: Does somebody else want to speak  
15 to this? If not, do we hear any questions from the Board?

16 (No response.)

17 MR. GOODWIN: If not, we will accept a motion  
18 about 18053.

19 MR. VASQUEZ: Can we clarify what the ultimate  
20 staff recommendation is on this?

21 MS. HOLLOWAY: Staff is recommending -- staff  
22 is not able to make a recommendation that this site should  
23 be found eligible because of the poverty rate and because  
24 of the schools.

25 MR. VASQUEZ: Again, just so I understand, this



1 is to continue the eligibility, this isn't an award or  
2 anything at this point.

3 MS. HOLLOWAY: This is not, but if the site is  
4 found ineligible then --

5 MR. GOODWIN: The application is terminated.  
6 Right?

7 MS. HOLLOWAY: Yes.

8 MR. VASQUEZ: So if we were to approve the site  
9 as eligible?

10 MS. HOLLOWAY: If you were to determine it was  
11 eligible, then it would move forward in the process.

12 MR. VASQUEZ: It just gives it continued life  
13 at this point.

14 MS. HOLLOWAY: Uh-huh.

15 MR. IRVINE: I'd make one other comment,  
16 though. I think with regard to the issue of the treatment  
17 of other schools and other applications, I think it's  
18 important to look at what is in this application that  
19 specifically addresses mitigation for the circumstances on  
20 this deal.

21 MR. VASQUEZ: I guess one more question, as far  
22 as the schools with this Alazan Lofts, is it just the  
23 middle school that we're concerned about?

24 MS. HOLLOWAY: Yes.

25 MR. VASQUEZ: And in the materials it talks

1 about these bond initiatives with \$25 million of funding  
2 going to Tafolla Middle School.

3 MS. HOLLOWAY: Right. I believe it was a 2016  
4 bond issue.

5 MR. VASQUEZ: So there's obviously a lot of  
6 money going that's going into it.

7 MS. HOLLOWAY: Absolutely there appears to be a  
8 good deal of resources going into this school based on the  
9 information that's received. What was missing for us was  
10 evidence of that trend of improvement.

11 MR. GOODWIN: And we also have the poverty  
12 issue as well.

13 MS. HOLLOWAY: And we have the poverty issue as  
14 well.

15 MR. GOODWIN: Do I hear a motion?

16 MR. VASQUEZ: Well, I would like to make a  
17 motion to determine that the site is eligible to continue.

18 MR. GOODWIN: Do I hear a second?

19 (No response.)

20 MR. GOODWIN: I hear no second. Do I hear  
21 another motion?

22 MR. BRADEN: I'll make a motion that not enough  
23 indication has been shown at this time for the site to be  
24 found eligible.

25 MR. GOODWIN: Do I hear a second for that?

1 MS. BINGHAM ESCAREÑO: I'll second that.

2 MR. GOODWIN: So that motion has been made and  
3 seconded. Any further discussion?

4 (No response.)

5 MR. GOODWIN: If not, all in favor -- did you  
6 want to speak, ma'am?

7 SPEAKER: I did.

8 MR. GOODWIN: You'll need to speak to the  
9 motion.

10 SPEAKER: Oh, to the motion? Well, I would  
11 like to state that I believe you should --

12 MR. GOODWIN: We need to know your name.

13 MS. ANDRÉ: Sure. That threw me. Sarah André,  
14 and I am a consultant to the NRP Group on these mitigation  
15 plans.

16 I would like to speak to the motion. I think  
17 that you should deny this motion. I believe that the San  
18 Antonio Independent School District has put in place the  
19 same level of effort, the same level of money, and rather  
20 than shutting down the middle schools related to the  
21 projects, they are continuing to improve them with  
22 restructuring, new programs, additional staff, and I don't  
23 understand how -- I do understand how it would be  
24 difficult in reading all these plans to make the  
25 determinations, I definitely feel the level of intensity

1 that the staff has to go through, but you're talking about  
2 four sites, all of which had letters from the same  
3 superintendent, the same school district, the same types  
4 of mitigation plans and two were found to be eligible and  
5 two were not. We're not trying to get these deals up to  
6 the top, they are not winners, we're not trying to push  
7 anybody out, we're asking for consistency in the rulings  
8 on these mitigation plans.

9 Thank you.

10 MR. GOODWIN: Thank you.

11 Any other discussion?

12 (No response.)

13 MR. GOODWIN: If not, I'll call for a vote.

14 All those in favor of the motion signify by saying aye.

15 (A chorus of ayes.)

16 MR. GOODWIN: Opposed?

17 MR. VASQUEZ: Nay.

18 MR. GOODWIN: Okay. Moving on to item 18054.

19 MS. HOLLOWAY: Application 18054 for Piedmont  
20 Lofts. This is a new construction development which will  
21 serve the general population with 55 units. It is located  
22 within the urban core of central San Antonio.

23 The applicant disclosed that the development  
24 site is located within 1,000 feet of a single structure  
25 that could be considered blighted and provided evidence

1 that the residence was recently deeded to a new owner in  
2 November of 2017. Staff conducted a site visit and found  
3 the reported structure vacant but only blighted in the  
4 sense that the landscaping needed attention. Because the  
5 structure has been deeded to a new owner, staff is able to  
6 determine that there is a high probability that the blight  
7 will be sufficiently mitigated or improved by the time the  
8 development is placed in service and we are recommending  
9 eligibility based on this issue.

10 The Poe Middle School had an Improvement  
11 Required rating for 2016 and 2017, it did have a Met  
12 Standard rating for 2015. The application included no  
13 documentation from a school official, and in response to  
14 an administrative deficiency, the applicant provided a  
15 letter from the director of the San Antonio Independent  
16 School District Office of School Improvement. The letter  
17 states that the status of the targeted improvement plan  
18 for the school is reviewed on a quarterly basis and the  
19 most recent review indicates the school is on track to  
20 meeting the benchmarks laid out in the campus targeted  
21 improvement plan.

22 The deficiency response also included a letter  
23 from San Antonio Independent School District chief  
24 innovation officer describing the school's progress in  
25 meeting goals of the targeted improvement plan and the

1 2017 campus turnaround plan. The letter states that the  
2 team's goal is for the school to achieve a Met Standard  
3 rating by 2020 which is when the development will be  
4 placed in service. In the letters from the school  
5 officials, information is provided indicating a high level  
6 of investment in the school by the school district,  
7 however, because no evidence of a positive trend and  
8 continued improvement has been provided, staff is unable  
9 to make a recommendation regarding eligibility.

10 The applicant requested a waiver for the  
11 presence of undesirable neighborhood characteristics on  
12 this application also but did not include the  
13 documentation required by the rule.

14 I'd be happy to take any questions?

15 MR. GOODWIN: Any questions?

16 MS. BINGHAM ESCAREÑO: So, Marni, the blight is  
17 not an issue.

18 MS. HOLLOWAY: The blight is not. It was one  
19 structure that was recently sold and when Shay and Patrick  
20 went and looked at it, they decided it was just  
21 landscaping.

22 MS. BINGHAM ESCAREÑO: And then the school  
23 issue, so they met standard 2015 and then need improvement  
24 '16 and '17?

25 MS. HOLLOWAY: Yes.

1 MS. BINGHAM ESCAREÑO: And that's for the  
2 middle school?

3 MS. HOLLOWAY: Yes.

4 MR. GOODWIN: Is there anyone that wants to  
5 speak to this application? Before you do that, I need a  
6 motion to accept comments on this application.

7 MS. BINGHAM ESCAREÑO: So moved.

8 MR. GOODWIN: Second?

9 MR. BRADEN: Second.

10 MR. GOODWIN: Moved and seconded. All in favor  
11 aye.

12 (A chorus of ayes.)

13 MR. GOODWIN: Opposed?

14 (No response.)

15 MR. GOODWIN: Okay.

16 MR. ARECHIGA: I'll just speak from the hip on  
17 this one. We had already discussed the Piedmont one.  
18 This one has not met standard for two years. Again for  
19 the record, my name is Jason Arechiga with the NRP Group.  
20 This one has not met standard for two years, it's Poe  
21 Middle School, and there are a couple of other middle  
22 schools, again, in the urban core that I know it's hard to  
23 compare schools to schools but the same turnaround plan  
24 that has been accepted, again, for Page Middle School and  
25 for Irving Middle School which have not met standard for

1 five years and also for two years, were accepted by staff.

2 So Alazan had four years and it had some  
3 poverty issues that perhaps we couldn't address,  
4 obviously, to the Board's satisfaction, that is something  
5 hopefully we may be able to address next year, but in this  
6 case with this one I'd like to establish a precedent that  
7 SAISD has obviously a similar turnaround plan to the other  
8 schools in the area and they have been accepted by staff,  
9 and again, this has met standard in the past three years,  
10 it has not met standard the past two years, we understand  
11 that, but we see that trend to improve hopefully because  
12 of the investment that's going to be going into the school  
13 for this particular one in this particular area.

14 Thank you.

15 MR. GOODWIN: Thank you.

16 Any questions?

17 MS. BINGHAM ESCAREÑO: I have a question. Just  
18 out of curiosity, as a board we're familiar with this area  
19 of San Antonio and I think we've demonstrated commitment  
20 despite a lot of obstacles and I think the staff have too.

21 I'm a little curious why we aren't hearing from a school  
22 district person today, and it may just be the Board may  
23 have other perspectives on this, but typically when  
24 there's something that's kind of such an obvious  
25 challenge -- and I appreciate the letters -- it's always



1 good to hear from somebody from the school district about  
2 what the plan is.

3 MR. ARECHIGA: They couldn't make it today. We  
4 had asked to be heard at the next meeting for this one and  
5 staff had said because of the applications, because of the  
6 awards, they stressed that we do it today. So they said  
7 they could make it to the next one but not to this one.

8 MS. BINGHAM ESCAREÑO: I'd like to make a  
9 motion to find this application, this site eligible.

10 MR. BRADEN: Second.

11 MR. GOODWIN: Motion made and seconded. Any  
12 further discussion? Any additional questions?

13 (No response.)

14 MR. GOODWIN: All those in favor say aye.

15 (A chorus of ayes.)

16 MR. GOODWIN: Opposed?

17 (No response.)

18 MR. GOODWIN: Okay. Moving on, Marni, to  
19 18020.

20 MS. HOLLOWAY: Application number 18020 for St.  
21 Elizabeth Place. The application proposes the adaptive  
22 reuse of the historic St. Elizabeth Hospital and Convent  
23 in Houston and will include one newly constructed  
24 building. It will serve the general population with 110  
25 units in the Fifth Ward of Houston. The application was

1 the subject of a third party request for administrative  
2 deficiency that questioned the sufficiency of the  
3 mitigation provided by the applicant.

4 So to start, the development site is located in  
5 a census tract that has poverty rate of 51 percent and  
6 the income falls in the fourth quartile. Median household  
7 incomes in the census tract have increased by 30 percent  
8 since 2011 but with the most recent indicators at \$16,912  
9 per household annual income, it remains remarkably low.

10 According to the applicant, St. Elizabeth Place  
11 will preserve housing affordability for residents who are  
12 at risk of being displaced due to gentrification and the  
13 rising costs of maintaining a home in the city's urban  
14 core. The continued high poverty level and low incomes  
15 seem to indicate that gentrification is not present in  
16 this or the surrounding census tracts. The applicant  
17 points to new developments between the proposed  
18 development location and downtown Houston with those homes  
19 priced between \$200,000 and \$400,000. It is important to  
20 note that this new development is not in close proximity  
21 to St. Elizabeth Place.

22 The RFAD for this application provided  
23 information regarding the historic poverty rates for the  
24 census tract and contiguous census tracts. None of the  
25 contiguous census tracts are below the 20 percent poverty

1 rate required as a threshold for mitigation under the rule  
2 and the poverty rate has trended up over the last five  
3 years. The applicant noted that the poverty rate declined  
4 from 51 percent in 2015 to 46.8 percent in 2016 and stated  
5 that 2015 represented a tipping point in the neighborhood.

6 Without several years of data, it's impossible to know if  
7 this decreasing poverty level will continue.

8 Multiple resources have been invested in this  
9 neighborhood, including a continuing tax increment  
10 reinvestment zone. Along with the area's proximity to  
11 market rate development projects in downtown Houston, a  
12 decrease in the poverty rate would seem reasonable,  
13 however, the neighborhood and immediately surrounding area  
14 continue to experience deeply rooted poverty.

15 Because no evidence of a positive trend and  
16 continued improvement in the poverty rate has been  
17 provided, staff is unable to make a recommendation  
18 regarding eligibility.

19 Regarding crime, the Part 1 violent crime rate  
20 for the census tract is at 40.51 incidents per 1,000  
21 persons, according to Neighborhood Scout. The applicant  
22 claims that through various municipal and Houston Police  
23 Department efforts, the Fifth Ward is expected to see a  
24 reduction in crime but has not provided evidence of a  
25 reduction. The RFAD pointed out that information provided

1 in the application did not include information based on  
2 trends, the 2016-2017 crime data, or a letter from the  
3 Houston Police Department. While the rule provides that  
4 evidence of mitigation may include but is not limited to  
5 those items, the RFAD claims that crime in the police beat  
6 contained in the development site is trending upward based  
7 on public crime data from HPD.

8 In response to the deficiency, the applicant  
9 described programs and initiative in the neighborhood.  
10 The response states that the Houston Police Department  
11 will likely have more accurate data as it relates to crime  
12 reporting than the nationwide Neighborhood Scout crime  
13 data. The applicant claims they have mapped each  
14 individual violent crime in Police Beat 7C10 and found  
15 that for the census tract containing St. Elizabeth Place  
16 in 2016 the crime rate was 18.24 crimes per 1,000 persons  
17 and in 2017 it was 20.79 crimes per 1,000 persons. The  
18 response did not include evidence of the data described  
19 and it should be noted that the applicant's statement  
20 indicates the crime rate actually increased from 2016 to  
21 2017.

22 Because no evidence of a positive trend and  
23 continued improvement in the crime rate has been provided,  
24 staff is unable to make a recommendation regarding  
25 eligibility.

1           Regarding blight, the rule looks for multiple  
2 vacant structures that have fallen into significant  
3 disrepair, overgrowth and/or vandalism that they would  
4 commonly be regarded as blighted or abandoned within 1,000  
5 feet of the development site. The applicant disclosed  
6 that the site is within 1,000 feet of what the applicant  
7 recounts as one minor instance of blight. Staff conducted  
8 a site visit and determined that the structure that is the  
9 subject of the disclosure is a house that is empty and is  
10 boarded up but otherwise appears to be in good condition.

11           Because the blight is just one property that is  
12 not in significant disrepair, staff recommends that this  
13 site be found eligible as regards this issue.

14           Regarding schools, the development site is  
15 located in the attendance zone of Wheatley High School  
16 which has had an accountability rating of Improvement  
17 Required since 2012. There has been recent news about the  
18 possibility of a waiver from the Texas Education Agency  
19 for schools impacted by Hurricane Harvey. If granted, the  
20 waiver would apply to the 2018 accountability rating so  
21 would not apply to this application. The applicant states  
22 that over the past three years the high school has  
23 received an Improvement Required rating from the Texas  
24 Education Agency but has seen steadily rising scores on  
25 the student achievement and closing performance gaps

1 indices and describes other efforts on the campus,  
2 including a new principal.

3 The RFAD points out that per House Bill 1842,  
4 since the high school has failed to achieve a Met Standard  
5 rating for six consecutive years, the Houston Independent  
6 School District will no longer have control of the  
7 school's administration. Because HISD will either be  
8 relinquishing control of Wheatley High School or closing  
9 it down, with no indication of what actually might be  
10 happening from the applicant, staff is unable to determine  
11 that the problems at the school will be sufficiently or  
12 significantly improved by the time the development is  
13 placed in service in 2020 and cannot make a recommendation  
14 regarding eligibility.

15 The applicant requested of the undesirable  
16 neighborhood characteristics rule but did not include the  
17 information required to support that request.

18 I'd be happy to answer any questions.

19 MR. GOODWIN: Any questions?

20 (No response.)

21 MR. GOODWIN: We obviously have folks that want  
22 to speak to this so I'll take a motion to hear comments.

23 MS. BINGHAM ESCAREÑO: So moved.

24 MR. GOODWIN: Second?

25 MS. THOMASON: Second.

1 MR. GOODWIN: All in favor say aye.

2 (A chorus of ayes.)

3 MR. LYTTLE: Mr. Chairman, I have a legislative  
4 letter on this one.

5 MR. GOODWIN: Okay. Would you read it into the  
6 record, Michael?

7 MR. LYTTLE: Thank you.

8 The letter is directed to Mr. Irvine from State  
9 Representative Carol Alvarado. It reads:

10 "Dear Mr. Irvine: I am pleased to reaffirm my  
11 support to the Fifth Ward Community Redevelopment  
12 Corporation's redevelopment of St. Elizabeth Place.  
13 Albeit outside of the 145th District, the historic Fifth  
14 Ward community and the ongoing redevelopment is worthy of  
15 recognition and appreciation in improving the quality of  
16 life for the residents of the community.

17 "The proposed development will revitalize the  
18 architecturally and culturally historic gem in the Fifth  
19 Ward and bring much needed affordable housing to the  
20 community, particularly after the devastation caused by  
21 Hurricane Harvey. I commend this effort to provide safe,  
22 quality and affordable by the Fifth Ward Community  
23 Redevelopment Corporation.

24 "Please feel free to contact me if you have any  
25 questions.

1                    "Sincerely, Carol Alvarado, State  
2 Representative, District 145, Texas State House of  
3 Representatives."

4                    MR. GOODWIN: Thank you.

5                    And we have comments. Sir, you need to come up  
6 here and state your name and sign in for us, please.

7                    MR. CLEMONS: Yes. Harvey Clemons, Jr. with  
8 TIRZ#18 in Houston.

9                    I just wanted to say that the president of the  
10 board of HISD schools was scheduled to be here, missed her  
11 plane, but she did send a letter, so if it's all right,  
12 can we have that read into the record as well?

13                    MR. GOODWIN: You have the letter? Is it  
14 already in our board book?

15                    MS. BINGHAM ESCAREÑO: Dated February 27?

16                    MR. CLEMONS: No. This is new. She sent it  
17 this morning when she couldn't get here.

18                    MR. LYTTLE: The letter reads as follows:

19                    "This will serve as testimony in support and  
20 for information regarding the St. Elizabeth project in  
21 Houston, Texas. I humbly submit the education statistics  
22 enclosed. The details of the enclosed documentation will  
23 show stability as well as an upward growth trajectory of  
24 the schools in the Fifth Ward area.

25                    The district has invested over \$90 million in



1 two new elementary and one middle/high school over the  
2 last five years. This has increased enrollment in those  
3 formerly under-enrolled campuses resulting in more funding  
4 and higher achievement. Last school year two of the five  
5 schools received Unacceptable rating; this year all five  
6 schools, as the preliminary documentation indicates, will  
7 receive Acceptable ratings and some will have achievement  
8 distinctions. In addition, the surrounding area schools  
9 will have similar ratings or receive a pause in  
10 accountability for Harvey related reasons.

11 "Given the district's continued investment in  
12 the Achieve 18 Program, which is \$56 million to date which  
13 was implemented three years ago and has been funded for  
14 the upcoming year, the social and emotional and classroom  
15 supports that lead to these increased scores will continue  
16 to lend itself to increases in data. Houston ISD will  
17 issue an RFP in August of 2018 for House Bill 1882  
18 partnership entities to ensure a robust slate of choices  
19 for any future schools that develop a need through House  
20 Bill 1842. This year no schools are projected to need  
21 partnerships as 100 percent of our campuses will receive a  
22 waiver or have met accountability. One campus in the area  
23 may receive both.

24 "As to the issue of closure, the district has  
25 not closed a public campus since 2014 and is not projected

1 to do so. There would be no conditions this year that  
2 would mandate closure and there are multiple other choices  
3 available before closure would occur if a need arose. It  
4 is the goal of the board and the administration to  
5 continue to invest the resources required in the Fifth  
6 Ward area schools to ensure they thrive and continue the  
7 upward trajectory of achievement and graduation rates.  
8 The creation of new housing is directly aligned with  
9 helping us to accomplish this goal, and so it is my hope  
10 that this project is given the consideration it requires  
11 to go forward.

12 "Thank you for your time and attention to this  
13 matter. Humbly submitted, Rhonda Skillern Jones."

14 MR. GOODWIN: Other discussion, comments?  
15 Anybody else want to make another comment?

16 MS. ANDRÉ: Good morning. Once again, my name  
17 is Sarah André, and I am honored to speak on behalf of St.  
18 Elizabeth Place. This is exactly the kind of development  
19 that made me want to go into this field of work. It has  
20 accomplishments well above and beyond just providing  
21 affordable housing, which should be enough, but this  
22 project does many more things.

23 What's most important to me today and what I'd  
24 like to address with you is the timing of St. Elizabeth.  
25 You know, communities have a life cycle, industries

1 change, buildings age, households change, you start out  
2 with families with young children and then end up with an  
3 area filled with retirees. What was once shiny and new  
4 becomes a little bit more like the Velveteen Rabbit, worn  
5 and well loved, and that is the time when transformation  
6 takes place. Investors and entrepreneurs can sniff out a  
7 good deal, they know that these central city neighborhoods  
8 are undervalued and they know that that proximity to  
9 downtown and all the amenities and opportunities that go  
10 along with that are ripe for the picking, and they begin  
11 to tear down the old and bring in the new. And that's a  
12 good thing, we want new investment, we want new residents,  
13 we want positive growth.

14 But what we don't want to do is throw out the  
15 people who have already lived in that neighborhood out  
16 during this process, we want to keep them in the  
17 neighborhood that they have known and loved. And in my  
18 opinion, today, right now 2018, this is the right time to  
19 capitalize on the changing nature of the area and to stake  
20 a claim for those people, but if we wait, the opportunity  
21 will most definitely be gone. Staff stated that they  
22 didn't believe gentrification was taking place, and that  
23 is just absolutely not true. I have walked this area  
24 numerous times, I have driven this area, I have worked on  
25 project like this over and over, maybe I just see

1     gentrification a little further out than other people but  
2     if we wait until we start getting a new Starbucks on the  
3     corner and a place that serves wrap sandwiches, it will be  
4     too late and the St. Elizabeth Place will be Houston's  
5     newest in-town luxury living.

6             We've disclosed a number of facts about  
7     poverty, crime and education, that they aren't at the  
8     TDHCA standards and we've told staff why we think they'll  
9     improve. You know, the standard is that there's clearly a  
10    reasonable expectation that mitigation will take place by  
11    the time this deal is operational which will be 2-1/2  
12    years from now. I think it is very clear that that  
13    mitigation will take place. Incomes increased 30 percent  
14    between 2011 and 2016. We don't have 2017 and 2018 data  
15    yet. New construction in this neighborhood is going for  
16    \$300,000 and up. There were so many houses being torn  
17    down and built that after an hour I quit taking pictures,  
18    it's astounding.

19            Today you approved on item 5(a) an area here in  
20    Austin with poverty higher than this area that staff said  
21    was gentrifying. St. Elizabeth is clearly right there.  
22    You're going to hear from other people, the crime data  
23    form Neighborhood Scout is incorrect, crime is going down,  
24    the schools are improving.

25            Thank you for your time and attention to this

1 today.

2 MR. GOODWIN: Any questions?

3 (No response.)

4 MR. CLEMONS: Good morning, Chairman Goodwin  
5 and to Irvine and to the Board. Let me just begin by  
6 saying to you I have a deep appreciation and admiration  
7 for your sitting here today. I sat on this Board for 7-  
8 1/2 years and so I understand the dilemma and the  
9 pressures involved, and let me just tell you thank you for  
10 serving.

11 The other thing I'd like to say is that we're  
12 here, myself and some leaders from the community,  
13 residents from the community, and with your permission,  
14 Mr. Chairman, may I just have them stand and be  
15 recognized?

16 MR. GOODWIN: Sure.

17 MR. CLEMONS: And in case you don't know what  
18 that sign means, it means please approve St. Elizabeth  
19 Place.

20 MR. GOODWIN: I couldn't read from that  
21 distance but I suspected that might be the case.

22 (General laughter.)

23 MR. CLEMONS: Twenty years ago this Board  
24 approved a 9 percent tax credit deal which was 165 units  
25 of senior housing just two blocks from St. Elizabeth

1 Place. It was said that that 165 units of senior housing  
2 was the first new wood in Fifth Ward in over 40 years in  
3 terms of multifamily housing. But that project was the  
4 spark that started what will ultimately be known as the  
5 Lyons Avenue Renaissance, a 22-block renovation of the  
6 main corridor that runs east to west through the Fifth  
7 Ward community. Over that 20 years we've built and  
8 rehabbed over 1,200 homes and so over this last 20 years  
9 Legacy Healthcare has built a new office complex opened  
10 last year, a new CVS just opened a month ago, the DeLuxe  
11 Theater, which was for African Americans back when  
12 segregation was in, has been refurbished and now it is a  
13 120-seat house for performing and venue arts in  
14 collaboration with Texas Southern University as an  
15 educational component to teach and to train back of the  
16 house events.

17 This project, St. Elizabeth, was a hospital  
18 back in the '40s and the '50s when African Americans  
19 needed prenatal care. It served our community then, it  
20 moved from after having closed by the Sisters of Charity,  
21 moved into a drug treatment facility, it closed and it has  
22 been abandoned for the last five years. We purchased the  
23 property three years ago to turn it into another purpose  
24 that will make this community viable and we would beg that  
25 you would consider this project and approve it.

1 Thank you so very much.

2 MR. GOODWIN: Thank you.

3 Are there other people that wanted to speak?

4 MR. CLEMONS: Yes, sir, there are.

5 MR. GOODWIN: Okay. Come on up, if you would.

6 MR. SIMMONS: Good morning. My name is Warren  
7 Simmons. I'm a lieutenant for the Harris County  
8 Constable's office, Precinct 6.

9 At the constable's office we're a little unique  
10 because we deal in both civil and criminal. On the  
11 criminal aspect, it allows us to go after the criminals  
12 who are doing the drug activity, drive-by shootings. On  
13 the civil aspect, it allows us to find that owner of that  
14 property who sometimes nobody knows who it belongs to, it  
15 gives us an opportunity to get those people to sign a  
16 sworn affidavit to give us probable cause to kind of clean  
17 up that activity.

18 At the beginning of this year we elected a new  
19 constable, Sylvia Treviño, who has brought some great  
20 things, great ideas as far as combating it, one of which  
21 is we have guys on foot patrol, we walk around, we have  
22 bike patrol, we have special operations response team.  
23 The stats from the Houston Police Department, because  
24 we're a county entity, is separate. Their stats are going  
25 to be a lot different than ours as far. As far as

1 physical numbers, I don't have that data with me today  
2 because this was such short notice.

3 Part of our problem is not just the vacant  
4 lots, it's the vacant buildings where it's not only a  
5 safety hazard, it's also a health hazard, this also allows  
6 us to go after that. Affordable housing would eliminate  
7 that as far as criminal activity where guys are going in  
8 and because it's a building, they're taking out the  
9 plumbing, they're taking out the wiring, drug addicts, to  
10 sell. Allowing that to be affordable housing, that kind  
11 of takes away a building that they can use.

12 It's also historic. I grew up in the Fifth  
13 Ward. I've patrolled it for the past 15 years where I've  
14 been an employee at the Precinct 6 Constable's. I'm  
15 asking because I personally get out, I'm not just a sit  
16 behind the desk type of person, I work beside my officers,  
17 I don't ask them to do anything that I wouldn't do or have  
18 not done. I am asking the Board to please allow this  
19 development as far as affordable housing. The crime  
20 statistics, because we're involved, they're spiraling  
21 down, not upward, there's a decrease, and you can only get  
22 personally involved to decrease these things.

23 In reference to developers, we're starting to  
24 see that some of it is a money issue. To get these people  
25 involved in the community such as these people here, we



1 could do great things but we can't do it if we're knock it  
2 before we try it.

3 Thank you.

4 MR. GOODWIN: Thank you.

5 Any questions?

6 (No response.)

7 MR. GOODWIN: Any additional people wanting to  
8 comment?

9 MR. MILLER: Good morning, Chairman and Board  
10 members. My name is Ray Miller. I am executive staff  
11 analyst/assistant director of the City of Houston's  
12 Housing and Community Development Department. I prepared  
13 a letter but instead of reading it word for word, I'll  
14 just give you the highlights.

15 To start off, regarding the St. Elizabeth Place  
16 application, the city by resolution provided three motions  
17 of support, including a resolution of support, a  
18 resolution identifying this transaction as contributing  
19 most towards the Fifth Ward's TIRZ#18, and finally, a  
20 waiver for the one-mile three-year rule.

21 In addition to the resolutions of support, the  
22 city housing department has also announced an award of \$5  
23 million of CDBG proceeds to be allocated towards the  
24 renovation of this development, with the leveraging also  
25 with the 9 percent credits that's under application at

1 this point.

2 In addition to the current level of support  
3 that the city has issued, we also want to identify several  
4 other projects along the Lyons Avenue corridor which the  
5 city has financed over the number of years, one of which  
6 being a \$5.3 million renovation of the DeLuxe Theater,  
7 located just blocks away from the development, a \$3.1  
8 million renovation of the Pleasant Hill Senior Living  
9 facility, a \$4.3 million renovation of Cleme Manor, an  
10 affordable housing development within the Fifth Ward area,  
11 and finally, an \$835,000 grant for the financing of  
12 grocery store equipment to be located within blocks away  
13 of this development. All of these investments, again,  
14 will be located within a mile of the proposed development.

15 So I will provide this letter for your review  
16 and if you have any questions, I'll be happy to take them.

17 MR. GOODWIN: Any questions?

18 MR. VASQUEZ: I have a couple of questions, Mr.  
19 Miller. I don't know if you mentioned, isn't there a  
20 brand new CVS being built half a mile away.

21 MR. MILLER: Correct. And I only mentioned the  
22 investments that our particular department has made, but  
23 yes, there has been a brand new CVS new construction just  
24 blocks away at the corner of Rockwood and Lyons. In  
25 addition, we would also identify Bruce Elementary being

1 removed off of the IR list as a notable point of  
2 educational improvement within the area. There have been  
3 other substantial investments within the area and I  
4 apologize I didn't have time to list them in order here,  
5 I only was able to culminate the investments that our  
6 department has made just recently.

7 MR. VASQUEZ: And your position with city and  
8 housing, is there not a concern that if we don't put in  
9 affordable housing in these areas, it's going to jump  
10 directly from not qualifying straight to gentrification  
11 and all these expensive townhomes?

12 MR. MILLER: I am happy to tell you that within  
13 the department we are identifying several proposed  
14 housing -- looking at several single family housing  
15 developments within the Kashmere and Fifth Ward  
16 neighborhoods because the department is identifying, first  
17 of all, this is an area of opportunity where we can get in  
18 and preserve affordability, especially on the single  
19 family and multifamily side. But in light of the three-  
20 story townhomes going for \$300-, \$350,000, they seem to be  
21 an increasing trend within those neighborhoods.

22 MR. VASQUEZ: And can you help describe how  
23 close in this location is to downtown?

24 MR. MILLER: If I were to tell you can make it  
25 from your home to downtown within 15-20 minutes in Houston

1 traffic, that should probably be a good visual for you.

2 MR. VASQUEZ: I bet you can make it in 5-10  
3 minutes from this location.

4 MR. MILLER: Probably.

5 MR. GOODWIN: Other questions? I've got a  
6 question for you. You sound like you do the same thing  
7 within the City of Houston as we do within the state to  
8 some degree. Do you have characteristics like this that  
9 you're evaluating on as to which areas you're spending  
10 your money on?

11 MR. MILLER: Yes, sir, we do. So earlier this  
12 year we set out the criteria for the city's requirements  
13 for 9 percent resolutions of support. I'll have to go by  
14 memory because I wasn't prepared to answer on this, but  
15 one of those items was the poverty concentration and we  
16 actually set the threshold at 25 percent for poverty  
17 concentration within the area. The exceptions were made  
18 for concerted revitalization areas which this does qualify  
19 as TIRZ#18 and as a CRAV and identified back in the  
20 previous Ike study plan. But yes, we do, but those  
21 exceptions were made based on those criteria.

22 MR. GOODWIN: So you have some of these same  
23 categories that you're looking into to determine where  
24 you're going to invest your resources?

25 MR. MILLER: We do, sir, yes.

1 MR. GOODWIN: Okay.

2 MR. BRADEN: I have a question. In connection  
3 with that, do you also have a category connected with  
4 crime when you look at the areas?

5 MR. MILLER: A crime index? Our department has  
6 not implemented a crime index at this point. What we have  
7 identified, especially when our department levers its  
8 money with tax credits, we do tend to defer with the TDHCA  
9 at times, especially when our money is being levered with  
10 the agency, so the standard is if you make TDHCA  
11 standards, you will meet ours.

12 MR. GOODWIN: Any other questions?

13 (No response.)

14 MR. GOODWIN: Thank you.

15 Does anyone else want to speak?

16 MR. DAVIS: Good morning. I'm sorry, I'm a  
17 former teacher, so when I say good morning, I like the  
18 people to say good morning.

19 (A chorus of good mornings.)

20 MR. DAVIS: Sorry about that. I'm Jerry Davis  
21 with the City of Houston. Actually I serve as the  
22 District Council Number 4. This area which is District B,  
23 and when my constituents told me to come up here, I knew I  
24 had to do it. So I also serve as the vice mayor pro tem  
25 of the City of Houston, so on behalf of my 15 colleagues

1 on council and the mayor, I'm here to represent them.

2 One of the things that I've heard today -- and  
3 I think the staff for their hard work -- but there's a few  
4 things that they did miss that's not going to come up on  
5 paper. When I was elected in 2012, I told my constituents  
6 that I would do what I need to do as a business owner and  
7 as a former educator to make sure our kids get a better  
8 education and as well as we have development in our  
9 community. But I was also asked to help slow down  
10 gentrification in the Fifth Ward. And I appreciate Mr.  
11 Miller coming up telling about the things that have been  
12 done and it made me feel better about my time in office  
13 because all those items were done on my watch, the  
14 investment in my district.

15 And you can get to downtown Houston on a bike  
16 from this location in about 10 minutes. My family has  
17 owned restaurants in the city and I do own property in the  
18 city, I own duplexes and small affordable homes. We need  
19 a place for our people to go to work, close down your  
20 bars, close down your restaurants, clean your place of  
21 residence as well as cleaning your office space and not to  
22 have to drive 30-40 minutes out in the suburbs where homes  
23 are affordable. When they're getting off at two o'clock  
24 and twelve o'clock, ten o'clock, nine o'clock, they have  
25 kids too, they want to see their kids and spend quality

1 time, just like you and I do. So we need this facility in  
2 Fifth Ward, we need affordable residence because, yes,  
3 right behind St. Elizabeth about two blocks there's a  
4 \$285,000 house, two houses that are being built on less  
5 than a 5,000 square foot lot.

6 Gentrification is here, it's not coming, it's  
7 here, and where my grandmother grew up, that house is no  
8 longer a small shack, it's a vacant lot that's going to be  
9 bought, that has been bought and someone is just cutting  
10 the grass waiting on someone to purchase it or develop it.

11 We need this facility in the City of Houston, and as they  
12 say, in Fifth Ward, Texas. We can't wait because we must  
13 provide this opportunity for our kids and our families.

14 Yes, our school system is in the news but we're  
15 helping. I just got back from LA two weeks ago, the mayor  
16 sent me out there to look at what they're doing with the  
17 unified system in Los Angeles because the City of Houston  
18 may have to take over some of the schools. But we want to  
19 not to but whatever is in the best interests of our  
20 children and our families, we're going to do that.

21 So I ask for you to support this, it's so  
22 important, the St. Elizabeth Hospital -- excuse me --  
23 facility, it used to be the hospital. Thank you.

24 MR. GOODWIN: Thank you.

25 Any questions?

1 (No response.)

2 MR. GOODWIN: Anyone else want to speak?

3 SPEAKER: Board members and staff.

4 Mr. Vasquez, I appreciate you bringing to our  
5 attention the proximity of downtown Houston and what that  
6 means for our ability to be able to help the residents of  
7 the Fifth Ward.

8 And so we've talked a lot about crime, we've  
9 talked a lot about --

10 MR. GOODWIN: We need your name.

11 MS. FLANAGAN PAYTON: I'm sorry. Kathy  
12 Flanagan Payton. I'm the president and CO of Fifth Ward.

13 And what we want to talk about there today is  
14 the balance of passion and the balance of science.

15 MR. GOODWIN: That was a quick three minutes.

16 (General laughter.)

17 MS. FLANAGAN PAYTON: That was a quick three  
18 minutes.

19 To give you a picture and a visual of the  
20 balance of passion and science. We've talked about the  
21 issues of gentrification, and I want to give you some  
22 statistical data. Today under construction in the Fifth  
23 Ward within six blocks of that community there are  
24 approximately 34 houses under construction. Of those 34  
25 units under construction, only two of those units are



1 affordable housing. The same plans that are under  
2 construction today, two years ago sold for \$180,000, today  
3 they're selling for \$260,000.

4 We're looking for opportunities to provide  
5 housing opportunities for many of the families who were  
6 devastated by Hurricane Harvey. Admit that those who  
7 survived Ike and survived Allison a couple of years ago  
8 who have still not recovered from that storm were in a  
9 position now where they were faced with yet another storm,  
10 and so we're having to provide opportunities for these  
11 people to receive jobs.

12 Today in our audience we've brought members of  
13 our team who provide employment services, who provide  
14 workforce training and development opportunities, who  
15 actually place our people on jobs. We also brought  
16 members of our team today who are interns in the Fifth  
17 Ward and each day they have to look at and come to the  
18 office and work and help provide housing opportunities and  
19 case management. But you know what their question is to  
20 me? How will I be able to afford after I return from  
21 college to live in the community in the place that I call  
22 home?

23 Because you see, to these young people, our  
24 community does not have undesirable characteristics where  
25 the glass is half empty, the glass is half full because

1 these young people are going out and getting higher  
2 education degrees, they're getting master's degrees and  
3 doctorates and coming home and want to come and be  
4 employed and return to the community where they can go and  
5 help support their family. That opportunity is not  
6 available for them today, there's nowhere for young people  
7 to come and return to this community, have a place to call  
8 him and be able to afford affordable housing in Fifth Ward  
9 with close proximity to the largest workforce in the City  
10 of Houston which is downtown and other parts of the city.

11

12 Given our proximity and location, we're 15  
13 minutes from either airport, we're 15 minutes from  
14 anywhere in the city, and our people in Fifth Ward are not  
15 looking for higher opportunities in any of the lands,  
16 Sugar Land, Woodlands and any other lands in the area,  
17 they want to say inner city, close to home, and help make  
18 a difference and continue to transform that community that  
19 they love.

20 Thank you.

21 MR. VASQUEZ: For the record, 15 minutes to the  
22 airport is a bit of an exaggeration.

23 MS. FLANAGAN PAYTON: Well, they said 20  
24 minutes to downtown. Thank you. It depends on how fast  
25 you drive.

1 (General laughter.)

2 MR. GOODWIN: Anyone else that's going to  
3 comment, if you'll come up.

4 MR. KILDAY: Chairman Goodwin and Board, I  
5 appreciate the opportunity to speak to you. My name is  
6 Les Kilday with Kilday Operating in Houston. We were the  
7 ones that submitted the RFAD on the St. Elizabeth  
8 development.

9 We are also sponsors of a development called  
10 Campanile on Commerce which is in the historic Second Ward  
11 of Houston, and it would provide 120 units, 15 of which  
12 would be market rate units for seniors in the Second Ward  
13 area where there's a huge need for senior housing. This  
14 development scored well enough to be funded but it is  
15 within two miles of the St. Elizabeth development, so  
16 because of the two mile rule, they scored higher than we  
17 did because of the historic nature of what they're trying  
18 to do.

19 And I'll start out by saying there was an old  
20 legal saying that if you have the law, you pound the law,  
21 if you have the facts, you pound the facts, if you don't  
22 have either, you pound the table. And I think in this  
23 case the table is the support and they're pounding on  
24 support of this development which I think the efforts are  
25 great for this development but I don't want the Board to

1 lose sight or be clouded by the facts on this development.

2 In the rules under undesirable neighborhood  
3 characteristics there's four items, three of which this  
4 development violates. A census tract has a poverty rate  
5 over 40 percent. In American FactFinder over the last  
6 five years from 2012 to 2016, which is the data we have,  
7 it's been over 40 percent the whole time and from 2012 to  
8 2016 the '16 rating is higher than the 2012 rating, so  
9 it's trending higher, that's just the fact.

10 Second is being in a census tract with a  
11 violent crime rater greater than 18 per 1,000 persons  
12 annually. At the application time Neighborhood Scout  
13 showed this at 40, 18 was the threshold, it showed it at  
14 40 for violent crime. Also for overall crime,  
15 Neighborhood Scout scored this a zero, and to understand  
16 what that means is it's saying this neighborhood is safer  
17 than zero percent of U.S. neighborhoods. That's  
18 Neighborhood Scout information. I will also say in  
19 looking at the HPD beat for the past two years, not the  
20 Harris County but the HPD beat for that area, there have  
21 been no calls to this hospital, none that have been  
22 reported that show on their rolls.

23 The third one would be the school, the school  
24 doesn't have Met Standard, we talked about that. It's  
25 been six years and I'll say this, from the TEA reporting

1 from 2013 to 2017, the average graduation rate for  
2 Wheatley High School is 16.67, that's 1-6.67 percent.  
3 It's deeply rooted in poverty. Wheatley has had problems  
4 for years.

5 MR. GOODWIN: We'd ask you to wrap it up.

6 MR. KILDAY: So we have the same support from  
7 the city and the housing community development, we have  
8 the same that this development has. We don't believe it's  
9 prudent or responsible for this Board to approve this deal  
10 because of so many negative factors and to ignore the  
11 rules. Thank you very much.

12 MR. GOODWIN: Any questions?

13 (No response.)

14 MR. GOODWIN: Anybody else that wants to speak?

15 MS. BAST: Good morning. I am Cynthia Bast of  
16 Locke Lord, representing Campanile on Commerce, the  
17 development cited by Mr. Kilday.

18 Over the past several years I have represented  
19 a number of clients, both seeking eligibility and opposing  
20 eligibility of sites in neighborhoods that have what this  
21 rule calls undesirable characteristics, and it is not easy  
22 to navigate this rule and it's not supposed to be easy to  
23 navigate this rule. This rule is there for a very high  
24 purpose which is to ensure that we're siting our housing  
25 in areas that provide the residents with opportunity and

1 choice.

2 As counsel, what I try to do is help clients  
3 look at the available facts objectively and apply them to  
4 the rule, and conclude whether it is reasonable to say  
5 that this particular site should be deemed eligible, and  
6 in doing this we are bound by that overarching condition  
7 that you've heard from your staff and others which is a  
8 five-pronged consideration. Is there a high probability  
9 that there's a reasonable expectation that whatever the  
10 condition is will be sufficiently mitigated or  
11 significantly improved prior to placement in service in  
12 2020 and there's a positive trend? And so when you dig  
13 into the mitigation that's been provided in this  
14 application, that's what you have to look at.

15 And as Mr. Kilday said on the poverty, the rule  
16 says that in order to mitigate a poverty rate in excess of  
17 40 percent, you must show evidence that the poverty rate  
18 in the census tract has decreased over five years. Well,  
19 the evidence that's available right now does not support  
20 that. It shows that the poverty rate from 2012 to 2016,  
21 which is the years we have available, has gone up and is  
22 above the 40 percent standard in your rule.

23 On crime, the rule says that in order to  
24 mitigate an excessive crime rate evidence must show that  
25 the crime rates are decreasing which must include

1 incidents reported during the entire 2016 and 2017  
2 calendar years. The applicant didn't include this but our  
3 client did drill down and drilled down to the HPD beat  
4 level instead of using Neighborhood Scout. We recognize  
5 Neighborhood Scout may be inflated but even at the beat  
6 level, it shows that for '16 and '17 violent crimes  
7 increased from '16 to '17, and the data shows that the  
8 amount is still above 18 per 1,000 even if you drill to  
9 the beat level.

10 Finally on the schools, so in addition to that  
11 five-pronged consideration, there's another consideration  
12 on schools if the school has not met standard for three  
13 consecutive years, and that is the rule says that the  
14 applicant cannot mitigate unless there's a clear trend  
15 indicating imminent compliance. Now, we acknowledge that  
16 some of the scores have increased over the last three  
17 years but as recently as May 2018 -- I'll make my last  
18 statement -- there was an article in the Houston Chronicle  
19 where the Texas Education Agency said that at the end of  
20 this year they're going to have to make a hard decision to  
21 either close schools or take over the HISD Board. And  
22 Wheatley is potentially on that closure list. With that  
23 uncertainty, you cannot say that you can be confident that  
24 there's going to be an imminent compliance for that  
25 school.

1 I have tremendous respect for the Fifth Ward  
2 CDC. They've been in business since I've been in business  
3 and I've watched their efforts and I have great  
4 understanding of their history.

5 MR. GOODWIN: Please wrap it up.

6 MS. BAST: But the rules are what I'm asking  
7 you to look at here, and if they don't meet the rules this  
8 year, that doesn't mean they won't meet the rules in the  
9 future. So please apply the data you have to your rules  
10 to make your decision. Thank you.

11 MR. GOODWIN: Thank you.

12 New people who want to speak and then we'll go  
13 back to people who have already spoken that want to add  
14 something.

15 MR. PALMER: Hello. I'm Barry Palmer with  
16 Coats Rose. We represent the Fifth Ward CDC on this  
17 project.

18 And I'd like to point out that this is not the  
19 first time that the Board has had to consider whether to  
20 award tax credits in the Fifth Ward neighborhood. In  
21 2014, Cleme Manor came before you, Ms. Bast was  
22 representing them, asking for an award of tax credits.  
23 Cleme Manor is a mile away from this site and the Board  
24 granted those credits. In 2015, Pleasant Hill Seniors,  
25 which had been funded as an original 9 percent award 20



1 years ago, came back asking for a new award of 4 percent  
2 credits to rehabilitate. The Board and staff reviewed  
3 these same factors and awarded tax credits to Pleasant  
4 Hill which is just several blocks away from St.  
5 Elizabeth's.

6 And since then what's happened? Well, what's  
7 happened is there's been a 30 percent increase in incomes  
8 in the neighborhood, there has been a big upsurge in  
9 development of high-end condos and townhouses and houses  
10 around this site, so all of the evidence points to the  
11 fact that, and anybody who is familiar with the Fifth Ward  
12 can tell you that it is a gentrifying neighborhood and  
13 this is one of the last chances that we'll have to put  
14 affordable housing but a year or two or three years from  
15 now land is going to be too expensive to be used as  
16 affordable housing, so this may be the last chance for the  
17 Fifth Ward.

18 So you know, the opponents talk about following  
19 the rules. Well, the rules aren't all that set and fast,  
20 they're kind of more guidelines than rules. This 40  
21 percent poverty, you just approved a project at 58 percent  
22 poverty in the Riverside area of Austin without any  
23 discussion, and here Fifth Ward is at 51 percent and by  
24 all accounts it's going down, so how can that be a reason  
25 to turn this project down.

1           You know, crime, the Neighborhood Scout  
2 statistics are notoriously misleading. We've had an  
3 officer who patrols the beat there in Houston and has for  
4 a number of years, is a lieutenant there who supervises  
5 the beat there, telling you the crime statistics are  
6 coming down in the neighborhood and that the best thing we  
7 could do to keep them coming down would be to do something  
8 about this vacant building, St. Elizabeth's.

9           Thank you.

10          MR. GOODWIN: Thank you.

11          Is there anybody new to speak? Anybody have  
12 anything new to offer that has already spoken?

13          MS. ANDRÉ: Thank you. Once again, Sarah  
14 André.

15          I just want to very quickly point out that this  
16 project scored a 161. That is not the highest score in  
17 Region 3, that is the highest score in Texas by numerous  
18 points. This proposal clearly meets QAP policy and  
19 intent. It does everything the QAP says it wants from a  
20 project.

21          Mr. Kilday, by his own admission, is only here  
22 today because this project bumps his out of the round.  
23 He's in the Second Ward. I don't know what the schools  
24 are like there, but because he's a senior deal, he doesn't  
25 have to disclose that. So this isn't about this area not

1 being good enough for a development, the Second Ward is  
2 apparently good enough, I believe it's also a central  
3 neighborhood, this is about competition.

4 Thank you.

5 MR. GOODWIN: Thank you.

6 Anybody have anything new they want to add?

7 MS. MYRICK: Good morning. My name is Lora  
8 Myrick and I'm going to sign in before I forget. The  
9 memory is not what it used to be.

10 My name is Lora Myrick and I am with BETCO  
11 Consulting and I work with Campanile on Commerce so I work  
12 with Mr. Kilday on this application, and I am equally just  
13 excited and full of pleasure that I've had the opportunity  
14 to work in this Second Ward endeavor. And we also have  
15 had a lot of support on this development and there's been  
16 a lot of community support and there's been a lot of  
17 community improvements that have been made in the Second  
18 Ward, just as much as it has in the Fifth Ward. There is  
19 a lot of need for senior housing, and they're right,  
20 Sarah's comment is correct, because we have seniors we  
21 don't have to deal with the educational component of it,  
22 but we did have to deal with blight, we did have to deal  
23 with poverty and we did have to deal with crime, and at  
24 the last Board meeting staff found that our site was  
25 eligible and that's what was passed at the last Board

1 meeting.

2           So we do feel that their application is worthy,  
3 so is ours, and we have seniors that we are also trying to  
4 house in an area where it also seeing lots of skyrocketing  
5 prices on land. This is probably one of the last pieces  
6 of land in the Second Ward that will be able to produce  
7 multifamily housing because a group called Midway is  
8 buying everything up to do redevelopment, and so housing  
9 opportunities are very scarce in the Second Ward. And I  
10 agree with Sarah also, timing is very important. As we  
11 are seeing some of these skyrocketing prices, the Second  
12 Ward may not have the opportunity again to come back and  
13 propose an elderly development that is just as needed in  
14 the Second Ward as there is needed housing in the Fifth  
15 Ward.

16           Thank you.

17           MR. GOODWIN: Something new that we haven't  
18 already heard?

19           MR. CLEMONS: Yes, Mr. Chairman. Closing with  
20 this, I just want to rebut what Mr. Kilday said. I know  
21 them, I know their family and I know the work that they  
22 do, but the fact really remains that the only reason why  
23 they're fighting this is because they're just out and  
24 we're in.

25           I want to say to you that he made the statement

1 that they have the same support that we have. The city  
2 didn't come to support their deal, it came to support  
3 ours. HISD came to support our deal. Board member said  
4 earlier that on something this important she'd like to see  
5 the people here to speak on their behalf. The people are  
6 here to speak on our behalf.

7 Thank you so very much for your consideration.

8 MR. GOODWIN: To all of you I would say I think  
9 we all understand on this Board that when we approve one  
10 application, something else gets left out, so I understand  
11 the concern and the competition but I think we readily  
12 understand up here that when we make these decisions  
13 somebody else is either going to move up a slot or move  
14 out.

15 Marni, any additional comments?

16 MS. HOLLOWAY: I have nothing else.

17 MR. GOODWIN: Okay. Any questions from any  
18 Board members?

19 (No response.)

20 MR. GOODWIN: If not, I will entertain a motion  
21 if a Board member is so inclined.

22 MR. VASQUEZ: Mr. Chairman, I'd like to first  
23 make a statement. I sincerely wish we could figure out a  
24 way to do both the Second Ward and Fifth Ward projects,  
25 but with that, I would like to make a motion that we find

1 this site eligible.

2 MS. BINGHAM ESCAREÑO: I'll second.

3 MR. GOODWIN: We have a motion and a second to  
4 find 18020 St. Elizabeth Place eligible. Any discussion?

5 (No response.)

6 MR. GOODWIN: All those in favor say aye.

7 (A chorus of ayes.)

8 MR. GOODWIN: Opposed?

9 (No response.)

10 MR. GOODWIN: Okay. Moving on to 18038 3rd  
11 Street Lofts.

12 Thank you all for coming.

13 I think we're at 18038, 3rd Street Lofts,  
14 Lubbock.

15 MS. HOLLOWAY: 3rd Street Lofts in Lubbock.  
16 The proposed development is new construction for general  
17 population and will provide 72 units.

18 MR. GOODWIN: Hold on, Marni, just a second.

19 MS. HOLLOWAY: Okay. Application number 18038  
20 for 3rd Street Lofts in Lubbock is a proposed development  
21 for new construction serving general population, will  
22 provide 72 units. The development site is located within  
23 1,000 feet of neighboring census tracts that have Part 1  
24 violent crime rates that exceed 18 per 1,000 and the  
25 proposed development is in the attendance zone of a school

1 without a Met Standard rating. This application was the  
2 subject of a third party request for administrative  
3 deficiency that questioned the sufficiency of the  
4 mitigation provided by the applicant.

5 Regarding crime, one census tract has a crime  
6 rate of 20.07 crimes per 1,000, the other has a crime rate  
7 of 18.83 crimes per 1,000. The applicant has provided  
8 information that describes the area as in transition and  
9 points out that a new police substation will be less than  
10 a half mile from the development, and the RFAD points out  
11 that the new substation will be one block closer than the  
12 current substation.

13 In response to the RFAD, the applicant attests  
14 that most of the crime in the census tract is far from the  
15 development site. The applicant provided data from  
16 Neighborhood Scout showing the change in crime rate among  
17 the three applicable census tracts. The applicant states  
18 that Neighborhood Scout data for 2018 covers a wide area  
19 and is misleading with respect to the development site.  
20 Staff notes that this may have been true in the past but  
21 Neighborhood Scout now bases its data on census tracts and  
22 not on a wider area.

23 The applicant provides data from the City of  
24 Lubbock Police Department that purports to show the crime  
25 is trending down. While the data indicates a reduction in

1 total crimes from 2016 to 2017, the reduction depicted for  
2 2018 is based on data extrapolated for 12 months based on  
3 the January 1 to April 30 period. The response included  
4 an email from the assistant chief of the Lubbock Police  
5 Department, and we note that per the email, the data  
6 provided by Assistant Chief Brewer is not based on the  
7 census tract but on an area of interest. Maps provided in  
8 the response indicate more instances of violent crime  
9 within a half mile radius of the development in 2017 than  
10 in 2016.

11 Because no evidence that a positive trend and  
12 continued improvement in the crime rate has been provided,  
13 staff is unable to make a recommendation that the site be  
14 found eligible based on this issue.

15 Regarding schools, the Cavasos Middle School  
16 had an Improvement Required rating for 2017. The school  
17 met standard in 2015 and 2016. Cavasos failed to meet  
18 standard on all four measures and student achievement  
19 shows a downward trend from 2015 to 2017. A campus  
20 improvement plan was provided but there was no letter from  
21 a school official explaining Cavasos's current situation  
22 and the school's goals.

23 In response to the RFAD, the applicant provided  
24 a letter from the superintendent which stated that the  
25 current rating for the school is uncharacteristic in that



1 2017 is the only year that the campus has not received  
2 acceptable ratings from the Texas Education Agency in the  
3 past 10 years. Because evidence that a positive trend and  
4 continued improvement in school performance was provided  
5 in the form of the letter from the superintendent, the  
6 staff is able to determine that there is a high  
7 probability and reasonable expectation that the  
8 performance of Cavazos Middle School will be sufficiently  
9 mitigated or improved by the time the development is  
10 placed in service.

11 The applicant requested a waiver on the  
12 undesirable characteristics rule but failed to provide the  
13 documentation specifically required by the rule. So on  
14 this one we're just dealing with the crime rate.

15 MR. GOODWIN: Okay. Any questions?

16 (No response.)

17 MR. GOODWIN: Do I hear a motion it hear  
18 comments?

19 MS. BINGHAM ESCAREÑO: So moved.

20 MR. GOODWIN: Second?

21 (Unable to hear who seconded the motion.)

22 MR. GOODWIN: Moved and seconded. All in favor  
23 say aye.

24 (A chorus of ayes.)

25 MS. ANDRÉ: Hello again. In case you don't

1 remember, my name is Sarah André. This has been the best  
2 day of my life. I'm here to speak on behalf of 18038 3rd  
3 Street Lofts, and I'm truly sorry that you all have to  
4 listen to all of this. When I read the write-up on this  
5 project I was just baffled. I don't understand why this  
6 is an issue.

7 Crime, you know, that we're supposed to  
8 disclose if the crime in your census tract is greater than  
9 18 incidents per 1,000 people and the date for that is  
10 pre-application, January 8, or maybe the opening of the  
11 application acceptance period which I believe would be  
12 January 4, and at that time the crime rate in the census  
13 tract for this project, and it's the same census tract  
14 that our competition sits in, was 8.41, according to  
15 Neighborhood Scout, way below the threshold.

16 Now, you're also required to submit a  
17 disclosure on the crime in any census tract that's in  
18 1,000 feet of your site. I think we may have been the  
19 only applicant that did this this year, I haven't seen any  
20 others, but in an effort to follow the guidelines, we  
21 disclosed that two census tracts within 1,000 feet of our  
22 site had crime rates of 20.07 and 18.83 per 1,000  
23 citizens. Now, those are just barely over these  
24 thresholds and they're not in our census tract.

25 One of these tracts has a barrier. TDHCA

1 defines sort of barriers between census tracts and an  
2 interstate freeway is one of those barriers, and I'm not  
3 talking about Avenue Q if we need to get into that, but  
4 you know, if a census tract has a barrier between you,  
5 you're not allowed to take on the good characteristics of  
6 that census tract, you don't get credit for its high  
7 income rate or great schools or anything like that, so I  
8 would argue that likewise you shouldn't get penalized for  
9 their negative factor of higher crime.

10 In addition to that, the assistant chief of  
11 police has written and provided a bunch of local data that  
12 shows crime is much lower than what Neighborhood Scout  
13 says, and the Department criticized that information that  
14 we sent saying that it wasn't in the same area. They're  
15 correct, it wasn't for our census tract, they went ahead  
16 and used all three census tracts that were disclosing and  
17 used within a half mile of this site. And so their charts  
18 and data showed a decline in three of the four criminal  
19 acts that you're supposed to report on, and as I said, I'm  
20 puzzled why this is an issue. This clearly is not a high  
21 crime area and certainly areas with much higher crime have  
22 been approved.

23 Thank you.

24 MR. GOODWIN: Thank you.

25 Any questions?

1 (No response.)

2 MR. GOODWIN: Are you going to speak, sir?

3 MR. SAILLER: Good morning. My name is Dan  
4 Sailler. I'm with DS Ventures, one of the developers in  
5 this census tract, we are the developer for this  
6 particular project.

7 I wanted to expand a little bit on what the  
8 police department has told us and has put in writing with  
9 respect to crime in this area and this particular census  
10 tract. This is included as an exhibit in your board  
11 packet at page 899, but it's important to note that people  
12 with boots on the ground, the police department, are aware  
13 of what's going on in their area and have graciously come  
14 forward to provide us with the information we need to  
15 bring to you about what the current status of the crime in  
16 that area is.

17 I want to read briefly from the letter that was  
18 submitted, which again is in your board packet, and the  
19 assistant chief of police states that for the years 2016,  
20 2017 and the first quarter of 2018 the crime is relatively  
21 stable with respect to violent crimes which include rape,  
22 aggravated assault and arson, but has substantially  
23 declining in number of robberies. This includes 2018,  
24 extrapolated out for the year the trend is downward for  
25 most crime in this area.

1           The way that the police department is  
2 addressing crime is by dividing the city into three  
3 sections, north, south and east, and what they do is they  
4 move officers around to particular areas, as crime is  
5 determined to be increasing or decreasing, they'll move  
6 them out, and that's what they've done here. And they're  
7 creating substations which will include a substation near  
8 this proposed development that will be operational over  
9 the next three years that will move officers between  
10 substations and these substations will act as their own  
11 police department, essentially separately from the other  
12 two substations.

13           We believe that crime is in fact trending  
14 downward in this census tract and we believe that the  
15 people who know, the people that are there, the police  
16 department, believe that as well.

17           Thank you.

18           MR. GOODWIN: Any questions?

19           (No response.)

20           MR. GOODWIN: Anyone else going to speak to  
21 this application? Sorry. If you're going to speak, in  
22 the future, if you would, sit up in these first two rows.

23           For anybody else that wants to speak, if you'd sit up in  
24 these first two rows, we'd appreciate it.

25           MR. SALINAS: Hello. My name is Gilbert

1 Salinas, and I first want to say thank you for the process  
2 and opportunity to provide public comment. I'm a resident  
3 of Lubbock and I grew up in a neighborhood close to this  
4 development.

5 I'm primarily not here for this project but I  
6 do want to mention that I'm in tune with what's going on  
7 and this applicant has been really communicative with the  
8 community, with us, and has told us what's going on,  
9 versus the other applicant in the same area that we live  
10 in. I just wanted to mention that.

11 And the crime, I live there, I can attest that  
12 it's not as bad as it seems and it is trending in a  
13 plosive direction.

14 Those are my only comments.

15 MR. GOODWIN: Thank you, sir.

16 MR. SALINAS: Thank you.

17 MR. GOODWIN: Anyone else want to comment?

18 (No response.)

19 MR. GOODWIN: If not, we'll entertain a motion.

20 MR. BRADEN: I'll make a motion to find the  
21 site eligible.

22 MR. GOODWIN: Okay. Do I have a second?

23 MS. THOMASON: Second.

24 MR. GOODWIN: So we have a motion and a second  
25 to find the site eligible. Any further discussion?

1 (No response.)

2 MR. GOODWIN: If not, all in favor say aye.

3 (A chorus of ayes.)

4 MR. GOODWIN: Opposed?

5 (No response.)

6 MS. HOLLOWAY: Our final undesirable  
7 neighborhood is actually a little bit happier. We just  
8 hadn't gotten to a determination by last month's meeting  
9 so this one didn't make it on that agenda. Application  
10 number 18250 for Sweetbriar Hills Apartments in Jasper.  
11 This is the proposed acquisition and rehabilitation of a  
12 60-unit development serving the general population just  
13 outside of downtown Jasper.

14 The undesirable neighborhood characteristics  
15 report submitted in response to an administrative  
16 deficiency indicates that Parnell Elementary had an  
17 Improvement Required rating for 2017. The school achieved  
18 Met Standard in 2015 and 2016. The deficiency response  
19 included an update to the 2017-2018 campus improvement  
20 plan and a letter from the superintendent of the Jasper  
21 Independent School District. The letter states that the  
22 current update to the improvement plan clearly indicates  
23 improvement in each goal stated in the plan. There are  
24 several areas in the plan that do not indicate  
25 improvement, however, the majority of those areas will not

1 take place until the end of the school year. Per the  
2 update there has been progress made on many of the goals  
3 in the plan.

4 Because evidence that a positive trend and  
5 continued improvement in school performance was provided  
6 in the form of a letter from the superintendent, staff is  
7 able to determine that there is a high probability and  
8 reasonable expectation that the performance of Parnell  
9 Elementary School will improve, staff recommends that the  
10 site be found eligible.

11 MR. GOODWIN: Any discussion?

12 (No response.)

13 MR. GOODWIN: If not, do I hear a motion?

14 MS. RESÉNDIZ: So moved.

15 MR. GOODWIN: It's been moved and the motion  
16 seconded to approve staff's recommendation.

17 MS. THOMASON: Second.

18 MR. GOODWIN: The motion has been moved and  
19 seconded. Further discussion?

20 (No response.)

21 MR. GOODWIN: If not, all in favor say aye.

22 (A chorus of ayes.)

23 MR. GOODWIN: Opposed?

24 (No response.)

25 MR. GOODWIN: Moving on to 5(d).



1 MS. HOLLOWAY: Item 5(d), remember we had the  
2 item that was requested to be pulled off of the consent  
3 agenda that was an undesirable site.

4 MR. GOODWIN: And that was 18383.

5 MS. HOLLOWAY: No. 18274.

6 MR. GOODWIN: 18274. So we add 18274 to this  
7 list?

8 MS. HOLLOWAY: Yes.

9 MR. GOODWIN: Okay. Do you want to start with  
10 18274?

11 MS. HOLLOWAY: Sure, I can do that. Let me go  
12 through this introductory piece.

13 Under the undesirable site features rule,  
14 development sites within applicable distance of any of the  
15 identified undesirable features will be considered  
16 ineligible unless it is determined by the Board that  
17 information regarding mitigation of the undesirable site  
18 feature is sufficient and supports site eligibility. The  
19 Department's Governing Board has final decision-making  
20 authority in making an affirmative determination or  
21 finding the site ineligible. Pursuant to the rule, if the  
22 Board determines that a development site is ineligible  
23 based on this item, the termination of the application  
24 resulting from that Board action is final and is not  
25 subject to further appeal.

1           Application number 18274 for Hill Court Villas  
2           in Granbury, the development site is approximately 8-1/2  
3           miles from the Comanche Peak nuclear power facility. Our  
4           rule requires a 10-mile separation. The rule also  
5           includes a provision that where there is a local ordinance  
6           that regulates the proximity of the undesirable feature  
7           that has a smaller distance than those in the rule, then  
8           the smaller distances will be used. The application  
9           included a City of Granbury ordinance that allows the  
10          construction of multifamily developments funded with low  
11          income housing tax credits within the city limits of  
12          Granbury but no closer than five minutes from the nuclear  
13          plant.

14                 Based on that ordinance, staff is recommending  
15          that this site be found eligible.

16                 MS. BINGHAM ESCAREÑO: Move staff's  
17          recommendation.

18                 MR. GOODWIN: We have a motion moving staff's  
19          recommendation. A second?

20                 MS. THOMASON: Second.

21                 MR. GOODWIN: Moved and seconded. Any  
22          discussion?

23                 (No response.)

24                 MR. GOODWIN: Any comments?

25                 MR. RHODES: Good morning. Devin Rhodes with

1 Wheatland Investments Group.

2 MR. GOODWIN: If you don't mind, will you state  
3 whether you're speaking in favor of staff's  
4 recommendation?

5 MR. RHODES: I am not speaking in favor.

6 MR. GOODWIN: You're speaking against staff's  
7 recommendation?

8 MR. RHODES: Correct.

9 MR. GOODWIN: Okay.

10 MR. RHODES: Once again, my name is Devin  
11 Rhodes and I'm with Wheatland Investments Group. We are  
12 in Granbury as well this year.

13 Thank you, first, for taking this off the  
14 consent agenda. I feel it's important to draw your  
15 attention to what you're slated to approve this morning.  
16 Hill Court Villas is proposed on a site that has a  
17 significant undesirable site feature, proximity to a  
18 nuclear plant. Since 2006, the rules have had a means by  
19 which TDHCA can reject a site due to undesirable  
20 characteristics. In 2015, proximity to nuclear facilities  
21 was specifically called out and the distance from them  
22 steadily increased since then. The current standard is 10  
23 miles. There are only two power plants in Texas, one in  
24 the north and one near Cranbury.

25 We worked in Granbury last year, we love the

1 area, we love the market, and we wanted to be there again,  
2 but we were also aware that there was a nuclear power  
3 plant nearby. We even consulted with staff prior to  
4 looking for sites on how and where to select a site so  
5 that we would be in compliance with the rules. The  
6 emergency planning zone for the plant extends to the  
7 southern part of Granbury so we looked for a site a little  
8 further north. Ironically, we actually looked at this  
9 Hill Court Villas site, but we explained to the city how  
10 the rules are written and decided not to pursue it.

11 When a local ordinance that is more permissive  
12 than TDHCA rules does make an undesirable site feature  
13 potentially acceptable to TDHCA, the rule regarding this  
14 goes on to state the following: "If a state or federal  
15 agency would require a new facility under its jurisdiction  
16 to a minimum separation from housing, the Department will  
17 defer to that agency and require the same separation for a  
18 new housing facility near an existing regulated or  
19 registered facility."

20 On October 9, TDHCA provided a staff  
21 determination that the United States Nuclear Regulatory  
22 Commission defines a plume exposure pathway emergency  
23 planning zone consisting of 10 miles, which would include  
24 housing, so we believe that this federal agency limitation  
25 supersedes a local ordinance.

1 Thank you.

2 MR. GOODWIN: Thank you.

3 Any questions?

4 (No response.)

5 MR. GOODWIN: Anyone else going to comment?

6 MS. BAST: Good morning. Cynthia Bast of Locke  
7 Lord. We represent Hill Court Villas, number 18274.

8 The Comanche Peak Nuclear Power Plant was  
9 installed in 1990 and there are approximately 30,000  
10 residents within a 10-mile radius of the plant. The City  
11 of Granbury itself only has about 10,000 residents, and  
12 the truth is most of the City of Granbury is within a 10-  
13 mile radius of the plant. If you draw that 10-mile radius  
14 with the plant in the center, there's single family  
15 housing, and then there is this proposed site nearer to  
16 the 10-mile radius, and then there are 10 medical  
17 facilities, two grocery stores, six childcare centers,  
18 three big box stores, four schools, just to name a few,  
19 and most of those have been approved since the plant was  
20 operational, because the City of Granbury clearly has  
21 identified what they believe the safety zone to be and  
22 they in fact have an ordinance that says for affordable  
23 housing that a five-mile radius is sufficient.

24 And why is that? Our competitor here is trying  
25 to muddy the water. What the rule says is that you defer

1 to the local ordinance. We have a local ordinance that  
2 says five-mile radius is sufficient. You only look to the  
3 state or federal cognizant agency if they have rules that  
4 would require a new facility under their jurisdiction to  
5 have a minimum separation from housing. The United States  
6 Nuclear Regulatory Commission does not regulate the  
7 distance from housing to a nuclear plant, they address the  
8 area for evacuation in the event of an emergency, and  
9 their rules say that you evacuate in a two-mile radius,  
10 you can evacuate in an up to five-mile radius if you're  
11 downwind from the facility or there's other factors that  
12 require that kind of evacuation.

13 So under the rule, we don't look to the state  
14 or the federal cognizant agency because it is not  
15 regulating this issue, the local ordinance is regulating  
16 this issue. The City of Granbury has clearly developed  
17 itself with this plant in existence for 28 years and  
18 placed many new developments more than a five-mile radius,  
19 they are comfortable with more than a five-mile radius,  
20 and that is why your staff has recommended approval of  
21 this, and that's why we appreciate your upholding the  
22 staff recommendation.

23 MR. GOODWIN: Any questions? Any other  
24 speakers?

25 (No response.)

1 MR. GOODWIN: Not hearing any other questions  
2 or any other speakers, we have a motion and a second to  
3 approve staff's recommendation. All those in favor say  
4 aye.

5 (A chorus of ayes.)

6 MR. GOODWIN: Opposed?

7 (No response.)

8 MS. HOLLOWAY: The next application is 18095,  
9 this is the Retreat West Beaumont in Beaumont. The  
10 applicant did not disclose but staff determined for the  
11 environmental site assessment that several pipelines  
12 traverse the property proposed for the development. Per  
13 that assessment, no spills or releases were on record with  
14 TCEQ or with the emergency response notification system  
15 for the pipelines. Phase Engineering, which is the group  
16 that prepared that assessment, has the opinion of impact  
17 that based on lack of reported spills, it appears the  
18 subject property has not been impacted by the pipelines.

19 In your materials we've made a recommendation  
20 that this site be found ineligible because the pipeline  
21 crosses the property rather than lying in an adjacent  
22 easement, which is allowed in our rule. After publication  
23 for the board book, the applicant provided clearer  
24 documentation of the development site which uses a portion  
25 of the property and shows that the pipelines are in that

1 adjacent easement. Based on this information, staff is  
2 withdrawing the published recommendation and now  
3 recommends that the site be found eligible.

4 MS. BINGHAM ESCAREÑO: Moves to approve staff's  
5 current.

6 MR. GOODWIN: Revised recommendation?

7 MS. BINGHAM ESCAREÑO: Revised recommendation.

8 MR. GOODWIN: Okay. Do I hear a second?

9 MS. RESÉNDIZ: Second.

10 MR. GOODWIN: Any comments?

11 (No response.)

12 MR. GOODWIN: All those in favor say aye.

13 (A chorus of ayes.)

14 MR. GOODWIN: Opposed?

15 (No response.)

16 MR. GOODWIN: You knew what you were going to  
17 get. Smart.

18 MS. HOLLOWAY: Application 18138, this is  
19 Lancaster Senior Village. The applicant did not disclose  
20 but staff determined from the environmental site  
21 assessment that an above-ground valve station owned by  
22 CenterPoint Energy is on the southern boundary of the  
23 property. According to HUD guidelines, the valve station  
24 appears to conform to the HUD definition of an explosive  
25 hazard, which means any stationary container which stores,



1 handles or processes hazardous substances of an explosive  
2 or fire-prone nature. Because it is not known how much  
3 natural gas is present in the valve station at any given  
4 time, HUD blast zone calculations could not be completed.

5 Per the ESA, CenterPoint Energy has been  
6 contacted for further information about the valve station,  
7 including the pressure of gas in the valve. No response  
8 had been received at the time of application submission  
9 and no further information has been provided.

10 It is not clear that mitigation is required.  
11 The pump station lies within a pipeline easement and will  
12 be located outside of the development site, so staff is  
13 recommending that the Board find the site eligible with  
14 the condition that any award will be conditioned on the  
15 provision of evidence from the applicant that the  
16 requested information regarding the pump station has been  
17 received from CenterPoint Energy and the HUD blast zone  
18 calculations have been completed and they are found to be  
19 acceptable by the Department.

20 MS. BINGHAM ESCAREÑO: Move staff's  
21 recommendation.

22 MR. GOODWIN: Second?

23 MR. BRADEN: Second.

24 MR. GOODWIN: Moved and seconded. Any  
25 discussion? Did you want to speak to this?

1 MS. SAAR: Kathryn Saar. I have a quick  
2 disclaimer. For those of you who don't know me, I  
3 previously ran the 9 percent tax credit program and in  
4 that capacity I was subject to the two-year prohibition  
5 against representing an applicant under 2306.6733, but  
6 that period expired in October of 2017.

7 I would like to thank staff for their  
8 recommendation of site eligibility. The only thing I  
9 would like to discuss today is the actual condition that  
10 will be placed in the underwriting report. At this time  
11 it's premature to write that recommendation. We have been  
12 in talks with CenterPoint from day one and it appears that  
13 there is no mitigation that needs to be done, but we are  
14 in those talks.

15 Furthermore, as far as the blast zone  
16 calculation, that calculation actually contemplates a  
17 stored facility, and given that this is a natural gas  
18 valve station so it's flowing constantly and the rate and  
19 pressure could fluctuate at any given time, and based on  
20 what we've been told, it's not clear that a HUD blast zone  
21 calculation could ever be completed. So I fully  
22 anticipate that there will be a condition placed on this  
23 award, should we be lucky enough to have that happen, I  
24 just think that we need a little bit more information  
25 before we actually codify what that condition will be.

1 MR. GOODWIN: Any questions? So it sounds to  
2 me like you would like for this to pass without any  
3 conditions?

4 MS. SAAR: No. I fully expect there to be a  
5 condition, I just don't know what that condition should be  
6 at this time.

7 MR. GOODWIN: Because you don't have enough  
8 information from the pipeline company.

9 MS. SAAR: Correct. We are in talks with  
10 CenterPoint. They have not indicated that there is any  
11 issue with our development and we are still trying to  
12 figure out the best way to proceed, and like I said, given  
13 the nature of the calculation that's being recommended in  
14 the condition, I still don't know if that calculation  
15 could ever be completed because of the fixed nature of a  
16 storage facility versus a pipeline valve station, if that  
17 makes sense.

18 MS. BINGHAM ESCAREÑO: So we're looking for  
19 maybe an "or" on the end of the condition, maybe an "or"  
20 with an alternative.

21 MR. IRVINE: Or you could, instead of posing a  
22 condition, you could direct staff to work with the  
23 applicant to develop an appropriate condition and to  
24 provide the Board a report on that for its acceptance.

25 MR. GOODWIN: Would that be acceptable?

1 MS. SAAR: That would be acceptable to the  
2 applicant.

3 MR. GOODWIN: Would that be acceptable to the  
4 motion-maker?

5 MS. BINGHAM ESCAREÑO: Absolutely.

6 MR. IRVINE: Would that work for the staff?

7 MS. HOLLOWAY: If I may, we could revise what I  
8 read as the condition and just say HUD blast zone  
9 calculations, if necessary, have been completed, and just  
10 do it that way. Is that acceptable?

11 MR. GOODWIN: Is that acceptable to the motion-  
12 maker?

13 MS. BINGHAM ESCAREÑO: I mean, is it the  
14 company that makes that determination? Who determines  
15 that it's necessary.

16 MR. GOODWIN: I would say if staff determines  
17 it's necessary.

18 MS. BINGHAM ESCAREÑO: Okay. Then I'm good  
19 with that.

20 MS. HOLLOWAY: Through the underwriting  
21 process, because we would have to do some more research  
22 through that process.

23 MS. BINGHAM ESCAREÑO: Yes.

24 MR. GOODWIN: So we have a motion as amended.

25 MS. THOMASON: Second.

1 MR. GOODWIN: Everybody comfortable with that?

2 And we have a second. All in favor say aye.

3 (A chorus of ayes.)

4 MR. GOODWIN: Opposed?

5 (No response.)

6 MS. HOLLOWAY: Next up is application 18162,  
7 Guadalupe Villas, this is in Lubbock. This development  
8 site is within 500 feet of an active railroad track. The  
9 applicant relies first on a Board ruling at the July 13,  
10 2017 meeting. Per the applicant, that ruling allowed a  
11 city interpretation that a local zoning ordinance that is  
12 silent on a required distance from a railroad easement can  
13 be interpreted as evidence of the rule allowance for a  
14 local ordinance that regulates the proximity to the -- I'm  
15 sorry. Basically, your ruling on July 13, 2017 was that,  
16 per the applicant they're saying that because there was no  
17 local ordinance, because it was silent, then that means  
18 that there is no required distance from the railroad  
19 easement.

20 That ruling relied on a city council resolution  
21 that stated: "Mistletoe Station is located adjacent to a  
22 railroad and its associated easement, and the city  
23 planning and zoning codes and ordinances provide that a  
24 development located adjacent to such an easement is  
25 permitted with zero feet of required setback." We didn't

1 have an ordinance but we had a resolution that spoke to  
2 the ordinance, and going back to the transcript, that was  
3 sort of the pivot for that ruling by the Board on that  
4 date.

5 Failing that, the applicant relies on a ruling  
6 of the Governing Board at the January 18 meeting where a  
7 development site less than 500 feet from a railroad track  
8 was found eligible subject to mitigation based on HUD  
9 standards for noise. In that case the proposed  
10 development was 450 feet from the track and commercial  
11 development was planned in between.

12 The applicant's engineer has conducted a noise  
13 study and includes a statement that says: "The  
14 development is being designed to distance the units from  
15 the railroad easement as much as possible. The nearest  
16 cottage unit on the proposed site plan is approximately  
17 250 feet from the railroad easement, and the nearest two-  
18 story unit is approximately 260 feet from the railroad  
19 easement. The development is also proposing a solid  
20 barrier between the railroad and the development site.  
21 Detention will create a barrier between the road and the  
22 units, and if noise levels above 65 decibels but not  
23 exceeding 75 decibels are indeed found, we will provide  
24 noise attenuation through certain building design and  
25 construction techniques."

1           As evidence of mitigation provided for the  
2 proximity of the railroad relies solely on previous  
3 determinations made by the Board, staff defers to the  
4 Board's current determination on this issue. Should the  
5 Board find the development site eligible, staff suggests  
6 that compliance with HUD standards for noise abatement and  
7 control be a condition for any award.

8           MR. GOODWIN: So you have no recommendation?

9           MS. HOLLOWAY: Because we have these previous  
10 rulings on this same issue, different circumstances but  
11 same issue, we don't have one.

12           MR. GOODWIN: Okay. Do I hear a motion to  
13 accept comments? There are obviously some people that  
14 want to speak to this.

15           MS. BINGHAM ESCAREÑO: So moved.

16           MR. GOODWIN: Second?

17           MS. RESÉNDIZ: Second.

18           MR. GOODWIN: All in favor say aye.

19           (A chorus of ayes.)

20           MR. GOODWIN: Okay. We're ready to start  
21 hearing those of you who would like to speak.

22           MS. RICKENBACKER: So before we get started, by  
23 the way, Beau, are just illustrations of what was already  
24 included in our application and what's made part of your  
25 board books. Is that okay?

1           MR. IRVINE:  If these actual things are in the  
2 board materials, it's permissible.

3           MS. RICKENBACKER:  Thank you.

4           MR. IRVINE:  Just for general information, when  
5 people do bring things like this, it's always better to  
6 also have a version to show the audience.

7           MS. RICKENBACKER:  Good morning.  My name is  
8 Donna Rickenbacker with Marque and we're consultants to  
9 Kent Hance, the applicant of Guadalupe Villas.  Guadalupe  
10 Villas is a proposed senior development that's going to be  
11 located in northeast Lubbock.  The site is within 500 feet  
12 of a railroad track which is deemed an undesirable site  
13 feature in your own rules.

14           First, I want to commend staff for their  
15 summary that they provided to this Board.  They've  
16 correctly stated that we did rely on the Board's previous  
17 rulings regarding railroad proximity, recognizing that the  
18 site's eligibility is the Board's determination, and we  
19 respect your prior decisions.  We also looked at your  
20 prior rulings to determine what information to include in  
21 our application to support eligibility.  Given that rule  
22 does not explicitly define such documentation but gives  
23 "such as" examples.

24           As stated by other applicants that have come to  
25 the Board with similar site features, there are two parts



1 to the rules: disclosure and regulation or mitigation.  
2 With respect to disclosure, we did disclose that we're  
3 within 500 feet of a railroad track. Relating to  
4 regulation, the rule allows the applicant to provide  
5 evidence that the city adopted a railroad quiet zone or  
6 evidence that the city regulates the proximity of such  
7 feature to a multifamily development that is smaller  
8 distance such as an ordinance. We actually provided both  
9 in our application.

10 The site is approximately 1,700 feet from the  
11 nearest roadway at grade railroad crossing located at  
12 Avenue P that's in the Guadalupe neighborhood. In 2008  
13 the city passed and approved the installation of and  
14 currently maintains a wayside horn at that intersection.  
15 The wayside horn technology is acceptable to be used as a  
16 quiet zone by the Federal Railroad Commission. There are  
17 others that will be here to speak to the technology, but  
18 the point is that the city has adopted a quiet zone  
19 technology and shows their intent in controlling noise  
20 pollution in the Guadalupe neighborhood.

21 Second, the rule also allows the applicant to  
22 provide evidence of a regulation adopted by the city that  
23 establishes the smaller distance. We provided a letter  
24 from the director of development stating the city does not  
25 have any setback requirements relating to housing

1 development's proximity to a railroad track. In prior  
2 decisions, this Board recognizes that the rule states  
3 "such as an ordinance" and gives the Board discretion in  
4 accepting alternative forms of evidence in support of a  
5 smaller distance. We believe that the director of  
6 development is a qualified city official to interpret  
7 local ordinances and believe that their confirmation that  
8 there's no separation required is proof of zero distance.

9 Lastly, relating to regulation, this site was  
10 rezoned to multifamily housing. We got the site rezoned  
11 to multifamily housing and the city council specifically  
12 looked at the Guadalupe Villas layout where we were  
13 proposing it and its proximity to the railroad tracks in  
14 connection with getting the site rezoned.

15 Lastly, an alternative to regulation is  
16 mitigation. We did provide a noise study in our  
17 application. The rule doesn't require us to provide a  
18 noise study.

19 MR. GOODWIN: I'll ask you to wrap it up.

20 MS. RICKENBACKER: Yes, sir. I think somebody  
21 is yielding time.

22 MS. DULA: Tamea Dula with Coats Rose. I would  
23 like to speak but cede my time to Ms. Rickenbacker.

24 MR. GOODWIN: If she leaves any time left for  
25 you.

1 (General laughter.)

2 MS. RICKENBACKER: Yes, sir. I'm almost  
3 finished. We did provide a noise study in our  
4 application. We did recognize that a portion for the  
5 property is located next to a railroad track and the  
6 Marsha Sharpe Freeway. We did agree in our application to  
7 mitigate any noise that is above whatever levels to HUD  
8 standards. You all have approved a prior applicant that  
9 came before you and allowed them to move forward in spite  
10 of their proximity to railroad tracks because they did  
11 agree to mitigate based on HUD standards, and we fully  
12 intend to do so as well.

13 MR. GOODWIN: Okay. Thank you.

14 MS. WATSON: Good morning. My name is Tracy  
15 Watson and I'm with Phase Engineering. We're the  
16 environmental consulting firm that has done the  
17 environmental noise study for the Guadalupe Villas  
18 property site.

19 So to talk on my experience, I've been working  
20 on doing HUD or TDHCA compliance projects for over 10  
21 years. I specialize in these types of reviews. Our  
22 company does a large amount of these reviews to meet all  
23 the compliance in regards to HUD as well as TDHA. I've  
24 gone through multiple training sessions under specifically  
25 TDHCA and HUD for many years, so I'm very well versed on

1 what is required and how to complete these types of  
2 reviews.

3           So a little bit of background and to explain  
4 how you do one of these types of studies in order to meet  
5 the requirements to HUD is you go to the noise guidebook  
6 as well as regulations found in 24 CFR Part 51. So the  
7 standard classifies noise environment for any ambient area  
8 below 65 decibels or less is being considered acceptable  
9 for residential development. If the noise is between 65  
10 to 75 decibels, it's considered mitigateable to down to 65  
11 by using various types of designs, senders, noise barriers  
12 or what's most commonly used is selecting building  
13 materials that provide noise attenuation to allow for an  
14 acceptable interior noise level of at least 45 decibels.  
15 So this project and what we found in our study that the  
16 results were found to be typical of an urban environment  
17 and within the 65 to 75 decibel range.

18           So when we address the noise, we look at  
19 different noise sources of what contributes to that  
20 environment. So of course we have the railroads nearby,  
21 it's along the southwest boundary. You can see on some of  
22 these maps the proximity to our project site. And when  
23 you calculate the noise only specifically from this  
24 railroad, it is just only slightly above the acceptable  
25 range, right at about 66 decibels if you consider just the

1 railroad on its own. We also have to notice that there's  
2 a freeway to the south, that's Marsha Sharp Freeway. The  
3 Marsha Sharp Freeway actually provides a larger noise  
4 impact, closer to about 69 decibels. There's two other  
5 major roads that we also have to take in consideration,  
6 but due to their low traffic counts, they provide very  
7 minimal noise impact.

8 So the way we do a noise assessment, you look  
9 at two major noise assessment locations you measure from  
10 and you measure to the closest point to the noise sources.

11 So in our review we felt that they were pretty  
12 conservative considering when we count traffic counts we  
13 project it out to 10 years, and as well as we believe that  
14 the impact from the freeway is a little bit elevated and  
15 due to that the freeway is not at the same elevation as  
16 the project site, it's elevated, so we expect that there's  
17 going to be a variance there.

18 One of the greatest problems I wanted to just  
19 throw in before if finish here is that the impact from the  
20 train, you consider either the rail noise itself as well  
21 as train horn noise. When we conduct noise surveys, which  
22 is completed based on the guidance that HUD provides, is  
23 that when you're closer to a crossing, so within a quarter  
24 mile of a crossing is when you consider train noise to  
25 even be a consideration on your site. This property is

1 beyond the quarter mile boundary to the closest at grade  
2 crossing, and that particular crossing, if it came into  
3 consideration, is installed with a wayside horn. The  
4 purpose of a wayside horn is that as the approaching train  
5 is coming, there are horns that are affixed to the  
6 crossing itself and it directs noise directly down the  
7 roadway with limiting impacts to the adjacent properties  
8 along the road. So with the purpose of having that  
9 wayside horn, in addition to the crossing distance from  
10 our project site, we found that the use of the train  
11 horn's impact on this site was not even a consideration  
12 which was able to bring down our noise impacts to well  
13 within the normally acceptable range of mitigation.

14 MR. GOODWIN: If you can wrap up.

15 MS. WATSON: That's my comments. Thank you  
16 very much.

17 MR. GOODWIN: Questions?

18 MR. VASQUEZ: Sort of a technical question. So  
19 if the highway is basically 70 and the train is 70, isn't  
20 that 140?

21 MS. WATSON: No, you don't combine it in  
22 addition necessarily. There's a math that gets into it.  
23 HUD guidelines has these calculations built into it where  
24 you count for a percentage comes from this source and a  
25 percentage comes from this and you determine a combined

1 input. So usually the combined amount is higher than both  
2 separately but they're not.

3 MR. VASQUEZ: It wouldn't put them over 75?

4 MS. WATSON: No. It still comes under the 75  
5 mark because the other levels are not quite into that  
6 point. It just kind of bumps up the number just a little  
7 bit more.

8 MR. GOODWIN: Any other questions?

9 (No response.)

10 MR. GOODWIN: Is someone else going to speak?

11 MR. HANCE: My name is Kent Hance. Mr.  
12 Chairman and members of the committee, thank you very much  
13 for your service. I'll be relatively fast on this.

14 We hired Phase Engineering when we started to  
15 do a study for us, and she just talked about the study.  
16 Our opposition, 3rd Street Lofts, they hired someone out  
17 of Louisiana and they said no, and then Phase came back  
18 and they did a study to say that no, we were correct. And  
19 so I then went out and hired another group, another  
20 individual and we have that, a professor, head of the  
21 graduate department of mechanical engineering at Texas  
22 Tech, and he says in his letter he agreed with Phase  
23 Engineering, I have complete confidence in the overall  
24 calculations done by Phase Engineering. So we studied it  
25 and studied it closely.

1           We also have some neighbors here that are the  
2 closest and they're going to say a few words in a few  
3 moments. But the directional solution that the city came  
4 up with in '08 has worked well and it's there where the  
5 crossing is so you don't have the train moving with the  
6 noise problem. And we have talked about this when we had  
7 notices. We had a meeting in the neighborhood, I had  
8 another meeting in a restaurant and invited everyone for  
9 lunch, we had about 75 people there with about 40 of them  
10 were from the area. But we tried to make sure that  
11 everybody is knowledgeable about this.

12           And this is a piece of property that has been  
13 vacant for over 50 years and the people that live across  
14 from it are very supportive and they are familiar with the  
15 train and the rails.

16           Thank you very much.

17           MR. GOODWIN: Thank you.

18           Any questions?

19           (No response.)

20           MR. SAILLER: My name is Dan Sailer. I spoke  
21 to you a little while ago, as well, on this project. We  
22 are the competitor to this project.

23           I'm interested to hear some of the comments  
24 that were just made. This property has been vacant, which  
25 I didn't know, for 50 years and there's a reason for that.



1 This is on a railroad. Nobody wants to live next to a  
2 railroad.

3 I was also interested to hear that there's  
4 support for their noise study. There are holes in the  
5 noise study that they provided. We've got a noise study  
6 that we have submitted as well that's in your packet, and  
7 the author of that, Mr. Jim Howell, is here today to tell  
8 you where the holes are in that, and the major holes are  
9 the study that was provided to you by the applicant does  
10 not take into account the train horn or the crossing horn  
11 that is at that site. When those are taken into account,  
12 this property exceeds the 75 decibel level that is  
13 ineligible under HUD.

14 I'm going to now turn it over to Jim to talk to  
15 you about what his study shows with respect to this  
16 property. Thank you.

17 MR. HOWELL: I'm Jim Howell with Gibco  
18 Environmental, and as was stated, we did a noise  
19 assessment on this site and also reviewed the one  
20 performed by the applicant's engineer, Phase Engineering.

21 I agree with everything in the previous report  
22 except for the issue of horns, horns and whistles. The  
23 HUD noise assessment guidelines are very standardized and  
24 you actually use a web-based tool to calculate what the  
25 decibel levels are once you input all the information.

1 There's a question on the form that says, Are there  
2 railway whistles or horns? And that's a yes or no  
3 question that you have to answer. The form itself asks it  
4 and when you check yes or you check no, the results are  
5 higher or lower. It's already stated that there is a  
6 wayside horn at the P Street crossing, so that, in our  
7 opinion, should mean that you answer the question yes and  
8 you let the HUD forms calculate what the effect of that  
9 is.

10 The P Street crossing, though, is not the only  
11 crossing that you need to consider. The 3rd Street  
12 crossing, which does have traffic on it, as shown by the  
13 email from BNSF that's in the application packet, that is  
14 the spur that serves Purina that is less than one-tenth of  
15 a mile wide and the train would be required to blow its  
16 horn when it has to head up that spur. So again, you have  
17 to check yes. If you check yes on railway whistles and  
18 horns, we calculated 79.5294 as the decibel level which is  
19 at a speed of 10 miles an hour, but at any of the speeds  
20 listed, it's still going to be over the unacceptable  
21 threshold of 75.

22 So in my opinion, HUD would reject the  
23 conclusions in the Phase Engineering assessment and they'd  
24 conclude that another assessment would need to be done,  
25 and in my opinion, it would be showing to be unacceptable.

1 Thank you.

2 MR. GOODWIN: Any questions? I have a  
3 question. You mentioned two crossings. Did you say P  
4 Street is one? Because I thought I understood the first  
5 consultant to say that it was more than a quarter of a  
6 mile away.

7 MR. HOWELL: P Street is .33 miles away, 3rd  
8 Street is less than a tenth of a mile away. It's shown on  
9 their map that's in your book there as 502 feet, I  
10 believe, away. And that's it.

11 MR. GOODWIN: Any other comments? Any new  
12 comments from anybody that hasn't already spoken that  
13 wants to speak? If you haven't spoken on this and you  
14 want to speak, we'd like to hear from you.

15 MR. SALINAS: Again, good morning and thank  
16 you.

17 So I'm a resident and I grew up there, I  
18 currently live there, and I've actually been delegated by  
19 the majority of the neighborhood to come out here. We  
20 couldn't charter a bus but in the future we might think of  
21 doing that if something comes up.

22 MR. GOODWIN: Your name, sir?

23 MR. SALINAS: My name is Gilbert Salinas, sir.  
24 Thank you.

25 And so we feel strongly that the site is too

1 close to a railroad track and the noise from the train and  
2 the horns will not be beneficial for the seniors that will  
3 be living there. We're really looking out for the seniors  
4 living there.

5           There are zones where they shouldn't blare the  
6 horn, that's true, that's been mentioned, but it's not  
7 always followed. And there was mention that there's a  
8 spur. Well, we live closer to a railroad track. There's  
9 actually two railroad tracks that come together in a  
10 triangle fashion and we live closer where I live to one of  
11 them, and some nights you will get a new operator that  
12 comes through and he blares the horn. It's been mentioned  
13 that -- or it hasn't been mentioned but there are  
14 vagrants, there's a highway there, sometimes there's  
15 vagrants and homeless people and if a barrier, a noise  
16 wall is put up, there will probably be even more of a home  
17 for people to go there. And then if these vagrants do get  
18 on the track, there's going to be more horns honking. So  
19 that's another issue that we would have for these seniors  
20 that will be living there.

21           So I mentioned the zones that they shouldn't be  
22 honking in but they don't always follow that, and I live  
23 less than a thousand feet away. And the seniors shouldn't  
24 be exposed to this type of noise, they should be able to  
25 sleep.

1           There's plenty of land in the City of Lubbock.  
2           It's not like a concentrated city like Dallas-Fort Worth  
3           where you can only build in certain areas. You can spread  
4           out the apartment complexes and we're seeing a  
5           concentration of actually low income housing complexes in  
6           this area. If you go two miles this way there's one, two  
7           miles this there's another one, but that's a separate  
8           issue.

9           Also to be noted, the City of Lubbock is  
10          building a state of the art Buddy Holly Performing Arts  
11          Center less than 1,500 feet south of the proposed  
12          development and there's a food truck park and a music park  
13          that's going be developed there. This will also provide  
14          more noise on top of the horns.

15          It was mentioned that it was rezoned from  
16          highway commercial to multifamily and they had that  
17          changed. Well, I agree with the first zoning that it  
18          should be highway commercial, I disagree with the city  
19          council's vote there. We went to city council and  
20          actually city council, two members of the city council  
21          went to a similar project that's already developed in  
22          Lubbock with low income housing tax credits by Mr. Kent  
23          Hance, and that place -- two city council members visited  
24          that place and said it's unsafe and the Better Business  
25          Bureau has a rating of F for the management company that's

1 there and we're concerned for the safety of these seniors.

2 MR. GOODWIN: I need for you to kind of wrap it  
3 up.

4 MR. SALINAS: Yes, sir.

5 So looking out for our seniors, we beg you to  
6 consider this application ineligible based on this  
7 undesirable site characteristic. Thank you.

8 MR. GOODWIN: Okay.

9 MS. THOMASON: I have a question.

10 MR. GOODWIN: Yes.

11 MS. THOMASON: So your opposition is because of  
12 the noise level.

13 MR. SALINAS: That's correct. The noise level,  
14 the horns blaring. There's not always the same operators  
15 that go through there or if somebody gets on the track  
16 there's going to be noise in that area, and so my  
17 opposition is to the characteristic of the noise level.

18 MS. THOMASON: And so from the map that we have  
19 in our book there are obviously multiple single family  
20 residences, and I guess you live there?

21 MR. SALINAS: So I actually live further up  
22 here on the map, so here's Avenue L, I live right up here  
23 on Avenue L and there's another railroad track that makes  
24 a triangle like this, so this one goes here and there's  
25 another one here and they meet in a triangle. I live

1 closer to this railroad track and even closer to the track  
2 than these people live to this track. I live probably  
3 less than 900 feet to the track and we hear the noise.  
4 And we're normalized to it but if we're having already  
5 trouble sleeping at night, it does impact us, and these  
6 seniors will be impacted.

7 MR. GOODWIN: Did hear you say you live less  
8 than 900 feet from the track?

9 MR. SALINAS: Yes. We live actually I would  
10 say --

11 MR. GOODWIN: Inside 500 feet to the track.

12 MR. SALINAS: I'd say less than a 1,000 feet,  
13 definitely less than 1,000, maybe 900. Yes, definitely.

14 MS. THOMASON: And you also stated city council  
15 did approve the zoning for the multifamily project.

16 MR. SALINAS: That's right, I mentioned that.  
17 They approved the zoning to multifamily but that I  
18 disagree with that. I think the interstate highway  
19 commercial that it was originally zoned as, it should have  
20 been kept as that. A gas station would be better there in  
21 that area possibly, something that wouldn't affect  
22 seniors. And maybe the noise from the gas station would  
23 but it's something that should have been evaluated, the  
24 noise and the blaring of the horns for the seniors.

25 MS. THOMASON: Thank you.

1           MR. GOODWIN: Anybody new that hasn't spoken  
2 that wants to speak?

3           MR. KROTCHTENGEL: I'm Zachary Krotchtengel.  
4 I'm a representative of the developer as well.

5           I'd like to point out a few things. Policy for  
6 these projects has changed and it has really encouraged  
7 urban core development, and with that comes urban core  
8 problems such as noise. We're looking at this project in  
9 holistic view, and I think if you're just looking at it  
10 from a distance point of view and saying anything within  
11 500 feet no go is just the wrong way to look at it because  
12 the HUD noise model takes into account a lot of different  
13 variables.

14           When the Board approved a site in one of the  
15 previous applications that's 427 feet away from the  
16 railroad, they didn't just create a new standard that  
17 anything that's 427 feet away would rule, they said that  
18 the HUD DNL calculator was the correct way to look at  
19 this. And I think it's appropriate to look at these  
20 previous Board agenda items, and especially look at how  
21 Marni spoke of the 500 foot distance. Five hundred feet  
22 from a suburban grade crossing creates noise, that's from  
23 the Board book talking about HUD attenuation. And when  
24 you look at that 500 foot crossing, you're looking at  
25 something called the Federal Railroad Administration horn



1 noise dissipation model. I know that's a long blurb, but  
2 basically a train horn is about 90 to 110 decibels; this  
3 wayside horn which is all focused in one area towards the  
4 street does not dissipate noise in the same way which is  
5 why it is a quiet zone technology.

6 In our application we included the Federal  
7 Railroad Administration noise dissipation model showing  
8 that from 1,700 feet away with a 78 decibel horn, which is  
9 the wayside horn in Lubbock, the noise at the site would  
10 be 36 decibels using that wayside horn model. That was  
11 included in our application to show that this is not a  
12 major source of noise on our site.

13 Now, the other thing you have to look at is  
14 speed, and when we're looking at speed through all of our  
15 calculations you will see that the wayside horn, which  
16 takes out the horn noise in the HUD DNL calculator, allows  
17 for this site to fall under the 75 decibel level.

18 I'd also like to just read a portion of a  
19 letter from Steve O'Neal, who is the director of  
20 development services for the City of Lubbock, and he's  
21 just kind of talk to you about the wayside horn.

22 "On September 25, 2008, Lubbock City Council  
23 approved the use of quiet zone technology at the  
24 intersection of Avenue P north of 2nd Street. They  
25 appropriated approximately \$150,000 for the purpose,

1 installation and maintenance of a wayside horn at Avenue P  
2 in the Guadalupe neighborhood. The quiet zone technology  
3 has significantly improved the safety of motorists and  
4 pedestrians at this railroad crossing while dramatically  
5 reducing noise pollution created by train horns in the  
6 adjacent neighborhood."

7 This is showing that the City of Lubbock  
8 anticipated this kind of development in this area and  
9 mitigated the noise before we even got to that development  
10 site.

11 Thank you.

12 MR. GOODWIN: Thank you.

13 Anyone else that has not spoken want to speak?

14 MR. BREWER: I'm Stewart Brewer. I live  
15 directly across the street. On the ground my boots are  
16 every day. Let's get down to the brass tacks.

17 MR. GOODWIN: Across which street, Stewart?

18 MR. BREWER: I'm across 3rd Street but the  
19 building proposed is directly across the street from me.  
20 I mean, it's my front yard across the street.

21 Down to brass tacks. Yes, the quiet zone is in  
22 place. Very rarely do I hear trains, very rarely. They  
23 do not blast their horns coming across. They used to,  
24 yes, I admit it. They put in the quiet noise technology,  
25 cut it completely out. I can sit in my house and not even

1 know that there's a train going by, and that is on the  
2 front lines.

3 We want this development to be there, we want  
4 the improvement to our community, to my community. I'll  
5 specify it to me because there's a lot of people that do  
6 not want this because of heritage and different things.  
7 That's not addressing what we're talking about. As far as  
8 noise factor is concerned, it is nonexistent. Every once  
9 in a while a train comes down a side and you hear a bump-  
10 bump, and that's it, that's all that happens.

11 As far as disturbing the seniors, no. Mr.  
12 Hance has talked to us about it and he says if you see  
13 anything wrong that's not working, let me know. But as  
14 far as not approving his grants and everything, the noise  
15 should not even be considered to give him his money.

16 Thanks.

17 MR. GOODWIN: Anybody else want to speak who  
18 hasn't spoken?

19 MS. ANDRÉ: Hi. Thank you again. I'm Sarah  
20 André.

21 Just two very quick clarifications. The city  
22 in this case is very unofficially using the term  
23 "federally recognized quiet zone." It is not a federally  
24 recognized quite zone. There's a procedure for going  
25 through that and being designated that way, so that's an

1 unofficial use of this term.

2 And then just want to point out once again  
3 that, you know, the City of Lubbock has issued a letter  
4 saying they don't have any regulations prohibiting this.  
5 That's not the standard that we've been held to in the  
6 past, it's that there needs to be an official public  
7 action allowing it.

8 So I just wanted to point those two items out.  
9 Thank you.

10 MS. THOMASON: I have one question.

11 MR. GOODWIN: Sarah.

12 MS. ANDRÉ: Yes, ma'am.

13 MS. THOMASON: So city council approving the  
14 zoning, you don't recognize that as an action that it  
15 would be permitted to construct that close to the  
16 railroad?

17 MS. ANDRÉ: It's not an action that -- yes,  
18 they're allowing construction of a development. That I  
19 not something cited in our TDHCA Multifamily Rules  
20 specifically allowing construction next to a railroad  
21 zone.

22 Thanks.

23 MR. PALMER: Barry Palmer with Coats Rose,  
24 representing the developer.

25 So we've heard some competing testimony from

1 the experts as to how much noise there is here, but I  
2 think there are two really compelling factors here, one of  
3 which the Board just touched upon in that last question is  
4 the city just considered this in the rezoning and said,  
5 Yes, this is an appropriate spot for seniors. But the  
6 most compelling was the gentleman who got up who lives  
7 across the street from where the development is going to  
8 be and he told you that the train is not a problem with  
9 the new quiet zone technology with the horns that they're  
10 using, and that's really, to me, the most compelling  
11 testimony that we've heard on this today.

12 And as long as the project is going to be built  
13 within the HUD noise level standards, which could be a  
14 condition of the award, I see no reason to find this  
15 property ineligible, particularly I view of some of the  
16 past precedents where the Board has considered all of  
17 these factors, not just the flat 500 feet but a number of  
18 factors.

19 So I would urge the Board to find this site  
20 eligible.

21 MR. GOODWIN: Any questions for Barry?

22 (No response.)

23 MR. GOODWIN: Anybody else that wants to speak  
24 that hasn't spoken?

25 MS. BREWER: Good morning. My name is Sonya

1 Brewer, and I am Stewart Brewer's wife, I live across the  
2 street.

3 I was born and raised in this neighborhood,  
4 have lived there except for 16 years of my life in that  
5 neighborhood. When we built our home, the community  
6 development led us to believe that there would be a lot of  
7 new community development and we have lived there across  
8 this empty lot for 26 years. It's a beautiful  
9 neighborhood, a well established neighborhood, but the  
10 consensus has been to fight this project, and I believe in  
11 my heart of hearts that this concern for seniors and the  
12 noise is a last ditch effort to stop this project.

13 It's a very unique plot of land that is  
14 surrounded by that railroad track. We live across the  
15 street. Mr. -- I don't remember his name at the moment --  
16 he lives further into the neighborhood which there is  
17 another adjacent little running track where they don't  
18 blow the horns. The place they blow the horns is on  
19 Avenue P and 2nd Street which is by the park and a  
20 commercial site, so it blows directed into the  
21 neighborhood but not along the back of those houses.

22 I believe you would an injustice if you denied  
23 this application to the City of Lubbock to the  
24 neighborhood of Guadalupe. As has been stated, we went  
25 through four meetings, rezoning, the council approved at

1 two meetings, and really he can say that a gas station  
2 would be okay across the street because he doesn't have to  
3 live across the street from it, we would. And I think  
4 seniors would be a great addition to our neighborhood. I  
5 think the longevity, the experience, all the things that  
6 seniors could bring to our neighborhood would be a huge  
7 plus. Not to mention that this area of Lubbock had not  
8 had construction, has not had development, has not had any  
9 kind of economic growth in many, many, many years.

10 It was mentioned that downtown Lubbock is  
11 becoming revitalized, the new Buddy Holly Center is being  
12 built. The seniors could walk from their home to the new  
13 Buddy Holly Center, they could walk to the downtown area,  
14 and I'm serious, you could walk within 10 minutes and be  
15 in downtown Lubbock from this project.

16 So I urge you with all diligence, please pass  
17 this request. Thank you so much for your time.

18 MR. GOODWIN: Thank you.

19 Anybody else that has not spoken want to speak?

20 MR. SAILLER: My name is Dan Sailer.

21 Appreciate the time today, guys.

22 I have a simple statement that I think can be  
23 shown in the easiest way possible. This site is closer to  
24 the railroad, the property is closer to the railroad than  
25 I am from you. Are we now building on railroads? There's

1 250 feet of pond between it and the first building, but  
2 we're now going from the 500 feet to 120 feet at Mistletoe  
3 Station and 450 feet at the Residence of Georgetown,  
4 we're now down to zero feet. Let's just get rid of the  
5 rule if we're not going to follow the 500 foot rule.

6 Thanks.

7 MR. GOODWIN: Anyone else wish to speak that  
8 hasn't spoken? At one time somebody wanted to come back  
9 and I'm not sure. Is this going to be something new? Are  
10 we going to try to resolve reputation between one  
11 consultant and another? Because that's not going to  
12 happen.

13 MS. WATSON: Well, again I'm Tracy Watson. I  
14 just wanted to clarify a couple of statements that were  
15 made earlier.

16 So there was mention that there's a closer spur  
17 to the site, however, when you look at the data that you  
18 collect and you're trying to consider the impact of that  
19 spur to the property, the Federal Railroad Administration  
20 has in their information the most up to date information  
21 and it says there's zero train operations completed on  
22 that train spur. In addition, there is no public at grade  
23 road crossing within the distance appropriate to our  
24 property, so that doesn't really come into consideration  
25 and that's why it doesn't have an impact on our property.



1           In addition to the discussion on whether or not  
2 the train horns, if they happen to blow their horns, if  
3 there's a conductor coming through that's not familiar  
4 with the wayside horn at that crossing, the Federal  
5 Railroad Administration regulations state that they must  
6 blow their horns as they're approaching within a quarter  
7 mile of a crossing. As we've already stated, the property  
8 is beyond a quarter of a mile, so even if they started  
9 blowing the horns, they would have already passed the  
10 property before they start blowing their horns, so there's  
11 very minimal impact from train horns if that was to even  
12 occur.

13           And in most cases when we're conducting these  
14 noise assessments, if a property is at that distance, we  
15 don't consider horn noise, and that has been accepted by  
16 every noise study we've ever done that has been approved  
17 by HUD, and that's a lot.

18           And I also want to point out that when we use  
19 the HUD noise calculator, and HUD can attest to this, that  
20 when they developed it, it's meant to make the process  
21 simpler because there's very detailed calculations.  
22 Before they created this web-based program, we had to do  
23 these by hand kind of charts, and so HUD explained and  
24 they put into the documentation there are a lot of  
25 limitations and assumptions that go into play in that

1 calculator, so you have to consider some of the specifics  
2 of your particular property, and I understand that based  
3 on my direct guidance I've received from HUD through the  
4 training I've experienced.

5 So I just want to take that into consideration,  
6 to let you know that, yes, if you put a horn into the  
7 calculator, we're going to be well over the limit,  
8 however, it doesn't come into consideration based on many  
9 factors that we've already spoken about.

10 Thank you.

11 MR. GOODWIN: Thank you.

12 Any other questions? Anybody else that wants  
13 to speak that's already spoken or anybody new who wants to  
14 speak?

15 MR. SALINAS: So I just do want to just to  
16 clarify and give detail to my comment about the gas  
17 station. My point with that was it's not made for human  
18 occupancy. That area is so close to the railroad tracks.

19 And they're saying they live across the street but the  
20 seniors are going to be living feet from the track. And  
21 then building any noise barrier would just provide a home  
22 for vagrants that are already in the area.

23 Thank you.

24 MR. GOODWIN: Thank you.

25 MR. HANCE: Kent Hance again. I'll make this

1 real quick.

2 The spur is closed and for someone to get up  
3 and say the train track is going to be the distance  
4 between you and me, that's absurd. 254, that's 85 yards,  
5 that's almost a football field. And the zoning and  
6 planning, they had one negative vote, I think it was  
7 either five to one or six to one, and the city council was  
8 give to two, the Downtown Lubbock Development supports  
9 this. So I just want to clarify some of those things.

10 Thank you.

11 MR. GOODWIN: Okay. Marni.

12 MS. HOLLOWAY: If I may provide a final  
13 reminder regarding our rules. As regards measurements, we  
14 go from property line to property line to easement. The  
15 horn is not what triggered this rule. What triggered is  
16 that if you look at any of these pictures the development  
17 site is remarkably close to the railroad tracks and that's  
18 what's triggering the rule.

19 MR. GOODWIN: So it's time for a motion from a  
20 Board member as it relates to the eligibility of this  
21 site.

22 MS. THOMASON: Mr. Chairman, I'd like to make  
23 a motion.

24 MR. GOODWIN: Okay.

25 MS. THOMASON: And I would like for the Board

1 to find this site eligible subject to mitigation based on  
2 HUD standards.

3 MR. GOODWIN: We have a motion. A second?

4 MR. VASQUEZ: Second.

5 MR. GOODWIN: So we have a motion and a second.

6 Now discussion. Any discussion?

7 (No response.)

8 MR. GOODWIN: If not, all those in favor say  
9 aye.

10 (A chorus of ayes.)

11 MR. GOODWIN: Opposed?

12 (No response.)

13 MR. GOODWIN: We found the site eligible.

14 We'll move on. 18254, Marni.

15 MS. HOLLOWAY: Yes. 18254 Somerset Lofts, this  
16 is in Houston. The development site is within 500 feet of  
17 an active railroad track.

18 MR. GOODWIN: What a surprise.

19 (General laughter.)

20 MS. HOLLOWAY: The applicant relies on that  
21 same ruling from July 13 regarding local ordinance,  
22 stating that if a local ordinance is silent on a required  
23 distance, then that can be interpreted as evidence of a  
24 rule allowance for that smaller measure.

25 The application included a resolution from the

1 City of Houston, passed on February 28, which states:

2 "The City Council finds that the city's land development  
3 regulations would not require a multifamily development to  
4 be a minimum distance from an active railroad track, so  
5 that the proposed construction of each community on its  
6 development site would not be prohibited based solely on  
7 its proximity to a railroad track." I note that this is a  
8 resolution, this is not the ordinance that's called for in  
9 our rule.

10 The applicant states that their engineer has  
11 produced an initial noise study and that they will use  
12 appropriate noise mitigating construction techniques. As  
13 the evidence of mitigation provided for the proximity of  
14 the railroad relies solely on previous determinations made  
15 by the Board, staff defers to the Board's current  
16 determination on this issue. Should the Board find the  
17 site eligible, staff suggests that compliance with HUD  
18 standards for noise abatement and control is a condition  
19 for any award.

20 Additionally, it was disclosed that the  
21 development site is within 300 feet of a junkyard. Per  
22 the applicant, the development site is located near a  
23 metal recycling facility. The applicant states that based  
24 on the definition of a junkyard as stated in the  
25 Transportation Code, which is quoted in our rule, and the

1 definition of recycling business, the metal recycling  
2 facility is not a junkyard. Staff agrees with the  
3 applicant that the Gulf Coast Scrap Metal facility does  
4 not meet the criteria of a junkyard and mitigation is not  
5 required, so we're only discussing the railroad.

6 MR. GOODWIN: Any questions for Marni?

7 (No response.)

8 MR. GOODWIN: I assume we have people that want  
9 to speak to this so we'll have a motion to hear comments.

10 MR. BRADEN: So moved.

11 MR. GOODWIN: Second?

12 MR. VASQUEZ: Second.

13 MR. GOODWIN: All in favor say aye.

14 (A chorus of ayes.)

15 MR. GOODWIN: Let the record reflect Ms.  
16 Bingham has left the dais.

17 MS. RICKENBACKER: Good morning again -- I  
18 guess it's afternoon at this point.

19 MR. GOODWIN: It's still morning.

20 MS. RICKENBACKER: Is it still morning? Donna  
21 Rickenbacker with Marque.

22 I'm wearing a little different that on this  
23 one, I'm going to be the owner of Somerset, and I'm  
24 privileged enough to still be working with Kent Hance, who  
25 is going to be a developer partner.

1           Again, I'm really excited about this  
2 development. It's in the City of Houston, it's a proposed  
3 development that's going to be located on Hempstead Road  
4 at 11th, and as stated by staff, this site is within 500  
5 feet of a railroad track. That railroad track is actually  
6 across on the other side of Hempstead Road.

7           I'm a rule geek, as Tim can probably tell you,  
8 so I'm going to go back to what the rule said. So we did  
9 disclose that we're within 500 feet. With respect to  
10 regulation, we did provide a city council resolution that  
11 did speak to the fact that they do not have an established  
12 setback or specific distance requirements between  
13 residential development and railroad tracks.

14           Lastly, with respect to regulation, the city  
15 council did pass a resolution of support to our  
16 development and took the site's location and its proximity  
17 to railroad tracks into consideration, granting their  
18 support.

19           On the mitigation side, similar to Guadalupe  
20 Villas, we fully intend to mitigate any sources of noise  
21 to HUD standards. The City of Houston has awarded \$6  
22 million in CDBG funding to Somerset, so we're fully  
23 committed to lessening any noise impact, which based on  
24 our noise study, again, that we did include in our  
25 application -- you're not required to do that, we did --

1 the noise is not derived from our proximity to the  
2 railroad track. The majority of the noise is derived from  
3 the fact that we are right up against Hempstead Road, but  
4 again, we fully intend to mitigate all sources of noise to  
5 HUD standards if there's anything that's unacceptable.

6 I also want to say in closing about this is  
7 that this site is actually right in front of a gated  
8 subdivision of \$550,000-plus homes. On the other side of  
9 Hempstead Road, which is where the railroad track is, is a  
10 brand new \$500,000-plus townhome subdivision that's  
11 already in place, up and operational. Those homes are  
12 running between \$700,000 and more in price points over on  
13 that side which is closest to the railroad track. We are  
14 in a first quartile census tract in the city of Houston.  
15 There's no affordable housing in the census tract and  
16 there's no affordable housing within the nine contiguous  
17 census tracts around our development.

18 We're in a ready to proceed area, we're ready  
19 to go, the city is fully supporting this development, so  
20 we very much would appreciate you deeming this site  
21 eligible.

22 Thank you very much.

23 MR. GOODWIN: Any other speakers?

24 MR. MILLER: Good morning again. Just to  
25 restate, my name is Ray Miller. I'm with the City of



1 Houston Housing and Community Development Department  
2 within the Multifamily Division.

3 As I did earlier, I want to reiterate the  
4 city's support of this transaction by both a resolution of  
5 support and by resolution of what we call the railroad  
6 waiver within our department, and also, in addition to the  
7 \$6 million of funding support that we provided for this  
8 transaction.

9 Primarily, I will state here that I do not  
10 speak for the planning department but we did, through our  
11 legal review, attest that there were no setback ordinances  
12 for railroads for housing development, and it's quite  
13 evident as you drive through many areas of town, there are  
14 residential uses all up along railroads throughout the  
15 city.

16 So I'll leave this letter in record, and oh, by  
17 the way, our city seal has a train on it, just to give you  
18 an example that it is an acceptable use that we live with  
19 within the city limits.

20 So thank you very much.

21 MR. GOODWIN: Thank you.

22 Any other comments?

23 (No response.)

24 MR. GOODWIN: If not, I'll entertain a motion.

25 Do you have any other things you want to say?

1 MS. HOLLOWAY: I have nothing additional.

2 MR. BRADEN: I'll move to approve to find the  
3 site eligible with the conditions.

4 MR. GOODWIN: Conditions of mitigation.

5 MS. THOMASON: Second.

6 MR. GOODWIN: We have a motion and second. Any  
7 further discussion?

8 (No response.)

9 MR. GOODWIN: All in favor say aye.

10 (A chorus of ayes.)

11 MR. GOODWIN: Opposed?

12 (No response.)

13 MR. GOODWIN: Moving on to 18327.

14 Kent, good to see you again. There are  
15 properties that are away from railroads.

16 MR. GOODWIN: I have a question mark on 18327  
17 Scott Street Lofts in Houston.

18 MS. HOLLOWAY: Did we pull Scott Street, 18327?

19 MR. GOODWIN: It shows next on our agenda.

20 MS. HOLLOWAY: Yes.

21 MR. GOODWIN: So next one would be 18335 Travis  
22 Flats in Austin, I would guess it's near a railroad.

23 MS. HOLLOWAY: Located within 500 feet of  
24 active railroad tracks.

25 The application did not include evidence that

1 the city or community has adopted a railroad quiet zone  
2 which is accepted as mitigation. The documentation  
3 provided indicates that the railroad is used for more than  
4 just commuter or light rail uses. Staff found  
5 documentation of proposed interlocal agreement to  
6 establish railroad quiet zones, but we were not able to  
7 find evidence that the agreement was actually executed.

8 Staff is recommending that the Board find this  
9 development site eligible. Any award will be conditioned  
10 on the provision of evidence from the applicant that the  
11 city or community has adopted a quiet zone and compliance  
12 with any applicable HUD standards for noise abatement.

13 MR. GOODWIN: Do I hear a motion to accept  
14 staff's recommendation to find the site eligible?

15 MS. BINGHAM ESCAREÑO: Move to approve.

16 MR. GOODWIN: Do I have a second?

17 MS. RESÉNDIZ: Second.

18 MR. GOODWIN: Did you want to speak to that?

19 MS. SISAK: Yes. Good morning. Janine Sisak,  
20 DMA Development Company.

21 We have put our hands on that interlocal  
22 agreement fully executed and submitted it to staff, I  
23 believe on Monday or Tuesday. So we will accept the  
24 recommendation with condition but we would prefer a  
25 recommendation for approval without the condition. We

1 received confirmation from Shay that she received it but I  
2 don't know if they've had sufficient time to review it.  
3 So either way, I just wanted to point out that we've  
4 provided the required documentation.

5 MR. GOODWIN: I'm pretty comfortable with  
6 saying if you've got it, what does the condition matter.  
7 I'll leave that to the maker of the motion. If we've just  
8 recently gotten it and reviewed it. Hadn't reviewed it  
9 yet?

10 MS. HOLLOWAY: Have we looked at it.

11 MR. GOODWIN: I don't see that that really  
12 makes a big deal of difference.

13 MS. HOLLOWAY: If it's fully executed.

14 MR. GOODWIN: So unless you want to modify the  
15 motion, unless there's anybody else to speak, we would go  
16 ahead and vote on the motion.

17 MS. BINGHAM ESCAREÑO: I'll just let it stand.

18 MR. GOODWIN: So the motion stands as made.

19 All in favor say aye.

20 (A chorus of ayes.)

21 MR. GOODWIN: Opposed?

22 (No response.)

23 MS. HOLLOWAY: Next is 18338 The Greenery in  
24 Houston.

25 The applicant did not disclose but staff

1 determined from the environment site assessment that a  
2 250-gallon above ground diesel storage tank is located on  
3 the south adjacent property as part of a cellular tower,  
4 approximately 87 feet from the southern property boundary.

5 Per the environmental site assessment, the potential  
6 blast zone for the tank was calculated using HUD's  
7 acceptable separation distance electronic assessment tool.

8 The acceptable separation distance for thermal radiation  
9 for people was determined to be 155.23 feet from the  
10 location of the tank, which includes the most southern 61  
11 feet of the development site. Mitigation will be required  
12 with the construction of a barrier of adequate size and  
13 strength to protect the project.

14 The application does not address the above  
15 ground storage tank or provide information regarding  
16 mitigation to protect residents. Staff is recommending  
17 that the Board find the site ineligible.

18 MR. GOODWIN: I have a question. Where is the  
19 nearest railroad track?

20 MS. HOLLOWAY: Probably runs right through the  
21 middle of it.

22 (General laughter.)

23 MR. VASQUEZ: You said diesel?

24 MS. HOLLOWAY: Yes. It's fuel for a generator  
25 for the cellular tower.

1 MR. VASQUEZ: But it's diesel?

2 MS. HOLLOWAY: I'm just going from what the ESA  
3 says. I'm not an expert, I'm just quoting the ESA.

4 MR. GOODWIN: Do you want to speak to this,  
5 sir?

6 SPEAKER: Yes, please.

7 MR. GOODWIN: Let me get a motion first to hear  
8 comments.

9 MS. BINGHAM ESCAREÑO: So moved.

10 MR. GOODWIN: And a second?

11 MR. BRADEN: Second.

12 MR. GOODWIN: All in favor say aye.

13 (A chorus of ayes.)

14 MR. GOODWIN: Okay, sir. Please state your  
15 name and sign in, if you would.

16 MR. DeLEON: Sure. Good morning, Board. Val  
17 DeLeon, DMA Development.

18 My first request actually is just to have this  
19 item tabled or postponed till next month. This  
20 application hasn't been reviewed by staff, we haven't been  
21 given the opportunity to disclose and work with staff on  
22 how we would mitigate any kind of potential environmental  
23 hazard to the site.

24 Currently as it stands, we are not in the money  
25 but obviously the decisions that are made by this Board

1 today, that's a ripple effect through Region 6 that goes  
2 all the way down to where our site is at the very end of  
3 the scoring. So I don't know that we need to really waste  
4 a lot of this Board's time on litigating whether or not  
5 the site should be found eligible today, but in the event  
6 that you guys would like to discuss it today, I'm willing  
7 to discuss it as much as I can.

8 MR. GOODWIN: A little bit because of the  
9 scheduling of things, the further we get back to the  
10 award, the more workload it creates to take that approach  
11 and that attitude, so we've got the topic up today and I  
12 think we need to address it today.

13 MR. DeLEON: Sure. And I would just ask that  
14 we have the opportunity to work with staff on what that  
15 mitigation would be. In the rule there's items (a)  
16 through (k) which are undesirable site features, this  
17 above ground storage tank is not in item (a) through (j),  
18 it's in item (k) which is any other item that staff feels  
19 rises to the level of an environmental hazard or it would  
20 be a detriment to the residents. So that's one of the  
21 reasons why it wasn't disclosed. It's an item that I feel  
22 like is very easily mitigated.

23 Our site plan is not included in your board  
24 materials but I've provided copies of that where you can  
25 see that the most southern portion of our site is

1 detention pond, so once you factor in that blast zone  
2 radius of what would happen in the event that this backup  
3 generator, diesel tank were to explode, the radius of that  
4 would only affect what our detention pond would be which  
5 is kind of sunk in the ground. So if this tank were to  
6 explode and one of our residents happened to be for a walk  
7 into our detention pond, it might actually be the most  
8 safe place for them because it's kind of sunken in. And  
9 anything else would have to through a fence and any other  
10 mitigation that we work with staff to deem as acceptable.

11 So I have that for you to review, I have copies  
12 for everyone, if you guys would like to see it.

13 MR. GOODWIN: You can give the materials to our  
14 legal counsel and then we'll let him decide.

15 Marni, I've got a question for you if somebody  
16 else doesn't have a question.

17 MS. THOMASON: How big is this diesel tank?

18 MR. GOODWIN: It says 250 gallons.

19 Would you address the kicking it down the road  
20 situation?

21 MS. HOLLOWAY: As you mentioned, now that we're  
22 at the end of June and we're making awards next month,  
23 anything we push out has the potential to get us into the  
24 late July meeting with the list still being -- I've lost  
25 my words, I'm sorry -- with still having some questions



1 about the list, about the awards list, and that creates  
2 the opportunity for errors that I would very much prefer  
3 that we avoid. Sure, we could go to the early July  
4 meeting, and that, of course, would be within the Board's  
5 purview to make that decision.

6 I would point out that the environmental site  
7 assessment that includes this information has a date on it  
8 of February 22, and that the applicant was informed that  
9 we would be bringing this item to the Board with this  
10 recommendation long before the board book was published --  
11 or not long before, probably a week before.

12 MR. GOODWIN: Okay.

13 MR. VASQUEZ: Marni, again, I just wanted to  
14 clarify the obvious here. This is not a gas tank, it's  
15 not a propane tank, this is not a gasoline tank, it's not  
16 a propane tank, it's not a natural gas tank, it's a 250  
17 gallon diesel tank which I'm sure it's required as  
18 containment for leaks and everything like that as well.

19 MS. HOLLOWAY: I'm not prepared to speak to  
20 that at all. All I am able to do is relay to the Board  
21 what the environmental site assessment says. We haven't  
22 conducted any further investigation.

23 MR. VASQUEZ: And the building structures are  
24 not 87 feet from the tank, it's from the layout that's  
25 just described, there's an additional retention pond.

1 MS. HOLLOWAY: I have not looked at the issue  
2 from that perspective because the concern here is that the  
3 hazard was not disclosed and we don't have anything in the  
4 application that describes that distance as a mitigating  
5 factor.

6 MR. IRVINE: So just to move it along, there  
7 seem to me to be at least three options. One would be to  
8 table it, one would be to vote it up or down, eligible or  
9 ineligible, and one would be to determine it was  
10 conditionally eligible subject to providing the mitigation  
11 and having staff review it. That would give staff the  
12 opportunity to review the technical sufficiency of the  
13 mitigation offered.

14 MR. GOODWIN: Do you like option 3?

15 MR. VASQUEZ: I'd be happy to make a motion for  
16 option 3.

17 MR. GOODWIN: Okay.

18 MR. VASQUEZ: I'd like to make a motion that we  
19 approve the site subject to staff's satisfactory  
20 evaluation of any mitigation, if necessary.

21 MS. RESÉNDIZ: Second.

22 MR. GOODWIN: We have a motion and a second.

23 Any further discussion?

24 (No response.)

25 MR. GOODWIN: Did you want to speak?

1 (No response.)

2 MR. GOODWIN: All in favor say aye.

3 (A chorus of ayes.)

4 MR. GOODWIN: Opposed?

5 (No response.)

6 MR. GOODWIN: Moving on to item 5(e).

7 MS. HOLLOWAY: 5(e) is a report of third party  
8 requests for administrative deficiency under 10 TAC 11.10  
9 of the 2018 Qualified Allocation Plan that were received  
10 prior to the deadline.

11 With a third party request for administrative  
12 deficiency, or an RFAD, an unrelated person or entity may  
13 bring new material information about an application to  
14 staff's attention and ask that staff consider whether an  
15 application should be the subject of an administrative  
16 deficiency. Staff reviews the request and proceeds as  
17 appropriate under the applicable rules. Where we are  
18 recommending that an RFAD result in the loss of points or  
19 other action, the applicants have already been notified  
20 and given the opportunity to appeal staff determination.  
21 We have also provided notice of the result of the request  
22 to the requester.

23 This Board item is limited to a report on the  
24 requests received and how staff has resolved just the  
25 RFAD, not anything that may have come from it. The RFAD

1 requester may not formally appeal the result but any party  
2 who wishes to may provide testimony to the Board. The  
3 Board may direct staff to reconsider action taken in  
4 response to any RFAD or may accept the report as  
5 presented.

6 Due to the large number of third party  
7 requests, I propose that we allow everyone a moment to  
8 gather up here in the speakers' row that would like to  
9 comment on any of them, and I will present only on those  
10 that someone would like to comment on so we don't have to  
11 go through the whole list, just in the interest of time.

12 MR. GOODWIN: So this is not an appeal, this is  
13 just a requirement of you reporting to us. These RFADs  
14 have been received, you have dealt with them, the person  
15 submitting may or may not have liked the way we dealt with  
16 them.

17 MS. HOLLOWAY: Yes. And the Board may direct  
18 us to go back and reconsider or the Board may just accept  
19 the report as it is.

20 MR. GOODWIN: Okay. There are just three  
21 people that want to speak to any of this here, to any of  
22 these. If you would, when you come up, get on the first  
23 row if you would, when you come up, state the number, give  
24 us a little opportunity to find that number, and then  
25 we'll hear your maximum three minutes of comments.

1 MS. HOLLOWAY: Okay. This is 18038 3rd Street  
2 Lofts in Lubbock. The request asks if the applicant  
3 appropriately notified the superintendent of the Lubbock  
4 Independent School District. Staff issued an  
5 administrative deficiency and the response included a  
6 letter from Dr. Kathy Rollo, superintendent of the Lubbock  
7 Independent School District, stating that she was provided  
8 the notification upon her hire. Staff determined that the  
9 part of the rule that requires notification of newly  
10 elected or appointed officials does not apply because Dr.  
11 Rollo was not elected but was hired by the Lubbock  
12 Independent School District. Staff is considering the  
13 issue posed.

14 MR. GOODWIN: Any action necessary?

15 MR. HANCE: Kent Hance again. You thought you  
16 got rid of me, but I'll make this fast.

17 MR. GOODWIN: No railroads in this.

18 MR. HANCE: No railroad.

19 Here's what happened. They're playing on word  
20 saying hired. Every school superintendent in the State of  
21 Texas is elected by the school board. They have a vote on  
22 it and they have to get 21 days after the vote and then  
23 they have another vote. They have two points on it.  
24 They're elected, they're appointed, they're hired. I  
25 think they didn't fill out the application right because

1 what happened is that on the pre-app they notified the  
2 superintendent. We have a letter that we sent to you from  
3 the new superintendent. What happened, she had two  
4 letters. One, she got the information from the old  
5 superintendent, they gave her everything. She never was  
6 notified in mail as required by statute and the rules.

7 And so whatever you want to do is fine, but I'm  
8 just saying that in the future you may want to look at  
9 that, those rules are there for the reason, and the  
10 statute and the rules require it. And so you may want to  
11 look at it, and whatever you do is fine with me.

12 Thank you.

13 MR. GOODWIN: Next one.

14 MS. HOLLOWAY: So this is collectively about  
15 three applications: 18033 which is The Miramonte, 18043  
16 Huntington at Miramonte, and 18047 Miramonte Single  
17 Living.

18 We have actually received a couple of questions  
19 on this one but the concern today is the request asks if  
20 the sites for 18033 and 18047 should be considered as  
21 contiguous. Staff has reviewed the documentation in the  
22 application regarding proximity of the development sites  
23 and determined that the drainage that's going to be  
24 retained by the seller between the two sites makes them  
25 non-contiguous. If they were contiguous, we would only

1 consider the higher scoring application as a priority.

2 MR. GOODWIN: Do you want to comment?

3 MR. KELLY: Yes, sir. I've left some exhibits  
4 at the back of the room for everyone, I'd be happy to pass  
5 these out, it's four sheets, all of which were either  
6 provided in our RFAD or in the application of the  
7 applicant.

8 MS. HOLLOWAY: If it was in the RFAD, then it's  
9 in the board book.

10 MR. GOODWIN: It's in our board book, we don't  
11 need a copy of it.

12 MR. KELLY: Okay, fair enough. My name is  
13 Nathan Kelly, vice president with Blazer out of Houston.  
14 I'm here today to request that the Board instruct staff to  
15 consider application 18033 a non-priority application  
16 under Section 11.3(g) of the QAP.

17 On April 30 we submitted a request for  
18 administrative deficiency for applications 18033 and 18047  
19 as they related to Section 11.3(g) of the QAP, which  
20 specifically states if two or more competitive housing tax  
21 credit applications that are proposing developments of the  
22 same target population on contiguous sites are submitted  
23 in the same program year, the lower scoring application,  
24 including considering of the tiebreaker factors if they  
25 are tied scores, will be considered a non-priority

1 application. The operative qualifiers being same target  
2 population and non-contiguous sites.

3 Both The Miramonte and Miramonte Single Living  
4 are general target population sites. It, as well as  
5 application 18043, are all carved out of a large 36-acre  
6 tract. The Miramonte and Miramonte Single Living are  
7 currently on one contiguous site with a proposed drainage  
8 easement shown on the site plan of the applicant's  
9 application.

10 Based on the title commitment as it sits today,  
11 the larger 36-acre tract contains no drainage easements  
12 and based on Fort Bend County record, the landowner does  
13 not own any residual land surrounding the tract that would  
14 justify the need for a drainage easement post closing.  
15 Once the proposed drainage easement intersects the road  
16 that these sites front, it turns north and actually ends  
17 at the northern boundary of the property so as to simply  
18 meander through the site to create an artificial boundary  
19 rather than serving a true drainage purpose.

20 Based on feedback that I've received and our  
21 colleagues from other applications have received from  
22 professional engineers with experience throughout Fort  
23 Bend County, there's no obvious reason for this drainage  
24 easement based on the material provided in the application  
25 or in the application's site feasibility report. The



1 properties are directly adjacent to one another as they  
2 sit today, other than this fabricated ditch that's going  
3 to be separating them if they were to be awarded. For all  
4 intents and purposes the sites are contiguous and should  
5 be deemed in conflict with Section 11.3(g) of the QAP.

6           Aside from conflicting with 11.3(g), these  
7 applications raise a larger issue of concentrating credits  
8 in suburban markets. These, along with 18043, are all  
9 carved out of the same 36-acre tract, as I mentioned, and  
10 are located in a CDP named Fifth Street which has a  
11 population of 1,943 people and comprises a total land area  
12 of .81 square miles, of which 97 percent is contained  
13 within a 2-3/4 square mile census tract. There's no  
14 existing tax credit developments in the census tract, and  
15 thus, the Fifth Street CDP has a housing tax credits per  
16 capita ratio of zero.

17           Again, what I'm asking the Board to do is to  
18 instruct staff to consider application 18033 a non-  
19 priority application because it does conflict with Section  
20 11.3(g) of the QAP since the sites, as they sit today and  
21 at application, are contiguous to one another other than  
22 this fabricated drainage easement that serves no purpose.

23           MR. GOODWIN: Any questions from any of the  
24 Board members?

25           (No response.)

1 MR. GOODWIN: Are you speaking of these?

2 MR. BARTHOLOMEW: The same issue, yes, sir.

3 Good morning. Jeremy Bartholomew. I'm a development  
4 partner with Resolution Real Estate in Houston. I'm here  
5 also to speak against these Miramonte general  
6 applications.

7 Our company and our principals, Mr. Steve Ford  
8 and Mr. Duane Hanson, have been involved in the tax credit  
9 program since its inception in the '80s. The idea of a  
10 developer going into one tract and artificially splitting  
11 it is one of the most egregious mockeries of the rule that  
12 we've ever seen in any years dealing in this program.

13 Three points that I want you to consider today.

14 First point is the QAP has rules and rules and rules to  
15 try to do one thing, to not concentrate a precious  
16 resource like the 9 percent tax credit in one area. So  
17 the same year two-mile rule does not work because it's a  
18 million cap in the population, so what's happening is  
19 people are going to Fort Bend County where you can dump  
20 two projects right next to each other, happened last year,  
21 we've got two senior projects right next to each other.  
22 Now we have three applications on what is essentially one  
23 tract and we even had a new rule in 2018 that says, look,  
24 you guys, you can't do the same property type right next  
25 to each other. That was the whole point of the rule, and

1 here we are, and it's just getting accepted as it is, it's  
2 two projects that are right next to each other.

3 Second point is I don't think this issue is  
4 going to go away. We're going to be right back here next  
5 year and maybe next year it's four projects. I also think  
6 when politicians get involved in this, if three projects  
7 right now move forward, you're talking about allocating 32  
8 percent of Region 6's credits to the area that's the  
9 Stafford ETJ, has .3 percent of the population. After the  
10 worst natural disaster in Houston's history, we're going  
11 to take 32 percent of the credits and dump them in the  
12 Stafford ETJ with .3 percent of the population that was  
13 not particularly impacted. When Mayor Turner gets ahold  
14 of this, it's not going to be me up here talking; if this  
15 keeps going there's going to be a lot of attention drawn  
16 to this issue because it's clear circumvention of a  
17 loophole.

18 Third point, most important, since we're  
19 talking about a technical point, this is a technical  
20 determination, what was previously said is, look, it's not  
21 that it's contiguous after you gerrymander a site plan,  
22 it's contiguous, what is it today, what is the site right  
23 now, it is one piece of property. All three of the  
24 projects are literally contiguous right now. So if we  
25 can, oh, no, it's after you go and draw a site plan around

1 it, then the rule makes no sense because any developer is  
2 just going to come in and say let me cut my tract, let me  
3 conveniently leave something out that's retained by the  
4 seller, which has no engineering purpose, has no good  
5 general real estate purpose. You don't want someone else  
6 owning property in your tract, it serves no purpose.

7 So again I would ask, there are a lot of  
8 applications, inclusive of ours, that were much more  
9 heavily impacted by Harvey. This has going to be an issue  
10 that comes up. I would ask you to look at this. This is  
11 really bad precedent if this moves forward. You've made  
12 good decisions when you've evaluated something with your  
13 own eyes. I'd ask you to look at it with your own eyes  
14 and you see if it's in keeping with the spirit or the  
15 letter of the rule, because it's neither.

16 MR. GOODWIN: Thank you. Questions?

17 MR. VASQUEZ: Could I go ahead and see that  
18 printed out? It's on the screen here.

19 MR. BRADEN: Could I have one too?

20 MR. GOODWIN: Tamea, are you talking to this  
21 exact same issue?

22 MS. DULA: Yes. Tamea Dula with Coats Rose.  
23 And for the purpose of this, I am representing the  
24 developers of these three tracts.

25 I'm simply here to correct a misstatement.

1 This is a fee strip that the seller is retaining in order  
2 to separate the tracts, and if that is not the intent to  
3 deal with contiguity, as it's defined in the dictionary,  
4 then the rule needs to be reviewed for next year. But the  
5 fee strip separates the various different tracts.

6 Thank you. Questions, anyone?

7 MR. BRADEN: I have a question, so when you say  
8 a fee strip, you mean they're retaining fee simple?

9 MS DULA: Fee simple title, yes.

10 MR. BRADEN: And they're retaining it for what  
11 reason?

12 MS. DULA: For drainage. They have other  
13 property that's located near it.

14 MR. BRADEN: You're sure of that?

15 MS. DULA: It is also to meet the rule of the  
16 QAP.

17 MR. BRADEN: I guess I'm a little concerned  
18 that you say they're retaining it to meet the rule. Are  
19 they retaining it to gimmick the rule would be one  
20 interpretation of that. If they're retaining it for other  
21 legitimate reasons, like drainage and other issues, that's  
22 another consideration.

23 MS. DULA: I think that there are legitimate  
24 reasons. Yes.

25 MR. GOODWIN: Anyone else want to speak to

1 these three applications, 18033, 18043, and 18047?

2 MR. BARTHOLOMEW: Chairman, if you'll allow me,  
3 I'd just like to turn your attention to the second page f  
4 the packet that I handed out which shows in green  
5 highlight the drainage easement running along the north  
6 property boundary of this 36-acre tract, turns south,  
7 heads west, and then heads north again, essentially  
8 carving out the side for 18033 that's highlighted in green  
9 on page 1 of the packet. There is simply no engineering  
10 reason why this drainage easement should carve this tract  
11 out, proven in point by it heading north again to the  
12 northwest property corner of the tract. It's absolutely  
13 ridiculous.

14 Furthermore, he's draining to the drainage  
15 ditch on the west side. If you're draining straight, the  
16 straightest way to go is just across the north property  
17 line. That's adding cost. This is pumped storm water,  
18 this is not a gravity fed storm line, he's got to pump  
19 this, so you're putting additional storm line, now you're  
20 going to run south, west and then north again. That's so  
21 interesting that that just happened to coincide with  
22 leaving a fee simple strip which is also bad, it just bad  
23 general real estate practice. Someone owns fee simple,  
24 they have access to the property, there's other issues it  
25 creates to do this. So there's literally no reason other

1 than to gain this and we're looking at 32 percent of the  
2 credits, potentially, going to the Stafford ETJ with .3  
3 percent of the population.

4 Thank you.

5 MR. GOODWIN: Questions?

6 MR. BRADEN: Marni, this is just a report  
7 you're giving.

8 MS. HOLLOWAY: This is a report.

9 MR. BRADEN: But if we have concerns about  
10 this, which I do, how would that work?

11 MS. HOLLOWAY: The Board may direct us to  
12 reconsider this RFAD and reconsider the information that  
13 was presented to us.

14 Beau, would you help with this, please?

15 (General laughter.)

16 MR. IRVINE: As posted, the item says that this  
17 is presentation and possible action on a report, so if the  
18 Board has some action that it wishes to fashion, it's got  
19 posted authority to do that.

20 MR. BRADEN: Before I make a motion, I don't  
21 know if there's any further public comment? This is a  
22 little concerning.

23 MR. GOODWIN: Does anybody have any additional  
24 comment on this?

25 MR. ECCLES: Well, if I may just quickly

1 address that issue. Tim is, of course, right. The rule  
2 in 11.10 talks about staff shall provide to the Board  
3 written reports summarizing each third party request for  
4 administrative deficiency and the manner in which it was  
5 addressed. Interested persons may provide testimony on  
6 this report before the Board takes any formal action to  
7 accept the report, and the results of the RFAD may not be  
8 appealed.

9 So as the last speaker was getting up and  
10 saying that the Board should essentially apply the QAP in  
11 a way eliminates one of the lower scoring of those two  
12 applications, that's not on the table here. The Board  
13 can, however, remand the matter back to staff to  
14 reconsider the RFAD and then the results of that would  
15 then come forward at the next meeting.

16 MR. MILLER: Again to reiterate, my name is Ray  
17 Miller with the Housing and Community Development  
18 Department of the City of Houston.

19 I'm not here, there's no letter that I've  
20 prepared nor have I fully reviewed this situation or  
21 underwritten these transactions, but my only comment would  
22 be if there is potential in future years where  
23 applications that might create this, again, type of  
24 loophole and take resources away from other  
25 municipalities -- I'm speaking specifically to the City of



1 Houston -- would be concerning for us. So I'll conclude  
2 with that.

3 Thank you.

4 MR. GOODWIN: Any other comments on these  
5 three?

6 MR. PALMER: Barry Palmer with Coats Rose, and  
7 we represent the developer on this.

8 I think the key thing in the rule is that  
9 RFAD's cannot be appealed to the Board, and you notice  
10 there were, I don't know, 100 RFADs and we only had three  
11 speakers, three of them being discussed here today, and  
12 the reason for that is because everybody knows in the  
13 development community that you can't appeal the staff's  
14 decision on an RFAD. Now, what we've heard here today  
15 sounds to me like an appeal of staff's decision on the  
16 RFAD, and so if we're going to go down that road and start  
17 allowing people to appeal staff's decision of the RFAD,  
18 next year there will be 110 speakers in the audience to  
19 talk about each and every RFAD and appeal anything that  
20 didn't go their way.

21 So I would ask Beau's interpretation on this,  
22 but this sure sounds to me like an appeal of an RFAD.

23 MR. GOODWIN: Thank you.

24 Any other comments on this?

25 MR. BRADEN: I have a comment on that. I don't

1 think this is appealing an RFAD at all. I think a couple  
2 of people have brought to our attention what might be a  
3 loophole in our rules. These people may or may not be  
4 gimmicking at this time, I'm not sure in fact we wrote our  
5 rules wrong, but I appreciate them bringing that to our  
6 attention. And so I would like to make a motion to pull  
7 these three items of this report, ask staff to re-look at  
8 them. It may very well be after you look at them again in  
9 connection with the current rule, it stays as is, but I'd  
10 like to at least take another look at that.

11 MR. GOODWIN: Okay. Do I hear a second for  
12 that motion?

13 MR. VASQUEZ: Second.

14 MR. GOODWIN: Any other discussion?

15 (No response.)

16 MR. GOODWIN: All in favor say aye.

17 (A chorus of ayes.)

18 MR. GOODWIN: Opposed?

19 (No response.)

20 MR. GOODWIN: Okay. What do we have next? Do  
21 we have any others?

22 MS. HOLLOWAY: We have a couple of others,  
23 18293 and 18294.

24 MR. GOODWIN: So not having anybody else  
25 speaking.

1 MS. HOLLOWAY: We are discussing 18293 Silver  
2 Spur Apartments, and 18294 The Legacy.

3 On 18293 Silver Spur Apartments, the request  
4 asked whether the application should be eligible for  
5 funding if it used an ineligible source for its utility  
6 allowance. Since the application included information  
7 regarding a utility allowance, staff provided the  
8 applicant the opportunity to clarify its submission. In  
9 response to the deficiency notice, the applicant provided  
10 letters from the Department's Compliance Division  
11 addressing the utility allowance requirements for each  
12 application. Staff determined that the response  
13 sufficiently addressed the administrative deficiency.

14 MR. GOODWIN: Are you wanting to speak on this?

15 MS. SAAR: Kathryn Saar, representing a  
16 competing applicant.

17 These two applications failed to comply with  
18 the deadline established in the Multifamily Rules and we  
19 believe that this failure is incurable, making these two  
20 applications subject to termination. We're asking that  
21 this issue be remanded back to staff for reconsideration  
22 or reexamination based on the facts that I'm about to  
23 give.

24 10 TAC 10.204 outlines the required  
25 documentation for application submission. Subparagraph

1 8(b) of that section related to utility allowances states:  
2 "Where the applicant uses any method that requires  
3 Department review, documentation indicated that the  
4 requested method has been granted by the Department must  
5 be included in the application."

6           There is an implicit deadline associated with  
7 this provision. If the approval must be included in the  
8 application, it follows that the approval must be dated  
9 prior to March 1. Both of these applications used the  
10 utility allowance requiring Department approval, however,  
11 neither of these applications included that approval as  
12 required under the rule.

13           Through a public information request, we  
14 discovered that the utility allowance approvals for these  
15 two applications weren't properly requested or granted  
16 until April 4, more than a month after the application  
17 deadline. This was the basis of our RFAD. However,  
18 staff's determination does not address this deadline issue  
19 at all. Staff appears to be using a scoring provision  
20 from 11.9(a) of the QAP to allow the applicant to provide  
21 the missing documentation. This citation allows an  
22 applicant to provide missing documentation related to  
23 scoring provided that it existed at the time of the  
24 application. That's not the case here. This rule has  
25 never, to my knowledge, been used to allow an applicant

1 additional time to obtain a necessary approval.

2           Furthermore, the utility allowance has nothing  
3 to do with scoring and the approval requirement doesn't  
4 come from the QAP, it comes from Subchapter C of the  
5 Multifamily Rules which states: "Deadlines are fixed and  
6 firm with respect to both day and time and cannot be  
7 waived, except where authorized and for truly  
8 extraordinary circumstances, such as the occurrence of a  
9 significant natural disaster that makes timely adherence  
10 impossible."

11           The pertinent facts are the applicant was  
12 required to obtain approval prior to submission of the  
13 app. The applicant failed to obtain that approval until  
14 April 4. Based on staff's determination, it appears this  
15 provision has been waived entirely, despite the fact that  
16 the provision itself does not authorize waivers, nor has  
17 this Board been presented with a waiver request.

18           Our application also used a utility allowance  
19 that required Department approval, however, we complied  
20 with the rule by obtaining that approval in a timely  
21 fashion and including it in the application, as did many  
22 other applicants across the state. We believe that this  
23 decision should be remanded back to staff.

24           MR. GOODWIN: Questions? I've got a question  
25 for you. In the RFAD did you specifically point out the

1 date issue?

2 MS. SAAR: We believe that we did, yes.

3 MR. GOODWIN: You believe you did, or you did?

4 MS. SAAR: I believe that it was clear in the  
5 RFAD that the issue was the date.

6 MR. GOODWIN: Okay. Did you want to speak to  
7 this?

8 MR. MICHAELS: Russ Michaels. I'm an attorney  
9 with the developers so I'm in support of what Catherine  
10 just said too.

11 And as she just mentioned, the approval of  
12 these utility allowances, they weren't granted until well  
13 after the established in clear violation of the rule. And  
14 so I think the take-away is when you've got a deadline,  
15 you've got to adhere to that. So like earlier a couple of  
16 months ago, I think people didn't upload an Excel  
17 spreadsheet by March 1, they got terminated. Right? So  
18 like if we start having like whimsical deadlines then a  
19 lot of our rules just fall apart, so that's kind of the  
20 basis of what we're getting at, the deadlines are  
21 important.

22 The applicants were warned in the application  
23 webinar that the approval must be granted prior to the  
24 application submission and that the last day to submit  
25 such a request was February 8. It further clarified that

1 failure to comply could result in termination. So in  
2 response to the RFAD, the applicant indicated that a  
3 request was submitted on the 20th of February but no  
4 evidence was provided to substantiate that claim.

5 And in response to a second public information  
6 request on the topic, the public information coordinator  
7 stated to us: "Please know that TDHCA does not have  
8 responsive documents for this request. No request was  
9 received on 2/20/2018 regarding these properties, however,  
10 attached are several emails concerning the matter." So  
11 based on those emails, it does appear that the applicant  
12 attempted to obtain approval prior to app submission,  
13 however, there were several issues surrounding that  
14 attempt.

15 By rule, the Compliance Division has 21 days to  
16 review the utility allowance. This is why the webinar  
17 stated that the last day to submit such a request was  
18 February 8. A copy of this webinar slide can be found on  
19 page 1812 of your 5(e) supplemental. The submission on  
20 the 20th was 12 days later and only nine days prior to the  
21 application deadline. So you can see this isn't complying  
22 with any of the deadline, the hard deadline that we're  
23 trying to impose.

24 So timing issues aside, the approval request  
25 was submitted under the wrong application name and number,

1 too, and the applicant was copied on this request and  
2 could have corrected the error that very day, but that  
3 didn't happen either. As the application deadline  
4 approached, the applicant should have followed up with  
5 compliance to check on the status of the document needed  
6 for the application submission, however, that didn't  
7 happen either. So it wasn't until March 29, almost a  
8 month full later after the application deadline that the  
9 applicant followed up with Compliance and identified the  
10 error.

11           Regardless of the unfortunate circumstances  
12 surrounding this matter, the rule really requires that  
13 approval be included in the application, meaning that the  
14 approval must be granted prior to March 1. That just  
15 didn't happen to this applicant for these two  
16 applications. So our application, Palm View Village,  
17 which is next in line, we did use a utility allowance that  
18 required Department approval but we complied with the  
19 provision of the rule. In other words, we did everything  
20 on time, so we didn't come in on March 2 and put our full  
21 application in, we actually complied with everything  
22 intact and these guys didn't do that.

23           So we ask that the rules be applied as written.

24       There's no remedy for a missed deadline, and these two  
25 apps really should be terminated. So just to echo what



1 Catherine said, to remand this would be our preference at  
2 this time.

3 Thank you for your time.

4 MR. GOODWIN: Any other comments on these two  
5 applications?

6 (No response.)

7 MR. GOODWIN: Any questions from Board members?

8 (No response.)

9 MS. HOLLOWAY: If I may, this is an issue that  
10 turned up a number of times with applications this year,  
11 and Shay and I were sitting in Beau's office and we're all  
12 trying to figure out what to do with these things, and had  
13 Cody from Compliance come up because he's the utility  
14 allowances person, and we looked through the compliance  
15 rule. The issue is that nowhere in the compliance rule  
16 does it say that this applicant had to get their utility  
17 allowance from the Department. That information is in  
18 some training materials, and actually the Compliance  
19 Division has done a tremendous job of explaining this  
20 fairly complicated process about which is due when, but  
21 the compliance rule doesn't say this applicant must obtain  
22 their utility allowance from the Compliance Division, and  
23 that was the basis for our action on these RFADs.

24 MR. GOODWIN: Okay. Any questions?

25 MR. VASQUEZ: However, someone just said

1 somewhere else we have a rule saying you must submit this.

2 MS. HOLLOWAY: Yes. We have conflicting rules  
3 in two different sections.

4 MR. VASQUEZ: Conflicting rules, or one says  
5 you must and the other is silent on it?

6 MS. HOLLOWAY: Yes. That in fact is the case.

7 MR. GOODWIN: Any other questions?

8 MR. BRADEN: The only comment I'd make is so  
9 this issue was, it sounds like, thoroughly vetted by  
10 staff, including general counsel, and ending with a  
11 determination that it was sufficiently addressed.

12 MR. VASQUEZ: I'm sorry. So are there other  
13 situations with applicants that missed the deadlines that  
14 we said it's okay?

15 MS. HOLLOWAY: Yes. There are at least a  
16 couple of other applications that have this very same  
17 situation that we treated exactly the same way.

18 MR. VASQUEZ: It's just that they didn't get  
19 RFADs.

20 MS. HOLLOWAY: There actually are some with  
21 RFADs, but however submitted the RFAD didn't come up to  
22 speak.

23 MR. VASQUEZ: We've been consistent.

24 MS. HOLLOWAY: Yes. On this issue we have  
25 treated them all consistently.

1 MR. VASQUEZ: Waiving the requirement.

2 MR. BRADEN: The Board is not waiving it, staff  
3 made a determination.

4 MR. GOODWIN: Good point, good clarification.

5 MR. VASQUEZ: Thank you, Counselor Braden.

6 (General laughter.)

7 MR. GOODWIN: Any other questions?

8 MS. SAAR: Kathryn Saar, representing a  
9 competing applicant.

10 Marni is correct that they could have used a  
11 utility allowance without getting approval from the  
12 Department. That is a utility allowance that comes from a  
13 local housing authority. You don't have to get approval  
14 for those. But to use a utility allowance such as a HUD  
15 model utility allowance, that has to be approved by the  
16 Department, and the rule states that utility allowances  
17 which are required to be approved by the Department must  
18 have that approval prior to March 1.

19 MR. VASQUEZ: Let me ask one more question. Is  
20 this a scoring item or is this a threshold  
21 disqualification item?

22 MS. HOLLOWAY: This is a threshold item.  
23 Failure to met threshold items would generally result in a  
24 termination action and an appeal that would wind up in  
25 front of you.

1 MR. GOODWIN: Any other questions or comments?

2 (No response.)

3 MR. GOODWIN: Anybody else on any of these  
4 other items?

5 MS. HOLLOWAY: I think we have one other item  
6 to discuss.

7 MR. GOODWIN: Does any Board member want to  
8 make a motion as it relates to 18293 or -294, or take them  
9 in consideration with all of these others?

10 Do we have somebody else that wants to speak  
11 about another case, Marni? Which number is that?

12 MS. HOLLOWAY: 18305.

13 MR. GOODWIN: 18305. Okay.

14 MS. HOLLOWAY: Application 18305 Star of Texas  
15 Seniors. The request asks if the application included  
16 sufficient evidence of site control and if the development  
17 site is appropriately zoned. Staff determined that  
18 clarification regarding the zoning through an  
19 administrative deficiency was appropriate.

20 The application included a letter from the City  
21 of Montgomery stating that the development is permitted  
22 under the provisions of the city's zoning ordinance.  
23 Staff determined that the response sufficiently addressed  
24 the administrative deficiency.

25 MR. GOODWIN: Okay.

1           MR. GLOCKZIN: Good evening. I'm Emanuel  
2 Glockzin, the developer of Star of Texas Seniors, and  
3 we're proceeding with zoning, we should have zoning  
4 completed in a couple of weeks. My issue is through the  
5 zoning process that we've been going through, we've been  
6 through about maybe four or five meetings with the city  
7 council and planning and zoning and our project is one  
8 point higher than the project behind us, and that's 18353  
9 Heritage Seniors. That had representatives there, Matt  
10 Fuqua and Nathan Kelly, that's here in the audience,  
11 talking about their project being superior to mine. They  
12 were talking about 80 units, they had market rate units,  
13 the income on taxes, city taxes, county tax, school taxes  
14 were higher than mine.

15           MR. GOODWIN: I hate to interrupt you, but this  
16 discussion is regarding the RFAD. Do these issues deal  
17 with the RFAD as is applies to your project, or are you  
18 trying to expand this into a further discussion?

19           MR. GLOCKZIN: The bottom line is they were  
20 trying to derail my zoning.

21           MR. GOODWIN: Of course. That's what this  
22 whole process is about. Everybody here understands what  
23 everybody is doing when they stand up here and talk bad  
24 about somebody else's project. I think the point of where  
25 we are on the agenda is the RFADs, this has been a report

1 back from our staff that these have all been dealt with,  
2 and usually we hear from the person that filed the RFAD  
3 that's not happy, and you seem to be talking about --

4 MR. GLOCKZIN: Well, I just think the behavior  
5 from another applicant interfering.

6 MR. GOODWIN: Not relevant to this discussion,  
7 sir. Might be after the person stands up and says  
8 something, but right now the Board is entertaining  
9 discussions about this as it relates to the RFAD, and I  
10 assume we took it, as related to your project, the staff  
11 is happy with it.

12 MR. GLOCKZIN: They're happy with it.

13 MR. GOODWIN: So I would say you're hurting  
14 your own cause to be up here. I don't want to cut you  
15 off.

16 MR. GLOCKZIN: I understand.

17 MS. HOLLOWAY: You can make these comment  
18 during the public comment period at the end of the  
19 meeting.

20 MR. GOODWIN: At the end of the meeting we do  
21 ask for public comments, so that may be the appropriate  
22 place you can bring that kind of comment.

23 Is there any discussion or comments about  
24 18305?

25 (No response.)

1 MR. GOODWIN: Any others that we have?

2 MS. HOLLOWAY: Not that I know of.

3 MR. GOODWIN: That concludes everything for  
4 item 5(e), so we would entertain a motion to accept this  
5 report.

6 Let the record reflect that Ms. Thomason has  
7 left.

8 MR. BRADEN: I make a motion to accept the  
9 report except for applications 18033, 18043 and 18047  
10 which we previously voted on.

11 MR. GOODWIN: Do I have a second?

12 MS. BINGHAM ESCAREÑO: Second.

13 MR. GOODWIN: All in favor say aye.

14 (A chorus of ayes.)

15 MR. GOODWIN: All opposed?

16 (No response.)

17 MR. GOODWIN: The motion is passed.

18 We move on to item (f) which are scoring  
19 appeals.

20 MS. HOLLOWAY: These are presentation,  
21 discussion and possible action on timely filed scoring  
22 appeals under 10 TAC 10.902 of the Department's  
23 Multifamily Program Rules relating to the appeals process.

24 The first application is 18000 Evergreen at  
25 Garland Senior Community which proposes the new

1 construction of an elderly development with 105 units in  
2 Garland. Staff determined that the application does not  
3 qualify for seven points requested for concerted  
4 revitalization plans, the CRP, because we were unable to  
5 confirm that the application clearly addressed all of the  
6 elements of the rule.

7 The executive director originally postponed the  
8 denial of points until the applicant had an opportunity to  
9 provide evidence in response to an administrative  
10 deficiency. The executive director's letter concluded  
11 that the CRP did not, as originally presented, identify  
12 the boundaries of a plan and show how it encompasses the  
13 proposed development site, did not identify specific  
14 measures that will be undertaken on the plans timeline,  
15 and did not show that the plan is accessing already  
16 identified funding sources that have already begun to  
17 flow.

18 The applicant seeks to knit together multiple  
19 plans and fund sources to gain CRP points, which is  
20 entirely allowable under our rule, but what they have knit  
21 together does not clearly meet the requirements of the  
22 rule.

23 So as regards boundaries, the applicant  
24 describes the City of Garland's 2012 Envision Garland Plan  
25 as the overall plan for the city which includes seven



1 smaller areas called catalyst areas and within those  
2 catalyst areas there are targeted investment areas. The  
3 CRP provided by the applicant covering these areas states  
4 that the targeted investment areas are considered to  
5 represent the most likely locations within the catalyst  
6 areas to leverage public and private investment through  
7 quality in-fill development and redevelopment efforts.

8 The response to the deficiency notice states  
9 that the plan identifies the location of the development  
10 site as being within the Shiloh/Walnut targeted investment  
11 area and is a preferred location for a catalyst project  
12 such as a senior independent living development. Mapping  
13 indicates that the development site is clearly outside of  
14 that targeted investment area. In its appeal to the  
15 Board, the applicant states that maps in the plan indicate  
16 that the development site is within the targeted  
17 investment area but fails to support the claim.

18 As regards specific measures, the plan  
19 indicates the concept for catalyst projects for the  
20 targeted investment area. The only project that staff has  
21 been able to identify as already moving ahead on a  
22 timeline with a potential identified funding source is the  
23 current tax credit application that we are discussing  
24 today. The applicant has not identified any timeline for  
25 completion or even commencement of any other projects.

1           The response to the deficiency notice  
2 discussions vision and issues and potential solutions and  
3 additional specific critical issues but does not, as the  
4 rule requires, identify any targeted efforts within the  
5 plan to address those problems described. The appeal to  
6 the Board asserts that the executive director is setting a  
7 higher standard than is required by the QAP by requiring  
8 identification of specific measures to be taken on the  
9 plan's timeline.

10           The timeliness of the targeted areas is  
11 addressed by the requirement that the adopted plan must  
12 have sufficient documented and committed funding to  
13 accomplish its purposes on its established timeline.  
14 That's the requirement in the rule. The plan introduces a  
15 concept for what the redevelopment catalyst projects would  
16 be but does not provide specifics. As stated in the  
17 plan's executive summary, its intent is to assist the City  
18 of Garland, property owners and other project partners  
19 with a technical framework for discussions regarding  
20 market opportunities, development, programming  
21 alternatives and partnership strategies, so we're not  
22 seeing any specific measures identified within this plan.

23           Regarding fund source, the applicant mentioned  
24 several funding sources. None was found to be sufficient,  
25 documented and committed funding, as required by the rule.

1 They discussed tax increment financing reinvestment  
2 zones, TIRZ Number 1. The appeal states that it includes  
3 a portion of the plan but no evidence of this was found.  
4 TIRZ Number 1 includes the area surrounding two DART  
5 stations, approximately a mile and a half away from the  
6 development site. TIRZ Number 3 is claimed by the  
7 applicant. The Garland City Council voted to create this  
8 in December of 2017 and it was actually created on April 3  
9 of 2018, so it did not exist at the time of application.

10 The appeal states that the plan references use  
11 of a portion of the City of Garland's \$190 million capital  
12 improvements program, or CIP, to provide catalyzing  
13 infrastructure investments. The response to the  
14 deficiency notice includes a list of 12 capital  
15 improvement projects in the area adjacent to the  
16 development site, only one of which was completed within  
17 the last five years. The plan says this multi-year  
18 program plans expenditures over a five-year period, so it  
19 appears that those funds have actually expired.

20 The plan estimates nearly \$2-1/2 million in  
21 public investment would be needed to leverage the cost for  
22 a senior housing development but no evidence has been  
23 provided to show that the City of Garland has identified  
24 any CIP or economic development funding to leverage the  
25 development cost. Also discussed is sales tax funding

1 related to DART. There is no evidence that the funds  
2 would be used for anything other than maintenance and  
3 continued improvement of DART properties.

4 In response to the deficiency and the appeal to  
5 the Board, the applicant mentions \$120,000 provided to the  
6 City of Garland by the North Central Texas Council of  
7 Governments to create the plan. No ongoing funding from  
8 the organization was identified.

9 Staff recommends that the Board deny the appeal  
10 because staff was unable to confirm that the application  
11 clearly addressed elements of the rule.

12 MR. GOODWIN: And this is over the scoring of  
13 seven points for the CRP?

14 MS. HOLLOWAY: For the CRP, yes.

15 MR. GOODWIN: And without those seven points,  
16 the application falls down on the list?

17 MS. HOLLOWAY: Falls down the list.

18 MR. GOODWIN: Okay. Do I hear a motion to  
19 accept comment?

20 MS. BINGHAM ESCAREÑO: So moved.

21 MR. GOODWIN: Second?

22 MS. RESÉNDIZ: Second.

23 MR. GOODWIN: All in favor say aye.

24 (A chorus of ayes.)

25 MS. DULA: Tamea Dula with Coats Rose, here on

1       behalf of the developer.

2                   If you would like to look at the appeal to the  
3 Board, it is on page 1855 of your board book. It's at the  
4 very end so I thought that some of might have been  
5 exhausted and not actually gotten to that point.

6                   MR. GOODWIN: Read through it twice.

7                   MS. DULA: The City of Garland has put a lot of  
8 thought into the revitalization of their municipality. In  
9 2012 they issued the Envision Garland Plan which was an  
10 assessment of the entirety of the city to determine what  
11 its assets were and what problems it had and what needed  
12 to be done in order to continue to be a viable and vibrant  
13 city to attract the changing population that they saw  
14 evolving in the area, and the intent was that there would  
15 be subsequent plans that would be more directive than the  
16 overall plan which was primarily to identify catalyst  
17 areas that they believed would be necessarily foci for the  
18 development and redevelopment of the city.

19                   They identified seven of these catalyst areas.

20                   The Forest/Jupiter/Walnut area is one of them. They also  
21 identified 13 targeted investment areas where they thought  
22 specific projects would be good to get things going and  
23 they had ideas with regard to those projects. The Forest/  
24 Jupiter/Walnut area that we are involved in has three of  
25 these targeted investment areas, and the project site was

1 initially thought to be in one of those targeted  
2 investment areas as represented by the city, but there are  
3 maps that show that it wasn't in it as originally  
4 contemplated. However, that doesn't matter because it is  
5 not the targeted investment area that we are looking to as  
6 our plan. Our plan is the Forest/Jupiter transit-oriented  
7 redevelopment plan which was put out for the catalyst area  
8 of the Forest/Jupiter/Walnut part of town, and that is the  
9 plan that we are looking to to be considered the concerted  
10 revitalization plan.

11 If you look at the reply or appeal to the  
12 Board, the first item is the location of the project  
13 within the plan. Admittedly, we had trouble proving that  
14 the city was correct and it was within the targeted  
15 investment area, but it is clearly within the plan.

16 I will now give you Brad Forslund to talk about  
17 the funding and one of the foci of the plan for the  
18 redevelopment area.

19 MR. FORSLUND: Good afternoon. Brad Forslund,  
20 Churchill Residential. We are the developer and represent  
21 the applicant as well.

22 So I'm going to take it down a little more  
23 specific from Ms. Dula's overview of the redevelopment  
24 area, but I'm going to focus specifically on our area  
25 which is called the Health Science District which is on

1 the northern portion of this catalyst area. And for the  
2 Board's sake and the executive director, the catalyst area  
3 is this green shaded area right here, and our site is in  
4 the northern portion of the catalyst area and the hospital  
5 district.

6 This is Garland's main healthcare district.  
7 There are two hospitals, there's Baylor Scott and White  
8 which recently closed in February, and Vista Hospital  
9 which has been closed for a couple of years. The hospital  
10 then is supported by multiple medical offices in the  
11 neighborhood. Those still are ongoing and active. And  
12 Baylor right now is in the process of negotiating a new  
13 operating agreement and owner for their facility. This  
14 district also suffers from disinvestment in retail and  
15 residential properties. Garland's goal is to revitalize  
16 this struggling district by attracting private capital in  
17 conjunction with public incentives to create a vibrant and  
18 growing Health Science District.

19 This district is a major component of the  
20 Forest/Jupiter redevelopment plan and is one of the seven  
21 catalyst areas Ms. Dula mentioned. In 2017 the city  
22 agreed to invest \$3.1 million in a mixed use development  
23 called Central Park. This development includes 582 single  
24 family lots, neighborhood retail, and 10 acres of green  
25 space and common area. This investment will be repaid to

1 the city through TIF 3, which is, again, in the catalyst  
2 area. This development has been identified by the city as  
3 a revitalization catalyst project for both the Health  
4 Science District and TIF 3. This project is underway with  
5 infrastructure currently being constructed and completion  
6 targeted for December of 2020.

7 TIF 3 is one of several primary funding sources  
8 for the redevelopment plan catalyst area. The city has  
9 identified 12 future projects using this TIF, totaling \$36  
10 million, including infrastructure, trail systems, and  
11 district masonry screening. Mr. Sisk will be speaking  
12 next and will give you more details in terms of specific  
13 funding sources.

14 The redevelopment plan identifies the need for  
15 workforce housing for nurses and healthcare support and  
16 senior housing in the district, all of which need to be in  
17 close proximity of the healthcare district.

18 I'll wrap it up very quickly. The catalyst  
19 area is served by DART with bus service to and from the  
20 Health Science District which provides a convenient link  
21 to the Forest/Jupiter light rail station.

22 In summary, the Forest/Jupiter redevelopment  
23 plan has identified the healthcare district and the DART  
24 light rail station as the foundation of the plan. Though  
25 in the early stages of revitalization, the commitment of



1 the city in terms of priority and funding is evident and  
2 is growing to meet the objectives of the redevelopment  
3 plan.

4 Thank you very much.

5 MR. GOODWIN: Thank you.

6 Any questions?

7 (No response.)

8 MR. GOODWIN: Is anyone else going to speak to  
9 this?

10 MR. SISK: My name is Tony Sisk. I'm also with  
11 Churchill Residential, the developer of the project.

12 With regard to funding, in the area that  
13 includes the subject site, the Forest/Jupiter transit-  
14 oriented redevelopment plan, which includes the  
15 Forest/Jupiter DART rail station mentioned and the Health  
16 Science area mentioned, includes the subject site. It was  
17 created to spur residential and commercial development  
18 around this station and the hospital. Both areas are in  
19 great need of revitalization. The city has a formal  
20 proposed CIP project in the amount of \$980,000 which is  
21 the Forest/Jupiter streetscape which is across from the  
22 station. TIF Number 1 includes this station and has money  
23 to invest in the area around the station, and again, that  
24 station is in the same plan area as our site.

25 The Forest/Jupiter plan also includes a map and

1 narrative contained in our application contemplating a  
2 senior living development on our subject site and it also  
3 mentions tax credit financing. It also mentions that the  
4 city would like to expand the internal roads around the  
5 hospital going north which is Walter Reed which would  
6 touch our subject site.

7 We have a letter in our application from the  
8 city that said the city has sent \$27-1/2 million to DART  
9 and we have a letter from DART confirming that. And if  
10 you take the total cost -- they don't break down the  
11 information in the business plan, but if you take the  
12 total cost divided by the number of stations, it's over  
13 \$2-1/2 million each year to maintain these stations, and  
14 because the station is there the city is trying to  
15 generate development both around the DART station and  
16 around the hospital healthcare area where our site is part  
17 of.

18 We put in our application in further  
19 clarification that there were several projects around the  
20 hospital and the subject site that were CIP projects, and  
21 the first meeting I had with the assistant city manager  
22 and staff, they expressed the desire for us to work with  
23 the city, to contribute land on our site which would be a  
24 greenbelt which connects the new central park development  
25 across the street from our site and goes along the creek

1 and then into the hospital area.

2 So in summary, all this stuff fits together.  
3 The city has put \$3.1 million in the development across  
4 the street. That's the first project, but they anticipate  
5 many, many different projects in this area and they're  
6 investing a lot of money and time to do so.

7 Thank you.

8 MR. GOODWIN: Thank you.

9 MS. LATSHA: Good afternoon. I can say  
10 afternoon now. My name is Jean Latsha, I'm with Pedcor  
11 Investments.

12 I do have some interest in this application  
13 since we have a competing application in the region, but I  
14 admit I'm not 100 percent sure I'm even helping myself out  
15 here right now. There's several factors at play in this  
16 region and so this application gaining these points or  
17 being denied these points could be good or bad for me  
18 either way, depending on a lot of other stuff.

19 So that being said, I was interested and  
20 objective when I read staff's initial decision, the  
21 applicant's appeal and the executive director's response,  
22 and in short, I think staff got it right. This  
23 application does not qualify for community revitalization  
24 points. I'll try not to repeat the points that Marni  
25 made, I thought very well, but I'll say I agree with all

1 of them, but I'd like to talk about the bigger picture a  
2 little bit here.

3           This has been said before, I know, but it's  
4 important to remember that unlike with the 4 percent deals  
5 if this application is not awarded, then there's no  
6 resource that's lost to the state, the credits will just  
7 go to another worthy applicant which leads me to my next  
8 point, the worthiness of the other applicants. The rules  
9 that dictate the scoring of these applications reflect  
10 Department policy objectives, so it's fair to say that  
11 those applications that meet all of the requirements of  
12 the scoring criteria represent developments that will  
13 further those objectives. There are several applications  
14 that have already been reviewed by staff and that have  
15 been granted their requested points and that's because  
16 those applications are meeting all of the requirements of  
17 the rule and so clearly fulfilling some policy objective.

18           I appreciate that TDHCA does want to  
19 incentivize development in community revitalization areas,  
20 so it's tempting to grant these points in order to make  
21 sure that objective is being fulfilled, but I will say  
22 that there are at least three other applications in this  
23 region that are in community revitalization areas in good  
24 position for an award, one in Fort Worth, one in Plano,  
25 and another one just down the street in Garland. It is

1 clear staff is not being unreasonable in their reviews of  
2 these revitalization plans, they've granted points to  
3 several of them. They recognize there are other  
4 applications that do meet the requirements of these rule,  
5 those applications that do truly meet the policy objective  
6 of having some of these developments in community  
7 revitalization areas. This is not one of them. There is  
8 legitimate question about whether or not this application  
9 meets the requirement of the rule.

10           Again, it's tempting, after sifting through  
11 hundreds of pages to just say surely there's enough stuff  
12 here to say that this meets the requirements, and it's  
13 exhausting. I've had them too, it's totally exhausting.  
14 But you can't just look at a few highlighted buzzwords and  
15 maps that kind of maybe point to areas that are covered by  
16 plans. It wasn't enough, there was not enough there, and  
17 I appreciate the diligence of staff to realize that it  
18 wasn't there. Tamea admitted it, they're not in a  
19 targeted investment area, there's no funding for it, the  
20 funding that they did talk about was passed after March 1,  
21 it's just not there.

22           So I appreciate staff and hope that the Board  
23 would stick with them on this one.

24           MR. GOODWIN: Thank you.

25           Anybody else want to comment.

1 MR. YARDEN: Good afternoon. My name is David  
2 Yarden and I'm with Amtex Multi housing.

3 We have a competing application in Garland,  
4 Lavon Senior Villas. It did receive full CRP points.  
5 Both of these applications cannot be awarded, they're  
6 mutually exclusive, and we want to commend staff for their  
7 effort in reviewing application 18000 and coming to the  
8 decision they did. We believe the Board should uphold  
9 staff's determination not to award points under the  
10 concerted revitalization plan. Staff had given the  
11 application exceedingly careful review and they've given  
12 the applicant numerous opportunities to make its case that  
13 the application as submitted meets all the requirements  
14 needed for points in this category.

15 All of the arguments that the applicant has  
16 made here today have already been raised time and again by  
17 staff. In fact, the applicant has already had four bites  
18 at the apple here. I just wanted to outline the process  
19 that has gone through before coming here today. Of  
20 course, the original application was submitted and staff  
21 reviewed it and did not award the points. They appealed  
22 to the executive director on that front, he provided  
23 careful review and a lengthy response, agreeing with  
24 staff's decision, but giving the applicant the opportunity  
25 to come back and make its case, organize its notes and

1 remake its case. The applicant resubmitted those  
2 documents to staff, and again staff determined that the  
3 points were not there. The applicant then appealed again  
4 to the executive director who concluded with another  
5 further detailed analysis, different from the one before,  
6 but reaching the same conclusion: no points were  
7 justified. So finally, we're here at the fifth  
8 opportunity, the appeal to this Board.

9 Staff has given meticulous consideration of the  
10 issue and provided specific feedback to the applicant.  
11 Each applicant in this 9 percent round is required to  
12 provide all the proper documentation in its application  
13 and to present its material in an understandable and  
14 logical way. The application materials here simply do not  
15 support the award of the points the staff has determined  
16 again and again.

17 Thank you.

18 MR. GOODWIN: Anybody else want to comment.

19 MR. PALMER: Barry Palmer with Coats Rose.

20 So I think my reading of the responses that  
21 we've gotten back from the executive director on the plan  
22 was that we had a plan but that there was not identified  
23 funding for it, and so Mr. Sisk and Mr. Forslund have gone  
24 through a number of sources of funding that are available  
25 for improvements in the plan area, including TIRZ-1 and

1 TIRZ-3 and the DART revenue to the DART stations,  
2 including the station that's located in this plan, so I  
3 think we have provided evidence of funding and that there  
4 obviously is plan, there are a bunch of plans that the  
5 City of Garland has that include the development of senior  
6 housing. So we believe that we have satisfied the  
7 requirements.

8 MR. GOODWIN: Thank you.

9 Anybody else want to comment?

10 (No response.)

11 MR. GOODWIN: If not, time to entertain a  
12 motion. We have the recommendation from staff to deny the  
13 seven points for the CRP. Do I hear a motion regarding  
14 that issue?

15 MS. THOMASON: I'll make the motion to uphold  
16 staff's recommendation.

17 MR. GOODWIN: We have a motion to uphold  
18 staff's recommendation. Do I hear a second?

19 MR. BRADEN: Second.

20 MR. GOODWIN: Any discussion?

21 (No response.)

22 MR. GOODWIN: All those in favor say aye.

23 (A chorus of ayes.)

24 MR. GOODWIN: Opposed?

25 (No response.)



1 MR. GOODWIN: Okay. Staff's recommendation is  
2 upheld.

3 Item 5 (f)

4 MS. HOLLOWAY: 18057, the applicant is  
5 withdrawing their appeal for 18057, so we don't need to  
6 take the item.

7 MR. GOODWIN: Okay. So that leaves us with  
8 item (g). That's already done. Right?

9 MS. HOLLOWAY: We haven't done (g).

10 MR. GOODWIN: This is the list.

11 MS. HOLLOWAY: This is the big one, we've got  
12 to do this one.

13 MR. GOODWIN: Sorry about that.

14 MS. HOLLOWAY: 5(g) is presentation, discussion  
15 and possible action to issue a list of approved  
16 applications for the 2018 housing tax credits in  
17 accordance with Texas Government Code 2306.6724(e), so we  
18 are statutorily required to bring to the Board by the end  
19 of June the list. The same section requires that the  
20 Board shall issue final commitments for allocations of  
21 housing tax credits each year in accordance with the  
22 Qualified Allocation Plan, not later than July 31, so  
23 that's what we'll do next month.

24 Not all applications on the current approved  
25 list, as published in your book, have completed the review

1 process and not all will ultimately receive an award of  
2 tax credits but they are continuing to be reviewed in  
3 accordance with the Qualified Allocation Plan and  
4 constitute the complete list of applications that may be  
5 eligible for commitments of allocations of housing tax  
6 credits in this competitive cycle.

7 Staff recommends that the list in your book of  
8 active applications for the 2018 competitive housing tax  
9 credit cycle be approved, subject to meeting the  
10 requirements of the QAP and associated applicable rules.

11 MR. GOODWIN: Do I hear a motion to accept the  
12 list as published?

13 MS. BINGHAM ESCAREÑO: So moved.

14 MR. GOODWIN: So moved. A second?

15 MS. THOMASON: Second.

16 MR. GOODWIN: Any discussion?

17 (No response.)

18 MR. GOODWIN: All in favor say aye.

19 (A chorus of ayes.)

20 MR. GOODWIN: Opposed?

21 (No response.)

22 MR. GOODWIN: That concludes our posted agenda  
23 items. We are at a spot where we will accept public  
24 comment only for the purposes of possibly creating a  
25 future agenda item. Do I hear any public comment?

1 (No response.)

2 MR. GOODWIN: If not, I'll entertain a motion  
3 to adjourn.

4 MR. BRADEN: So moved.

5 MS. BINGHAM ESCAREÑO: Second.

6 MR. GOODWIN: So moved and seconded. All in  
7 favor?

8 (A chorus of ayes.)

9 MR. GOODWIN: We are adjourned. We'll see you  
10 on July 12.

11 (Whereupon, at 12:38 p.m., the meeting was  
12 adjourned.)

C E R T I F I C A T E

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2  
3 MEETING OF: TDHCA Board  
4 LOCATION: Austin, Texas  
5 DATE: June 28, 2018

6 I do hereby certify that the foregoing pages,  
7 numbers 1 through 212, inclusive, are the true, accurate,  
8 and complete transcript prepared from the verbal recording  
9 made by electronic recording by Donna Boardman before the  
10 Texas Department of Housing and Community Affairs.

11 DATE: July 6, 2018  
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16  
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18 \_\_\_\_\_  
(Transcriber)  
19

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