

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Room 1-104  
William B. Travis Building  
1701 Congress Avenue  
Austin, Texas 78701

June 27, 2005  
9:30 a.m.

BOARD MEMBERS:

BETH ANDERSON, Chair

Kent Conine, Vice Chair  
Norberto Salinas  
Patrick Gordon  
Vidal Gonzalez  
Shadrick Bogany

ALSO PRESENT:

Edwina Carrington, Executive Director  
Brooke Boston

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PUBLIC COMMENT	3
<p>The Board will solicit Public Comment at the beginning of the meeting and will also provide for Public Comment on each agenda item after the presentation made by the department staff and motions made by the Board.</p> <p>The Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on the following:</p>	
ACTION ITEMS	
Item 1      Presentation, Discussion and Possible Approval of Minutes of Board Meeting of May 26, 2005	28
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P R O C E E D I N G S

MS. ANDERSON: Good morning and welcome to the June 27 Board meeting of the Texas Department of Housing and Community Affairs. We appreciate having you all with us this morning, and we -- first thing we will do is call the roll. Vice-Chairman Conine?

MR. CONINE: Here.

MS. ANDERSON: Mr. Bogany?

MR. BOGANY: Here.

MS. ANDERSON: Mr. Gonzales?

MR. GONZALEZ: Here.

MS. ANDERSON: Mr. Gordon?

MR. GORDON: Here.

MS. ANDERSON: Mayor Salinas?

MR. SALINAS: Here.

MS. ANDERSON: Okay, we have six board members present and we do have a quorum. As is our custom, we solicit public comment, both at the beginning of the meeting, or if the person who wishes to comment prefers, at the actual agenda item, and if you wish to make public comment to the board this morning, then, you do need to make sure that you've completed a witness affirmation form, and they are available at the table right by the door, so we will proceed to public comment. Mayor Pro-Tem

Rick Rodriquez.

MR. RODRIQUEZ: Good morning, Chairman, Board members. I am here requesting that the Texas Department of Housing and Community Affairs support the San Juan Apartments' application, Number 05241, the modification of 2005 Low Income Housing Tax Credits. The City of San Juan has never received LIHTC money. This is primarily due to their not being a qualified census tract in any of the areas of the city become had -- due to the structure of the 2005 Qualified Allocation Plan, we have a developer willing to develop new Low Income Housing units in the non-QCP portion of the city. The City of San Juan is one of only 24 cities in the State of Texas with a population larger than 5,000 that has never received a LIHTC allocation.

While there is an application in front of the Board for an acquisition with road rotation in the City of San Juan, this is the only application that will provide additional housing opportunities in the city. The City of San Juan has the lowest median family income of all the urban cities in Region 11 that has an application in front of the TDHCA board for 2005.

Thirty-four point four percent of the residents of San Juan live below the poverty level. Based on the

TDHCA standard recommended list in the Board, there is \$79,801 debt in the regional allocation for 2005. San Juan Apartments will require 800,000 or 1,199 more than the amount left.

The city is requesting that you be able to find a way to allocate low income housing tax credits to San Juan Apartments and aid us in fulfilling the needs of new, clean, quality and safe housing for needy residents. I would also like to mention that we have some newly elected officials in our Commission, that they all support this project. Thank you.

MS. ANDERSON: Thank you. Mr. Eric Opeila.

MR. OPIELA: Thank you, Chairwoman Anderson. Chairwoman Anderson, Vice Chairman Conine, and members of the Board, Director Carrington, and staff, I want begin by thanking you for the opportunity to speak before you today.

For the record, my name is Eric Opiela, and I'm an attorney representing various low income housing tax credit housing developers, including Aliks Developments, Tasek Management Company, Continental Groups, Hunsicker Appraisal Company, and Magill Development Company.

I would appreciate the opportunity to lay out my presentation and then would be happy to answer any

questions you might have. I understand that Ms. Belinda Moore and Mr. Mike Dunn have indicated that they wish to yield the balance of their time to my comments, and I ask that you allocate their time to me in the event my time has expired.

The programs administered by this Department are of crucial importance to the state and the people of Texas deserve no less than to ensure that the LITHC program is fairly administered in accordance with federal and state law, as well as this Board's Qualified Allocation Plan.

As you consider scores assigned to applications by TDHCA staff, you should be aware that there are major deficiencies in staff's scoring of QCP, or qualified community participation, across the state. At least one case of misdesignation of an urban development as rural and questionable practices by developers and consultants in their efforts to gain points for both QCP and local political subdivision leveraging. These problems are pervasive throughout the state, and especially in light of the FBI's Southwest Housing Development Investigation, must be addressed by the board to avoid violations of not only the QAP but state law.

I will provide four representative examples,

one from each geographic region of the state. In each of these cases, either myself or my clients have brought these issues to staff's attention through written memoranda. None of these issues have been addressed, as of yet, to my knowledge and as reflected in your board books before you.

I also want to note that I am not, except where explicitly noted, questioning the ethics or propriety of any developer, applicant, or consultant, and believe that the developments in question are good developments. I also appreciate the efforts of legitimate neighborhood organizations to have their voice heard in the process. I'll begin with South Texas.

You should be familiar with this first example, as at the May board meeting, you voted to waive the QAP requirement for timely submission of the Quantifiable Community Participation for the Olive Grove Manor Development in NE Houston by the Pine Trails Community Improvement Association.

As you remember, this Association's support letter, which was mailed using the Developer's or the Applicant's Fed Ex account, and from the Applicant or Developer's Address, on Katy Freeway and I note that the QAP prohibits developers or applicants from materially

providing support, or financial support, to secure such a letter, was not received due to a delivery error until a few days after April 1, 2005. While your waiver gave the staff the ability to score this letter, it should not have been scored because the neighborhood organization's boundaries do not contain the development as required by Texas Government Code Section 2306.6710(b)(1)(B) and QAP Section 49.9 (g)(2).

This provision of state law gives you no discretion to score the letter. Either the development is within the neighborhood organization boundaries, and it gets scored, or it isn't and it doesn't. To award points for a letter from an organization near, but not containing the development, would violate state law and the QAP.

While it is true that the letter of support for the development included a map purporting to contain the development, an investigation of the organization's records shows that it does not. These documents, presented to staff at the end of last month, and obtained by Harris County Public Records, show the actual boundaries of the organization to be restricted to the Pine Trails Subdivision, which is a not even contiguous to the development site, which is located in Brett.

When the Pine Trails Subdivision was platted in

1976, the Pine Trails Community Improvement Association was set up to serve residents' needs in restrictive covenants included in the deeds of the property to the landowners. These covenants restricted membership in the Association to property owners in the subdivision, required a two-thirds vote of all property owners to annex land not in the subdivision into the boundaries of the Association.

As the organization's records show that no such vote occurred, and the development is outside the boundaries of the subdivision, the development is outside the boundaries of the organization and its letter cannot be scored.

While the organization's bylaws indicate in Section 2 that the Association's board may annex areas into the subdivision, the underlying covenants, which govern the bylaws, do not allow such an action without a two-thirds vote of the entire membership. Any conflict between the bylaws and the covenants is to be resolved in favor of the covenants; therefore, any attempt by the board to annex the development would be without effect.

While I wouldn't expect TDHCA staff to do the legwork to uncover this information and disqualify the letter, they didn't have to. My client provided these

documents to staff nearly a month ago, and the letter is still indicated as scored for 24 points in your board book.

You might argue that a mistake by a neighborhood organization in interpreting its own governing documents in attempting to annex a site to write a letter of support should not affect that letter's validity, but the law is clear. If the development is not actually within its boundaries, for whatever reason, it must not be scored.

This ensures fair play for all other neighborhood organizations, even those closer to the development than Pine Trails, such as the Wood Forest Civic Association, which is indicated here as directly adjacent to the development site. Yet, it could not be scored because it does not include the development's boundaries.

Presumably, neither the Department nor the QAP intends for applicants to gerrymander existing Association boundaries to include non-contiguous land nor to create their own associations in an attempt to circumvent the clear language and intent of this provision.

Now, moving on to West Texas. While in the above example, staff arguably could have missed the fact

that the QCP organization's boundaries did not contain the development, in the event of the letter from the Waymaker's Neighborhood Association in support of Key West Village, Phase II, the QCP could not be scored because the Association was not even a neighborhood organization as defined by the QAP.

Staff was notified of this deficiency in writing on June 16, 2005. The 2005 QAP defines a "neighborhood organization" as "an organization of persons living near one another within the organization's defined boundaries that contain the proposed Development site and that has a primary purpose of working to maintain or improve the general welfare of the neighborhood."

In addition, the QAP specifically defines entities which are not "neighborhood organizations" for the purposes of scoring, specifically stating that "neighborhood organizations" do not include organizations which have no members other than board members.

Waymaker's Neighborhood Association wrote a letter of support for Key West Senior Village on March 29, 2005. In this letter, Claudette Jones, the president, states, "The Organization has three members."

The attached bylaws of the Association state on page 6, Section 4.02, "The number of Directors will be

three." So obviously, the Association has no members, other than board directors, and so it's not a neighborhood organization in accordance with the QAP.

In addition, I note that the Articles of Incorporation were filed in late February of 2005, listing the attorney for the general partner in the development, the Odessa Housing Authority, as the incorporator of this Association. Again, I note that the QAP prohibits material or financial support to an organization for their letter.

Moving to East Texas, a similar situation exists in East Texas with the letter of support by East Longview/Texas Street Crime Watch in support of the Longview Senior Apartments. Again, Staff scored a letter by a person which did not meet the QAP definition of a neighborhood organization. Staff received written notification of this problem on June 16, 2005, and also includes a memo from the Sergeant in charge of Crime Watches for the Longview Police Department questioning the boundaries, membership, and validity of this Association.

The 2005 QAP, again, defines a "neighborhood association" using the definition I previously stated, and I emphasize, it's to improve the general welfare of the neighborhood, and it's also containing members that live

near one another.

The Texas Street Crimewatch, by its own letter, consists of just 18 members, and in fact, this number is questioned by the Longview Police Department, who indicates at the last meeting of the Association, only one person showed up, Mr. Don Sifrit, who wrote the letter of support. To say that the Crimewatch's members are "living near one another" is a perversion of that term.

The QAP explicitly omits from the definition of "neighborhood organization" those organizations that include an entire city. In this case, the Crimewatch covers a geographic area covering close to one-third the area of the city of Longview, a city of over 75,000 people, and additionally includes areas not incorporated in the city of Longview, and extends into Harrison County, which is a neighboring county but only has 18 members.

Indeed, a similar letter of support for this same development by this same organization was rejected by TDHCA in the 2004 cycle. At that time, the organization's boundaries did not contain the proposed development, but the map submitted with the 2005 letter shows different boundaries with no evidence showing that the bylaws were changed to allow the new area into the organization or any type of meeting, which expanded the

boundaries of this organization.

Furthermore, it is important to note that the fax number provided as the contact for the Crimewatch is that of the developer, Churchill Residential, and it was the fax verifying the information to TDHCA was sent from the developer, and not the organization. The use of the developer fax again can be construed as a gift to the organization, which would be prohibited by the QAP to obtain a letter of support.

Right next door in Marshall, in this instance, the developer applied in the rural set-aside and misdesignated the Timber Village Apartments as a rural development. Staff failed to check whether the location of the development was in fact rural as required for the set-aside.

Application 05027, Timber Village Apartments, is proposed to be built at 2702 Norwood, inside the City of Marshall, Texas. This site location does not meet the definition for a Rural Development because it is not located in a Rural Area as defined by the QAP. Furthermore, it explicitly meets the definition for an Urban and Exurban Area under the QAP.

To be designated a Rural Area, it must meet one of three tests: (1) it must be located outside the

boundaries of a primary metropolitan statistical area; (2) it must be located within the boundaries of a primary metropolitan statistical area, or MSA, if the statistical area has a population of 20,000 or less; or it must be located in a USDA-RHS rural housing service area eligible for new construction funds.

This development meets none of these tests. The site location is located within the boundaries of the Longview-Marshall MSA. This MSA has a population of 208,780, almost ten times the 20,000 requirement. Finally, the site location is ineligible for multifamily --

MS. ANDERSON: Mr. Opiela, I need to ask you to wind up and --

MR. OPIELA: Sure.

MS. ANDERSON: -- particularly, give us any other examples you have --

MR. OPIELA: Sure.

MS. ANDERSON: -- and wind up. Thank you.

MR. OPIELA: Sure. I will move on to the last example. Basically, you know it's not in a rural area and shouldn't have been scored in the rural set-aside.

Finally, in the Panhandle, in two separate developments in Borger and Levelland, we were informed

that an applicant, or a representative, approached the city governments of these towns with a scheme to acquire points for local political subdivision leveraging by paying the city for the purpose of the city turning around and providing this money to the development as an allocation of funds for onsite development costs. The QAP, of course as you know, provides score points for providing local, onsite development funding by the local subdivision.

TDHCA staff were notified of this practice as early as April, 2005 and were asked to investigate. They took the position that since the QAP does not explicitly prohibit this practice, they could not investigate whether the funds provided by a city in satisfaction of this scoring requirement were in fact from that city, or not from a third-party, or the developer. This practice is wrong.

This practice, which meets the common definition for money laundering, misrepresents the true source of the funds, and circumvents the intent in the government code to award points to developers who engage local governments in their efforts. No action has been taken on the 2005 applications using this "creative," though illegal, methodology for acquiring points. Illegal

activity cannot be the basis for awarding of points, irregardless if the activity is not prohibited by the QAP.

The QAP, as you know, is not an all-inclusive document. It must be read in concert with all other federal and state law. Misrepresenting the source of funds, and recycling tax credit money awarded by this Department to enhance scoring by a developer paying a city to provide funding to a development is the same sort of activity which has attracted the FBI's attention to Southwest Housing Development in Dallas. It must not be tolerated by this board.

Applications utilizing this scheme should either be not awarded points, or if determined by the board to violate state and federal law, be disqualified.

Thank you very much for your time. I know it's taken quite a while to go through these four examples. I ask you to follow state law, and the QAP, and address these scoring deficiencies. Now open for questions. Thank you.

MS. ANDERSON: Robert Sherman.

MR. SHERMAN: Good morning, Madam Chair, ladies and gentleman. My name is Bob Sherman. For the first time in my tax credit life, since 1986, I'm here to speak in opposition to a particular development in Texarkana.

I'm one of the general partners of the Winfield Estates property in Texarkana. It was a 1999 award of a 2000 forward commitment. One hundred fifty-six senior citizen units. Ninety percent are 60 percent of median income units. The Texarkana Housing Authority has proposed adding another 120 units about 2.2 miles from us, 90 percent of which would be 60 percent of median income units.

Now, we have a portfolio of around 6,000 units, and this was by far the worst lease op we've ever had in our lives. We just know the market depth isn't there. We are really concerned that another 120 units could be pushed in that close to us in a market that we know is clearly, is fully serviced. We never had reached 100 percent occupancy. We've still got six vacant units, sometimes seven units. We have no waiting list. There is no depth to the market at all.

As I said, it took us three and a half years to lease up. That property I'm speaking in opposition to is Renaissance Plaza, 05242, and I've given a letter to your staff and Ms. Carrington, as well, that explains it in more detail, including a lease-up schedule that shows the disastrous three and a half year lease-up, and it's still, as I said, not full.

I'll say again, this is the first time I've ever spoken in opposition to a property. It doesn't please me, but it's something that I think would be to the benefit of definitely the developer who's proposing it, to us, and the TDHCA. No matter what the market studies say, we've got, you know, proof is where the rubber hits the road, and we've been on the road, being run over, for three and a half years, so that really says it all, and if you'd like to talk to our site representative, she'll say the same thing; any of the partners will.

Thank you. That's all I have to say. Any questions?

MR. BOGANY: Thank you, sir.

MS. ANDERSON: State Representative Armando Martinez. And I didn't -- we don't have very many witness affirmation forms, so I didn't formally impose a time limit, but those of you that come to our meetings, you may have as long as you want, sir, but you know, we try to kind of do about three minutes a person, so if we could be mindful of that. Good morning.

REP. MARTINEZ: Thank you very much and good morning. I'm not going to take up too much of your time.

State Representative Armando Martinez from District 39.

I'm here requesting your support for

Application 05241 for the City of San Juan. The City of San Juan has never received the Low Income Housing Tax Credits and being that my district currently is number two in the poverty rate in the State of Texas, and being that the City of San Juan is 34.4 percent of the residents live below the poverty rate, I'm asking for your support on this issue.

We would really like to see this project come to light, and we would like to see together that we can move this district forward, not only District 39, but the Rio Grande Valley and the State of Texas, so your full support is greatly appreciated. Thank you very much. Any questions?

MR. SALINAS: You have two of those -- right? -- partner?

REP. MARTINEZ: I believe so. San Juan?

MR. SALINAS: How many applications do you all have?

REP. MARTINEZ: One application right now.

MR. SALINAS: San Juan Village and San Juan Apartments.

REP. MARTINEZ: San Juan Apartments.

MR. RODRIGUEZ: You have not applied. They have not come to court, so they have not come forth to us

for any support. The only ones that have come forth for support is the --

REP. MARTINEZ: San Juan Apartments.

MR. RODRIGUEZ: -- the one currently pending.

MR. SALINAS: I think we have both to the witness. Do we have both?

MS. ANDERSON: I would have -- Mayor, I would to look at my list.

MR. SALINAS: I think there are two: San Juan Village and San Juan Apartments.

MS. BOSTON: They are not going to be in San Juan. They are multiple properties called San Juan.

MR. SALINAS: One of those is up on --

MR. BOGANY: St. John, Southwest.

MS. BOSTON: He's using it as the name of the property.

MR. ANDERSON: Thank you. Mr. Ron Anderson, I have two forms for you: one when the IM is presented and one in the public comment period. Which one of these would you like to use?

MR. ANDERSON: I'll use the individual one. I just have something to explain to the Board. That's all I have. You have --

MS. ANDERSON: Wait. So you want to speak now

or when the item is presented on the agenda?

MR. ANDERSON: I'd rather -- is it one or the other?

MS. ANDERSON: It's one or the other, sir.

MR. ANDERSON: I'm going to wait.

MS. ANDERSON: Thank you. Ms. Stephanie Castro.

MS. CASTRO: Good morning, Mayor, Council. My name is Stephanie Castro. I have lived just above [inaudible] for two years. I represent the Vista Verde Apartments I and II. On behalf of the residents, we want you to know that we support the proposed acquisition. We have petitioned that your funds will help make it happen.

The reason that I am here today is for the remodeling of the apartments. For example, we need new tiles, stoves, refrigerators, washer and dryer at the apartments, ramps for the disabled so they can move around, a community center for senior citizens, a playground for children so they can play, because we have one but it is not very operating for the children.

We also need some air conditioning because it is too hot in San Antonio because of the weather. We would all like to thank you for your time and support for the Vista Verde, and at this time, I give the rest of my

time to the housing team -- thank you.

MS. ANDERSON: Mr. David Diaz.

MR. DIAZ: Madam Chair, my name is David Diaz.

I'm from Midland, Texas, and I'm here to ask the Board to consider -- I know that there will be some regions that the Board will consider over-funding. I would like to ask that Region 12 be one of those regions.

The reason I'm having to do that is simply because of the fact that, originally, we were the top scoring application in our region, but we got dumped out because we lost five points, because a deficiency notice that came into the TDHCA office after the 5:00 o'clock deadline. It came here at 5:30, basically because the TDHCA fax line was busy.

Our appeal did not arrive at the TDHCA office in time. Consequently, we lost our five points. Consequently, we were bumped off being the top scoring application in our region. Further, we did submit our appeal. Along with that was a letter from State Representative and Speaker of the House, Tom Craddick, and I don't know if that got to you since our appeal was denied, but in Speaker Craddick's letter, it says, "It has been the State's legislature's goal for at least two regular legislative sessions to strongly urge the TDHCA to

better allocate the awards of housing tax credits to exurban and rural areas of Texas."

Basically, West Texas, for a number of years, has been out of the housing tax credit round. More recently, we have been having some successes in Odessa, and some other areas of West Texas, including Midland, but as a non-profit developer, Speaker Craddick would like to see more non-profits involved in development, which we are. Thank you very much.

MR. CONINE: Did you identify the project?

MR. DIAZ: Villa del Arroyo, Project Number is 05102.

MR. CONINE: Thank you very much.

MR. DIAZ: Thank you.

MS. ANDERSON: Thank you, sir. Mr. Gary Driggers.

MR. DRIGGERS: Madam Chairman, I have a handout for your records. Good morning. My name is Gary Driggers. I'm the developer for Project Number 05155 and the topic of my presentation is the USDA Rural Housing Services allocation, and more specifically, its application in Region 9. Just a quick review of the definition of the allocation, and I'd like to emphasize that it is defined in the QAP as an allocation and not a

set-aside, in that we take five percent of the total region's allocation and we set an allocation up for the USDA Rural Housing Services.

More particularly, the way is applied in Region 9 was we received an allocation for that of \$168,000. If you look at the definition, it says, "Approximately five percent of that allocation." It's not an "at least than," so under the first award for this allocation, Project Number 05226 was given a priority for \$143,000, which came up to 85 percent of that goal, and then, because the staff uses an "at least than" definition for this allocation, they went to the next project, and that went over to 260 percent of this goal.

Our point is simply this: that 85 percent is approximate. Two hundred and sixty percent is a little excessive. Other points to consider in the future application of this is that if the staff is always going to use that as an "at least than," it will virtually shut down any new development in Region 9, because there is many of these kind of projects in that region, and an applicant can easily can ask for the amount of tax credits he wants to get right below that five percent allocation, and then, the staff, because of their definition of an "at least than," they will always go to the next project.

So it's a, I think, a dangerous precedent to set. I think that authors of the QAP had it correct when they said "approximately," and we should use some judgement when we are going to use this as a set-aside. That's my point and if you have any questions, I'd like to entertain them.

MS. ANDERSON: Thank you, sir.

MR. DRIGGERS: Thank you.

MS. ANDERSON: Mr. Ike Monty.

MR. MONTY: Thank you. Good morning, Honorable TDHCA Board and Madam Chairman. Thank you for the opportunity to speak here today and I promise to keep my comments brief.

First of all, I'd like to thank the Board and the staff for their work on this application cycle. It's been one of the smoothest, most understandable, transparent application periods that I can recall in the many years that I've been involved in the program.

As you know, staff's recommended list this year is extremely conservative, and has left region in the State underfunded. The amount of under funding ranges from as little as 1.4 to as much as 45 percent. Today, I want to specifically address the funding recommendations for Region 13.

Currently, Region 13 is underfunded by over \$750,000, approximately 35 percent of the Region's entire allocation. This is the second highest underfunded region in the State. Ninety-three percent of that shortfall comes from the Urban/Exurban Allocation and seven percent comes from the Rural Allocation.

My request is that staff continues to review and process the next highest urban/exurban application, North Mountain Village, which is the Application Number 05060, and be recommended for funding.

El Paso continues to struggle with its critical need for affordable housing, and the tax credit program is the few resources available to developers to make housing available. The four percent credits don't work in El Paso.

Now, with the planned addition of over 11,000 troops that are to be stationed in Fort Bliss, which is approximately two miles from the development, the need for this development and the location of this development is critical to the need for housing in our area. I'd also like to point out that I have a support letter from the mayor of El Paso, and so it's in your packet. So thank you very much for the opportunity to address you and have a nice day.

MS. ANDERSON: Thank you, sir. Those are all the witness affirmation forms I have for public comment during this initial period, so we will proceed with our agenda and then take the rest of the witnesses as the agenda items come up.

First item on the agenda is presentation/discussion and possible approval of the minutes of the May 26 board meeting.

MR. CONINE: So moved.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion. Hearing none, I assume we are ready to vote. All in favor of the motion, please say "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no. The motion carries.

Item Number 2 is presentation/discussion and possible approval of housing tax credit items. The first block of these proposed housing tax credit amendments, Ms. Carrington.

MS. CARRINGTON: Thank you, Madam Chair. There are five requests in front of the Board this morning requesting amendments to existing tax credit awards. Two of them are 2002 allocations of awards, and three of them

are 2004 allocations of awards.

The first one is Town Parc at Nacogdoches. What the developer is requesting is to substitute four three-story residential buildings for six two-story residential buildings that were presented in the original application, and their justification for this request is engineering and site drainage and detention pond issues that were not accommodated in the original plan. Staff is recommending that this material change be approved. It would not have impacted this development in being awarded tax credits.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion. Hearing none, I assume we are ready to vote. All in favor of the motion, please say "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MS. CARRINGTON: The next for the Board's consideration is a 2004 allocation of credits for Villas of Forest Hills. They are requesting an increase in the number of residential buildings from 13, as proposed in

the original application, to 19 because the City of Forest Hills has requested that several of the 12 unit buildings be replaced with fourplexes.

Staff is requesting the approval of this amendment and it would not have material impact on the development in receiving an award of credits.

MR. BOGANY: So moved.

MR. CONINE: Second.

MS. ANDERSON: Discussion. Hearing none, I assume we are ready to vote. All in favor of the motion, please say "aye."

ALL: Aye,

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The third for the Board's consideration is Villa Hermosa. This is a 2002 tax credit award. They are requesting an amendment that would basically switch the amount of brick and hardy plank that they would be using on this development. They would be reducing the brick veneer from 65 percent to 35 percent, and increasing the hardy plank from 35 to the 65 percent, and with this reduction in the siding amount, they are also going to use the additional money to improve the

landscaping, and put in carpet instead of vinyl in the bedrooms.

We make a note down at the bottom that the applicant did score three points for proposing to use greater than 75 percent masonry siding. 2002 QAP didn't define masonry; we do that in '05, and so it does permit this kind of change, and we are recommending that the Board approve this amendment.

MR. CONINE: So moved.

MR. BOGANY: Second.

MS. ANDERSON: Discussion. Hearing none, I assume we are ready to vote. All in favor of the motion, please say "aye."

ALL: Aye,

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration is an amendment to the Oxford Place Apartments. This was a 2004 award of tax credits, and what the applicant is requesting is the ability to increase the number of public housing units from 200 units to 230 units. This is actually a 250 unit development, and it will stay at 250 units, but the initial application

was only proposing that 200 of those units be public housing units, the other 50 units would be market-rate units.

The applicant did have to get permission from HUD to actually reduce the number of public housing units.

HUD has come back and said they wanted to retain the same number of public housing units at 230, so because of that, they are coming back and saying, "We want to have 230 units as public housing as opposed to 200 units."

What the Department is actually getting is more restricted units on this. There will be 200 units that are tax credits, 230 units that are public housing units, and there is a total of 250 units, and staff is recommending that this amendment be approved. It would not have materially impacted this development in recommendation for an award.

MR. BOGANY: So moved.

MR. CONINE: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say "aye."

ALL: Aye,

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The last applications for the Board's consideration under material changes is Commons of Grace Apartments, and this is a transaction that is requesting an amendment that is similar to what the Board has looked at over the last couple of months, and that is, the applicant had requested -- had received points for 27 units in the development being transitional housing.

As you all have heard reported to you, the determination that funds under the Supportive Housing Program are federal funds, and would consider subsidy, and would therefore reduce the basis so the applicant is requesting that those 27 units not be required to be set aside as transitional housing. They are not proposing to change any other feature of the development, including the number of units that are targeted and set aside for low income.

The loss of the five points, noted down at the bottom under staff's recommendation, would have not impacted their ability to receive an award, and staff is recommending that this amendment be approved.

MR. CONINE: I have a question, Ms. Carrington.

MS. CARRINGTON: Yes, sir.

MR. CONINE: I thought the last -- maybe I don't recall the last case, but the last transitional housing case we dealt with had to do with the physical attributes of the building itself, not whether or not these subsidy monies were going against their -- since they are federal funds, they went against their eligible basis. Have we gotten -- I noticed there are a couple of opinions, if you will, from syndicators and lenders. Have we checked with our D.C. counsel to see if there are any other cases like this across the country that have popped up?

MS. CARRINGTON: I will ask Brooke Boston, perhaps, to come up and address that, or maybe it's Tom Gouris, and while they are coming up, I will say, Mr. Conine, that, yes, we did deal with one that was the one building that created some issues, but there's been at least one other that we approved at that same meeting that did not have a building type issue. It was an issue of reducing basis because this has been considered federal funds, so we've done at least two, and I'm thinking maybe we did one more also. Have we done a total of three?

MS. BOSTON: Yes, and the first one was a building issue, then that issue was resolved, and he came

back again the following month with this subsidy issue, because in the meantime, he learned about that. So his ultimately was this same issue. So all the ones you've approved have been for the same reason.

MS. CARRINGTON: But I think Mr. Conine's question is: have we -- we know this is what the syndicators are telling us, because we have received that in writing, that they are determining that this is federal funds. Their counsels have determined it's federal funds, and Holland & Knight had given that opinion on, I guess, the John Baronno [phonetic] transaction.

Now, whether we have specifically asked our tax counsel this question, I do not --

MS. BOSTON: We have not.

MS. CARRINGTON: We have not specifically asked. Mr. Gouris? We have not asked. We have taken what the industry has indicated to us, the way they are determining these funds.

MR. CONINE: I find this a little disturbing, I guess, just from the standpoint of -- obviously, we are trying to deal with the homeless population in these transitional units. We created a point system that accommodates that, and now we are dealing with something at least a couple of syndicators have indicated have

federal issues with them, and we haven't checked with our federal counsel to see whether or not that that issue has cropped up in other states.

I mean, this isn't the first time this has happened, surely. So I would, at least, prefer to get some sort of written communication from Tony Freeman, is it?

MS. CARRINGTON: Yes, sir.

MR. CONINE: Back on this before, I guess, feel comfortable in moving forward.

MS. CARRINGTON: We will do that.

MR. CONINE: Could I move to table, then, until the next meeting? Can you get it in a couple of weeks?

MS. CARRINGTON: That's only in two weeks.

MR. CONINE: Can you get it in a couple of weeks, probably? Okay, great. Thank you.

MR. SALINAS: Second.

MS. ANDERSON: All in favor of the motion, please say "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries. Let me see Agenda Item 2(b), our housing tax credit extensions for

construction loan closings. Ms. Carrington?

MS. CARRINGTON: Thank you, Madam Chair. We have five requests for extensions of closing of the construction loan. You may remember that last month, I think, we had 33. I think this is probably the remainder of that group.

We have eliminated this requirement in the 2005 QAP, so you won't be seeing this kind of request again, and the first one for your -- all these are '04, 2004 tax credit awards, and this one is Villa Del Sol. They are working with HUD to receive the financing, and get approval of property disposition application. Their deadline was June 1, and they are requesting September 30, and staff is recommending September 30.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say "aye."

ALL: Aye,

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The second for your consideration is Las Canteras. Again, they need additional time so obtain approvals from HUD for property disposition application, loan terms, and partnership documents. Their deadline was June 1. They are requesting September 30. Staff is recommending September 30.

MR. BOGANY: So moved.

MR. CONINE: Second.

MS. ANDERSON: Any discussion? Hearing none, I assume we are ready to vote. All in favor of the motion, please say "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The third is Spring Oaks Apartments. Approval from HUD for the restructuring of a bridge loan, which HUD is requiring on this particular development. Their deadline was June 1. They are requesting September 30. We are recommending September 30.

MR. CONINE: So moved.

MR. BOGANY: Second.

MS. ANDERSON: Discussion. Hearing none, I assume we are ready to vote. All in favor of the motion, please say "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The fourth is Samaritan House Apartments. In this instance, they need additional time to obtain final building permits from the City of Fort Worth. Their deadline was June 1. They are requesting August 31. Staff is recommending August 31.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The last one, Village on Hobbs Road, additional time to obtain final building permits from the City of League City. Deadline was June 1, requesting August 31, recommending August 31.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. ANDERSON: Agenda Item 2© is the Board review of recommendations of staff and issuance of Approved Applications from the list of all applications submitted for their 2005 housing tax credit competitive cycle.

MR. CONINE: I guess a five minute break would be out of order?

MS. ANDERSON: Already?

MR. SALINAS: Getting old. A lot of coffee

this morning.

MS. ANDERSON: When you holler next time, we'll do it.

MS. CARRINGTON: Thank you, Madam Chair. The item before the Board this morning is to approve a list of applications for housing tax credits in accordance with the 2005 Qualified Allocation Plan and rules. The Board has a write-up detailing staff's recommendations, and how we have arrived at the recommendations you have in front of you today.

There are 64 -- now, your book says 63, and I'll explain how we got to 64 in just a minute. There are 64 that we are recommending that are 2005 applications. Then, there are four rural rescue transactions that you have previously approved, which come out of the 2005 allocation, and that makes a total of 68 transactions that we will be recommending to you this morning for this list, and that total will add -- will actually be \$35,589,826. We are going to be adding one transaction to that list to make the 63 64.

All of these applications were submitted in accordance with the deadlines, related to our Qualified Allocation Plan, and you have five sections of your presentation in front you. The first is the report of the

cumulative recommendations, and those are only the recommendations that are being recommended by the staff this morning. All these are separated by green sheets.

The second one is the report of recommendations by region, and this shows all active applications, and what that means is all applications that have not been otherwise terminated. Then, there is the report for the recommendations in the non-profit set-aside, so it shows only these applications in the non-profit set-aside.

And then a status of all submitted applications, so that would give you a history of all applications that we have -- that have been submitted to the Department. And then, the last is a report for each development, and it's in development order number. You can't look at that by region, that's in development order number, and it tells you what has happened with each of those particular applications.

Our ceiling for 2005 is \$41,872,030, and we received a total of -- we had 223 pre-applications for requests of over \$156,000,000. There were actually 166 full applications, and those totaled a little over a \$100,000,000 that we are going to be recommending to you.

On page two of your Board write-up, as you know, we allocate credits on a regional basis. There are

13 state service regions, and then, those 13 state service regions are further divided into rural and urban/exurban, so that actually, when we allocate the credits, we allocate the credits to 26 pots for lack of a -- we haven't been able to come up with a better term. We still use 26 pots.

At the bottom of page 2, you can see how much was allocated by our formula to each of those 13 service regions, along with the rural amount, the urban/exurban amount, and then the USDA amount, which is five percent, and then the at-risk, which is also 15 percent.

On the development valuation material, we did receive 80 letters for quantifiable community participation. What was new this year -- one of the things that was new this year, was that a deficiency letter was sent to the organizations so that they had an opportunity to correct a deficiency that was in their letter.

Ultimately, there were 49 eligible letters that met the Department's requirements. Of those, 46 received a score of 24, which was the maximum score you could get, and that was the positive. Three letters received a score of zero, and that was the maximum score for opposition. For all other applications for which no letters were

received, or determined to be ineligible, they received a score of 12.

At the bottom of page 3, it should be noted this year that there is two primary items that are not required to be submitted to the Department until after the June board awards are made. These two items include evidence of zoning and evidence of funding commitment from local, political subdivisions. So those are item that we do not have yet. We have the applicants attesting as to whether they have that or not, or whether they are eligible for those points or not, but there will be some, I would imagine, some recommendation changes after the awards in July, based on this information coming in after the fact.

It is also important to note that all of these applications that are on the list today, all of them have not been underwritten, and that is why the staff's recommendation, as you heard earlier, is underfunded in the regions, why we are at about 36 million, where we have 41. Eight million to allocate because all the applications have not been underwritten. That give us the ability, then, to make the adjustments that might perhaps need to be made.

With that, if you go to the bottom of page 4,

you see the recommendations of the numbers that I have mentioned to you. The one transaction we did pick up, which made the difference between the 63 and the 64, is in Region 11, which is application 05025, which is the Poinsettia Apartments, and that application was for -- I didn't write that down, but it brings us \$6,282,204 left to allocate, bringing that total up to 35,589,826, which is a little bit more than the 35,017.

I think that transaction was about \$500,000, \$500,000 plus on that one, and when we go to those regions, you will notice that when your Board book was put together, that was an application that was right below the line, and there was a notation that we said we believed it might violate the 2 million, and that it will not violate the 2 million. This applicant is involved in other applications as a consultant, and what we do is take only a portion of their -- am I in trouble, Brooke?

MS. BOSTON: It is not based on the consulting. It is based on a rural joint venture.

MS. CARRINGTON: Based on rural joint venture. Thank you very much, and so we only take a portion of it, so the whole amount of that credit request is not counted against them, and Ms. Boston, I would imagine, would be happy to talk about that when she comes up if you all have

any questions. But that is the reason why when you look at your board materials, it's below the line, and we are recommending that it do go above the line.

There's two other pieces of information that staff wants to put into the record. The first, as has been mentioned to you earlier today, Mr. Opiela's comments. As in the past, and this year also, the Department receives complaints and allegations. Some of them anonymous, some of them not anonymous, related to information that has been presented to us.

We are researching. We take all of these requests, allegations, and concerns very, very seriously.

We research all of them, regardless of whether they are anonymous or not, and we are in the process of researching all of the allegations that have come to our attention, either through letter or through email, and the Department's process in doing that will be to do our independent research, to do our verification, and if we find there is validity in what we are being told, then applications will either lose points, or be terminated, based on that information.

Those applicants will then have an opportunity to come back on appeal and appeal their case to the Board.

So we are in the process of reviewing, at this point,

every bit of information that has been provided to us, related to allegations. We have not completed all of that yet, and so as staff determined how to handle some of these issues, we felt our best course was to be able to do it all at one time, at one meeting, as opposed to doing part of it at this meeting and part of it at another meeting. So that is the way we have chosen to handle the particular issue that Mr. Opiela brought up to you this morning.

Then there is one other item that we would very much like to get on the record to the Board, and this is a little bit long, but we'd like to bring this to the Board's attention as it makes decisions to approve a tax credit recommendation list. There is one applicant, Central Place, 05020, in Hereford, Texas, that has contacted us to let us know they feel they are ineligible to apply for points under scoring item number five, which is the item that grants points for having funding from a local, political subdivision.

However, the application deadline, the applicant was informed by the Department that local housing finance corporations were not eligible as local political subdivisions. Based on that information, the applicant did not request these points. However, since

that time, the Department has further scrutinized this issue as an interpreted statute to believe that local housing finance corporations are indeed local political subdivisions.

All other applications submitted with funds from local housing finance corporations that were able to show that the HFC is authorized to act on behalf of the city, have been found eligible, and these points have been awarded. The applicant feels that had they been aware of this interpretation, that they would have requested the points. If the Board believes this to be a compelling reason, they may determine to utilize their discretion under 4910(a)(2) for any matter considered by the Board to be relevant to the approval found in the furtherance of the Department's purposes.

If the Board were to consider this applicant to have requested these points, then that point value is up to 18 points. Their current score of 157 would increase to 175, making the application the highest scoring application in rural Region 1, thereby causing it to replace an application that is currently on the list.

We did feel, from a staff perspective, that it was very important to tell the Board, to give you all this information on what we believe is the accurate

interpretation on what constitutes a political subdivision. With that, I'm going to turn the mike and the podium over to Ms. Boston, and for the Board, for their pleasure on how you would like to go through the recommended list.

MS. ANDERSON: Right. We have public comment and let's hear that first, okay? Mr. Scott McGuire.

MR. MCGUIRE: Thank you. Good morning, Madam Chair, Board members, Ms. Carrington. My name is Scott McGuire and I'm a developer in Austin, Texas. I want to thank the Board and staff for all their hard work in this year's tax credit round as well, It's never an easy task, and one that goes without enough gratitude and appreciation. Thank you to you all.

My tax credit application, 05080, Cambridge Villas Apartments, is an independent seniors community to be located in Pflugerville, Texas. It has the full support of State Senator Gonzalo Barrientos, State Representative Mark Strama, County Commissioner Karen Sonnleitner, County Judge Sam Bisco, as evidenced by their letters to TDHCA. In addition, the city council of Pflugerville gave its unanimous support for this much-needed seniors development and passed a support resolution which was also filed with the Department.

Throughout this round, this application has consistently scored in the top two to three in the Austin region, and was well within the funding availability until the final scoring of neighborhood organizations was released. Since Cambridge Villas development site has no neighborhood organization within its jurisdiction, it received a neutral score of 12. Forty-six of the 49 letters that were submitted to the Department that qualified for scoring, received a maximum score of 24 points.

Staff, in its generosity, gave all 24 points to each positive support letter. This created an unlevel playing field and a large disadvantage to applicants with no neighborhood organization. It was my understanding, and I believe the expectations of numerous others, that this intent of the neighborhood organization scoring was that most would score an average of 12 points, which was in the development of the QAP early on.

Therefore, applicants who did not have a neighborhood organization at their site, would not be penalized and thus, were to be given the average 12 points. The result of this year's neighborhood organization scoring did not work out like most of us thought it would, and has clearly penalized applicants

such as Cambridge Villas.

If Cambridge Villas would have had an eligible neighborhood organization that submitted a support letter, it, too, would have received the full 24 points, and thus, would currently be the second highest scoring application in Region 7, and, therefore, would now be on staff's recommended list that you see before you today.

First, I highly recommend that the 2006 QAP be changed and clarified to specifically eliminate the inequities of this particular matter. Secondly, I respectfully request that this Board consider approval of credits for this round, or in the alternative, grant a 2006 forward commitments to projects which were negatively affected by this situation.

Therefore, those applications that would have received an allocation in this round had it been given an equitable, neutral score of 24 points versus 12, those would be the ones considered the current funding of forward commitments. Thank you very much for your consideration, I appreciate it.

MS. ANDERSON: Ronnie Hodges.

MS. HODGES: Thank you, Madam Chairman and the Board. Thank you for allowing me to speak today with regard to 05178. That's Tuscany Court in the little town

of Hondo, Texas, next to San Antonio.

In 2003, we submitted and received a tax allocation for 76 units, and we have been very busy working on this for the past four years. We received approximately \$6,000 a unit for 76 units. However, several obstacles caused immediate problems, and we've been wrestling with this project for the last four years.

We were in a QCT; however, this was not allowed in 2003, but the problem was corrected in 2004, but we --

MS. ANDERSON: Ma'am, are you speaking to the tax credit application for 2005 or are you talking about something --

MS. HODGES: I'm just bringing up to date --

MS. ANDERSON: Okay, because this testimony needs to be about this agenda item.

MS. HODGES: Okay. Well, what I'm asking for today is with the \$8,000 additional tax funds, because of several problems that have occurred during the construction of the 2003 project, so what I have done is outline in your handout these problems, most of them related to the sewer waterline that were not in accordance with our utility letters. We have redesigned the project approximately four times to try to eliminate these problems, and over the past four years, we've had three

mayors, two city managers, and a complete change of the council.

The city has continually assured us that they would obtain funds to correct this problem, since they had promised us that they would supply the utilities, but they have not been able to get a federal home loan grant. 2004 also brought us another set of problems, and that was a discovery that the City of Hondo, this project was in the drain flow of 59 acres of city property to the north, so this caused an enormous amount of drainage.

During 2004, we had a lot of rain, in fact, about twice what is normal for that time. We had to also construct a new drainage area around our community, which I think, if you will look to the back of your handout, I went ahead and I want to address these problems in the very back, and this caused extra cost as well.

To summarize, we really have spent four years bringing this project to fruition. We have persevered and we've actually finished the construction of Tuscany Court.

It's very beautiful. We have -- it's been well received by the citizens of Hondo, and it's 70 percent leased; however, we have had to fund these unbudgeted costs, and there are still large financial problems looming, so I would respectfully request that you seriously consider

this project and the extra little 58,000 that has been requested for additional tax credits.

We ranked very high, but the at-risk set-asides have not allowed us to be a priority item, but this small community of 5,000 in South Texas really needs a successful apartment. They have not had one for many, many years, so it has been extremely well received. Thank you for your consideration.

MS. ANDERSON: Ms. Bast.

MS. BAST: My comments earlier -- I should have given it in case I needed it. Thank you.

MS. ANDERSON: I'm sorry. Mr. Robert Joy.

MR. JOY: I'll pass.

MS. ANDERSON: Yes, sir. Sometimes that is the smart thing to do. Mr. Gary Gum.

MR. GUM: I'll pass.

MS. ANDERSON: I wasn't trying to force everybody to pass.

MR. CONINE: You are on a roll.

MS. ANDERSON: And this person, I know, is not going to pass. Mr. Anderson.

MR. CONINE: Are you related?

MS. ANDERSON: No.

MR. ANDERSON: Good morning. My name is Ron

Anderson. I am the Executive Director for Housing and Community Services, a non-profit housing development group in San Antonio. I am here to speak for Vista Verde I and II. It's Application 05118.

Briefly, I want to make two points. The first point being that the residents fully support our application, and they look forward to the improvements that the tax credit funds are going to be able to provide.

We have residents here this morning. One of them spoke. I'd like to ask the others to briefly stand to be recognized. Thank you for coming.

Secondly, we received points for community support in the application, and the -- we initially received the points, they were granted, and then they were rescinded, due to a conflict of interest. I agreed with the staff recommendation. I just want to explain how we got there.

Housing and Community Services has been involved in low-income housing for 15 years. All of our housing that is in our portfolio is regulated by HUD, including the Vista Verde project. Federal regulations are really clear about how to deal with resident organizations. Resident organizations are encouraged by HUD; however, that also very clearly states that no owner,

non-profit or otherwise, may interfere with a resident organization.

However, they go, in the next paragraph, they say, "Owners are directed to provide administrative support when requested by resident organizations." That's how it got to be that we have a resident organization that got officially registered with the state, and I'm the registered agent. I'm also the developer. I also represent the developer. That's a clear conflict

I didn't understand that at the time. We did so in good faith because we were approached by the residents and asked to help them get organized. I'm not appealing or requesting anything, requesting that the points be given back. I just want to let you know how we got there. It was an honest mistake. It's our first tax credit round, and I just appreciate your having -- giving me the time this morning. Thank you.

ALL: Thank you.

MS. ANDERSON: Thank you, sir. That is the extent of the public comments, so we'll open it to the Board's closure or should we take -- All right. We're going to take a five minute break for Mr. Conine.

(Whereupon, a short recess was taken.)

MS. ANDERSON: Just for the planning purposes

of those of you that are still with us, we are going to break right around 11:30 for an Executive Session, and you know, we will try not to do it in the middle of this agenda item that we are in the middle of, which is probably why most of you all are here, but we do have that in our plans.

Before we proceed to Board discussion of this item, I do have one more item of public comment to read into the record from State Representative Bob Hunter from District 71.

"Chair member, the TDHCA Board, my name is Bob Hunter, State Representative for District 71, which includes the City of Abilene. I'm here today to support the Arbors at Rose Park, TDHCA Number 05141, because this proposed senior housing has wide support from its community. This project has both the endorsement from its neighborhood organization, the Amarillo Highland Neighborhood Association, which provided a letter of support, and the City of Abilene, which on June 9, committed \$281,000 in HOME funds for this worthy project.

"I understand this application is tied in score with the proposed family project in Wichita Falls, but that the Wichita Falls project will win in the tie-breaker because it has requested fewer tax credits basis in net

rentable square foot.

"Unfortunately for this project, the formula contained in the tie-breaker favors the family project over the senior project in this case, because the senior project is a smaller net rentable area, but is more costly to build due to extra safety/security features, and a greater number of one- and two-bedroom units. Because it is more costly to build, the senior project has a larger tax credit request spread out over a smaller net rentable area.

"In light of this fact, as well as the fact that Region 2 has two very worthwhile projects, I request the TDHCA Board look favorably on finding additional housing credits to fund both the Abilene and Wichita Falls projects, or in the alternative, consider awarding the Arbors at Rose Park a forward commitment of tax credits. Thank you. I appreciate your time and consideration. Bob Hunter."

With that, that completes the public comment for this agenda item. It's the Board's pleasure.

MR. CONINE: Madam Chairman, I move for approval of the Board recommended list for the 2005 housing tax credit competitive cycle, the list that staff has provided.

MR. BOGANY: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Any questions for -- any discussion on the Board, any questions for staff at this stage? Hearing none, I assume we are ready to vote. All in favor of the motion, please say "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

Item 3 is presentation, discussion, and possible approval of multifamily bond program versus the inducement resolution for --

MR. CONINE: Before you go there, can I move for a reconsideration of a tabled item earlier today? Item 2(a), 04224, Commons of Grace.

MS. ANDERSON: Is there a second for the motion to reconsider?

MR. SALINAS: Which one was that?

MR. CONINE: The one we tabled earlier, Commons of Grace.

MR. SALINAS: Second.

MS. ANDERSON: All in favor of the motion,

please say, "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed. none. The motion -- the item is removed from the table.

MR. CONINE: Thank you. I'd like to move to approve, subject again -- approve the staff recommendation to award the extension, or waiver, or whatever we were granting.

MS. ANDERSON: It was an amendment --

MR. CONINE: An amendment --

MS. ANDERSON: -- to eliminate 27 units for transitional housing.

MR. CONINE: Correct.

MR. SALINAS: I'll second the motion.

MR. CONINE: Subject to future reconsideration based on a letter that we are going to get from Tony Friedman on the subject. But I was made aware of a carry-over issue that need to take place tomorrow, and would hate to penalize this particular development to that extent, so I move to approve, subject to reconsideration later when we get Tony's letter.

MR. SALINAS: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say, "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Thank you, Mr. Conine.

MR. CONINE: Thank you.

MS. ANDERSON: Ms. Carrington, Item 3(a).

MS. CARRINGTON: Item 3(a) is the inducement resolutions for two multifamily revenue bond applications for 2005 for private activity cap, that these applications would go on our waiting list. This resolution, 05038, one transaction would be located in Houston. The amount of IM cap they would be requesting would be 15 million.

The other transaction would be located in Killeen. It would be an elderly transaction, and that would be 10.5 million. The Department is still taking applications for the 2005 waiting list. We will be doing this through October of this year. The Department currently has about 12 million in private activity volume cap available, and it is anticipated that, as of August 15, that there is approximately 500 million that may

become available.

Remember this is an inducement only. If these transactions do move forward, then they will come back to the Board for full review and approval by the Board.

MR. GONZALEZ: So moved.

MR. BOGANY: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say, "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no. The motion carries.

MS. CARRINGTON: Then, and that was Resolution Number 05038. 3(b)?

MS. ANDERSON: Yes, please.

MS. CARRINGTON: Item 3(b) is a request for approval of a multifamily bond transaction for bonds in the amount of 13 million. It is the Prairie Ranch Apartments transaction to be located in Grand Prairie. This is a Priority 1(c) application. That Priority 1(c) is applications that 100 percent of the units will be restricted at 60 percent. It is also located in the

census tract that has a higher median income than the average for the area.

The Department would be the issuer of the bonds on this transaction, and also, the issuance of the tax credits at \$495,337. I'd like to walk the Board through some of the elements of this particular transaction. It is one, when you look at your summary of page 1 of 2, the application had actually been reviewed by the Department prior for an allocation of tax credits only. The proposed issuer was the Grand Prairie/Tarrant County Housing Finance Corporation. Thank you, Ms. Myer.

That housing finance corporation did decide not to issue the bonds on this transaction, so we had underwritten it for tax credits, and because of that, of course, it did not move forward. There is some information I will provide you as we get to the public hearing transcript; however, the City of Garland has passed a resolution on March -- City of Grand Prairie, thank you for correcting the record for me.

They did, the City of Grand Prairie did pass a resolution in opposition to this transaction, and as has been noted, the Tarrant County Housing Finance Corporation did not go forward with issuing the bonds.

I'd like to go to -- there are a couple of

maps. I think we've provided you actually three maps, which is behind Tab 7, and these maps first show you what the larger Grand Prairie/Fort Worth/Dallas area, and show where this proposed transaction would be located. Then we also have a smaller area, which was the market area for this transaction, and we have noted for you the five-mile radius which was used on the market study. And then, also, the last and the third map would show you this particular census tract where Prairie Ranch would be located.

On the summary behind Tab 9, on the public hearing, there were 130 people who attended the public hearing that Ms. Meyer held at an elementary school in Grand Prairie. We have received numerous letters and emails in opposition to this transaction.

There was a petition from the Beacon Hill Homeowners Association, Horseshoe Bend Homeowners Association, a city council resolution in opposition, opposition from the Arlington Superintendent of schools, and then, I received this morning, as the Board received also, a letter from State Representative Toby Goodman, was dated June 23, that is, if you look at the last paragraph of that letter, he says, "Please consider my opposition when reviewing the application of Prairie Ranch

Apartments. This area has adequate affordable housing available at the time and will not benefit from this apartment complex."

The transaction was determined financially feasible by our real estate analysis division, and based on the rules that the Department evaluates transactions under, we are recommending both the issuance of the Private Activity Bond, and the tax credits in the amount of \$495,337.

MR. GONZALEZ: So moved.

MR. BOGANY: Second.

MS. CARRINGTON: Ms. Meyer, would you come up to the --

MS. ANDERSON: I have a public comment on this item.

MS. CARRINGTON: I'm sorry.

MR. SALINAS: Okay, I'll wait. Go ahead.

MS. CARRINGTON: Mr. Thorne.

MR. THORNE: Ms. Carrington, members of the Commission, staff, my name's Hal Thorne. I office at 840 South Cary Parkway in Grand Prairie, Texas. I appeared before you, I think, probably two or three months ago, on the inducement hearing, in regard to this project.

I don't know which issues to address first. I

know I've only got three minutes. My counsel, John Shackelford, is here also. First, I'm disappointed in Toby Goodman, that he's a friend of mine. I'm disappointed that he wrote that letter, but I'm not surprised. I would anticipate that all of you may have had some more letters or some contact.

This project is going to be one of the best projects in the City of Grand Prairie. This past year, about a year and a half ago, they adopted the most stringent multifamily rules, ordinances, and guidelines of any town in the area of Dallas/Fort Worth.

The construction is going to be 100 percent masonry, cultured stone. We've incurred probably \$800,000 in additional construction costs over the normal four percent tax credit project, to get to this point. I don't know how to explain the actions of the city council.

They've approved this thing. It's been before three P and Zs, three city councils. They've approved it.

We've met all of the requirements of zoning. All of our engineering has been complete and approved. We've done a soil test. This project is ready to go.

The resolution that Grand Prairie did pass, it was at the behest of the mayor of Grand Prairie, and it

was a resolution opposing the financing. Not opposing the apartments at this location, but only, if you read it carefully, all they opposed is the financing.

I don't think I need to educate you all. You know what fair housing is. For reasons beyond my control, a political body, particularly the council of Grand Prairie, is opposed to fair housing. I don't know how else to explain it.

The majority of the citizens in Grand Prairie are at or below the MSA median income. The mayor says, the council say, "Well, this site is the gateway to Joe Pool Lake, to all of our new development. We want higher, better, higher income people living in this project. We don't want low income people."

Well this is, as you know, a moderate income project. This is not a low, low income. It's not a subsidized Section 8 development. It's going to be a first-class development. We've already spent over \$500,000 to get to this point.

The Tarrant County, the question you all asked me the last time I appeared, was: "What happened to Tarrant County?" Well, one of the commissioners, his mother was contacted by the mayor of the City of Grand Prairie, asking her to use her influence. Another

commissioner was cornered by the mayor and city manager, and they got her to commit to oppose this project.

I submit to you there is absolutely no reason, no rational reason, to turn this project down. There is no way I can answer or respond to the city's actions, other than to say, "The City of Grand Prairie would like to redline all districts in Grand Prairie." They want to tell you, and tell us, and tell the citizens of Grand Prairie who can live where.

I think the thing that disturbs me, and the reason I'm having a hard time saying this, is because I grew up in Grand Prairie. When I grew up in the '50s and '60s, the black people that lived on one side of town, the white people another. I didn't understand it then, and I don't understand it now. I'm embarrassed and ashamed that the city council has taken this action, but I don't know how to deal with it, other than just to pour out my heart and soul to put this project before you all, that you all make a final decision.

This project will be an asset to the city.

It's a needed project. There is need. We have a market study. There is a demand. This will be one of the finest projects in Grand Prairie or Arlington to be built in the

next five to ten years.

I think what's happened is the City of Grand Prairie has now scared off any other potential developers.

They tried to run me off. I've been chastised by the mayor. He's told me other zoning cases I had down there, that if I had appeared, he would have turned them down. That's just not fair. I'd be glad to answer any questions that you all may have.

MR. GONZALEZ: I have some.

MS. ANDERSON: Yes, go ahead.

MR. SALINAS: You go ahead.

MR. GONZALEZ: I noticed under the public hearing, there wasn't a single person that supported the Prairie Ranch Apartments.

MR. THORNE: At the public hearing that Robbie held?

MR. GONZALEZ: Yes.

MR. THORNE: We were there, but we didn't speak.

MR. GONZALEZ: There were seven neutral and then, 123 that were opposed to it?

MR. THORNE: Yes, sir.

MR. GONZALEZ: And not a single one that spoke in favor of it? Can you address that?

MR. THORNE: Yes, sir. I'd be glad to. I've met -- my staff and I have met with all of the neighborhood associations. We've listened to them over the past year, year and a half, and we've incorporated into our development additional landscaping buffering. We've got berms in addition to fencing.

We've agreed not to dump traffic out on the residential street. We're using 360, the main highway, as our ingress and egress. We've saved over a 1,000 trees to buffer us from the nearest residential area.

The citizens, these groups, are all good people. I've had this same talk down before the council.

They had two or three hundred people in there, and they all got up, and spoke, but they all said, "We don't want crime. We don't want criminals. We don't want women with little kids burdening our schools, running up and down our streets."

And if you look -- I don't know if Robbie summarized the comments, but my summary shows that it was the same thing. All NIMBY-ism. "We don't that project in our backyard." The immediate neighborhood consists mainly of Centex homes, production homes that were built back over the last five to seven years. It's a great, great area. It's a great project. All of those citizens are

all good people.

Approximately half of the units, the 176 units we're asking to build, are in the Mansfield school district -- half in Arlington, half in Mansfield. There is an elementary school within about four blocks. It's in the Arlington Independent School District.

The local homeowner's group have been fed information by the City of Grand Prairie. Letters that they sent in opposing this project. They've used the back door to try to stir up, and continue to stir up, opposition. I feel stupid saying that, but that is what has happened on this transaction. It's exactly the -- I think I know the reasons, but I, unless you ask me specifically, I don't want to go into them. It's the mayor's prejudice.

MR. GONZALEZ: I appreciate your comments.

MR. SALINAS: Your zoning? Did they approve your zoning?

MR. THORNE: Yes, sir. This property has been zoned since 1976, zoned multifamily, for 24 units per acre.

MR. SALINAS: How about the city? Did they approve the zoning?

MR. THORNE: Yes, sir.

MR. SALINAS: Okay.

MR. THORNE: They approved it, and they down-zoned me, tried to kill the project down to -- I think it' 12 units an acre. They reduced our density to try and kill the project.

MR. SALINAS: But you still have the zoning?

MR. THORNE: Yes, sir. It's zoned multifamily, and the zoning is approved, the site plan's approved. I've already paid \$17,000 for my building permit. The building permit is ready to be picked up. All I've got to do is go down there and hand them the check for the balance.

MS. ANDERSON: I have some questions, sir.

MR. THORNE: Yes, ma'am.

MS. ANDERSON: I went to the site yesterday, and I don't normally do that, but I just took a page out of Mr. Bogany's book, because I wanted to see, and it is helpful to visit the site.

My first question is: It looks to me like that the place where there is less buffering is on the north end of your property, where there is some kind of ravine, and then, there are houses right there. What are your plans for that portion of the site to create some buffering?

MR. THORNE: If you -- well, I'm sure you noticed. There are -- it's a very thick forested area --

MS. ANDERSON: Yes.

MR. THORNE: -- there where it slopes down to the drainage. Of course, that's where we will -- our storm water will drain. There's a 1,000 trees in there. We're going to save 1,000 of those trees between that residential area on the north and this project.

MS. ANDERSON: Thank you. One of the things that Robbie mentions in the transcript is -- and this is common that we do this in these temper hearings is that the developer's provide supportive services, and I didn't see in the -- the paperwork that we get from underwriting, normally there's a reference to that, and I didn't see any supportive services. What are your plans for supportive services?

MR. THORNE: John, do you have -- I apologize. I didn't bring that with me, but we will --

MS. ANDERSON: Just tell me.

MR. THORNE: -- yes, we will provide the supportive services that are normally required in the family project. The same thing that we are doing on the Homes at Mountain Creek. In fact, we are under construction there in the City of Dallas. We will use the

same type of social services that we are using there.

MS. ANDERSON: Okay. And the last question is: there was reference made -- and I can't remember now if it's in the transcript or if it's in one of these letters, but it must be the transcript -- that refers to the City of Grand Prairie doing some sort of re-do or re-look at their comprehensive plan, and there was a comment made in the transcript or in a letter I got about -- that was supposed to be out this month. Has that been released by the city?

MR. THORNE: Not that I --

MS. ANDERSON: Do you know what I'm talking about?

MR. THORNE: Well, I think the reference to the comprehensive plan is -- Grand Prairie, in their comprehensive plan, they wanted higher density apartments near the freeway --

MS. ANDERSON: Yes.

MR. THORNE: -- which this is. The old comprehensive plan showed a -- it showed Abor [phonetic] Franklin's previous deal here in Grand Prairie. His site was in within the limits of the comprehensive Joe Pool Sector Plan, and it asked for lower density of multifamily, and single-family one zone of 2,400 square

feet per unit for single families of the size of the homes.

The, to my knowledge, to this date, there is no change in that. In fact, the site that Abor had under contract that was brought before you all previously, right across the street, I bought that site. I'm building town homes out there now. Town homes for sale in the 150 to \$200,000 range, and this project's going to be an asset to that.

MS. ANDERSON: Well, you know, like I said, I did spend part of my Sunday going down there, and I went further south. You know, there are "for sale" signs on all that land on the east side of 360, and some of it says "commercial," and then, there was a big, old sign just maybe a mile from your site, that says "multifamily." So clearly, people are selling their land on that.

MR. THORNE: May I address that?

MS. ANDERSON: Yes.

MR. THORNE: Right across the street, on the corner of Camp Wisdom and 360, there is 50 acres of multifamily. The 50 acres is zoned for 24 units an acre. They've got lesser requirements. In other words, they've got waivers of the building set-back. They can put three-story buildings up closer to 360 than I can. They got

exceptions, and that's right across the street where they are building the new Camp Wisdom.

I hate to say, but the people who own that land are partners of the mayor.

MS. ANDERSON: And those are --

MR. THORNE: I hate to make that inference --

MS. ANDERSON: -- and those are market-rate units?

MR. THORNE: They are not built. The land is zoned, as you saw. There is a Super Target going in right there, and they've got 50 acres of 24 units an acre zoned that won't have the stringent requirements at 12 units an acre.

MR. CONINE: Did I hear you say, Mr. Thorne, that the school district boundary goes through the middle of the property?

MR. THORNE: Yes, sir.

MR. CONINE: That's going to present an unusual management challenge, isn't it?

MR. THORNE: Yes.

MR. CONINE: To tell somebody where their kids are going to go to school depending on which building they live in the project?

MR. THORNE: Yes. In our design, we carefully

took that into consideration in our building layout. It is going to be creative. Yes, sir.

MR. CONINE: Is there any advantage from one school district to the next? Are both schools ranked fairly similar?

MR. THORNE: Mansfield is really growing. As Ms. Anderson indicated, there is probably 20,000 new homes going in south of 360.

MR. CONINE: Okay.

MR. THORNE: Mansfield's got a great school district. The City of Arlington -- or not the city, but the Arlington school district is a great school district, and I might add that Arlington opposes any multifamily -- Arlington school district opposes any apartment zoning as a rule. They automatically oppose it. I've done several other deals in Arlington. One of the ladies on P and Z works for the administration for the school district and they are automatically opposed to any multifamily, but I don't know of any advantages.

MR. CONINE: Is this project on the frontage road, or at an intersection?

MR. THORNE: Yes, sir. It's on the frontage road, the 360 frontage road. It's in the area where the highway, where TxDOT began in May extending 360, so this

will continue to be on the service road, but the 360 freeway will be built up to Camp Wisdom. They are doing that right now.

MR. CONINE: Is there a cross street there? A northern boundary or a southern boundary?

MR. THORNE: No, the northern boundary is the drainage area --

MR. CONINE: Okay.

MR. THORNE: -- with all the trees. On the southern boundary, there is a street called "Equestrian." It's a real short street that runs the length of this site, and actually, runs into my town home project, onto that vacant land --

MR. CONINE: Okay, so this site would be in between cross streets --

MR. THORNE: Yes, sir.

MR. CONINE: -- on 360.

MR. THORNE: And then, Magna Carta on the east, is Magna Carta, which is a major thoroughfare, and it's screened by screening fences, and set-backs, and a four-lane road, major thoroughfare.

MR. CONINE: Thank you.

MS. ANDERSON: Thank you, sir.

MR. THORNE: Yes, ma'am.

MS. ANDERSON: Do you want Mr. Shackelford to testify?

MR. THORNE: If there is any legal questions that you need answered or --

MR. CONINE: No.

MS. ANDERSON: Do we not have a motion -- or yes, we do. Yes, we do. Sorry.

MR. CONINE: I think there's a motion.

MR. GONZALEZ: There's a motion. I think that there's a second somewhere over there.

MR. SALINAS: I seconded. Chad and I.

MS. ANDERSON: Do you just feel compelled to say something?

MR. SHACKELFORD: I want to correct Mr. Thorne on one --

MS. ANDERSON: Okay. Very good.

MR. SHACKELFORD: I think he pointed out to Mayor Salinas that the property was zoned for 12 units per acre our density. In fact, it's actually for 14, and there's an issue that went before city council, and it was approved, including the mayor voted in favor of it. A six to three vote in favor of Mr. Thorne's site having 14 units per acre. He just didn't think that it could be done feasibly for that number, but it can. Thank you.

MS. ANDERSON: What's the Board's pleasure. Any more discussion or questions? Hearing none, I assume we're ready to vote. All in favor of the motion, please say, "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Item 4(a) is approval -- lunch. It's 11:30. Well, except she's got to go -- I'm sorry. I know we said we would go to 11:30, but we are going to keep going a little bit longer, because Delores is purveying on lunch, which we greatly appreciate.

So let's go on to 4(a), which is approval of Section 8 Program Public Housing Authority Plan, a five year plan.

MS. CARRINGTON: Thank you, Madam Chair. In the Board's materials, you do have, actually, two copies of our Section 8 five-year plan, and then, as a component of that, is the 2005 annual plan.

The Department had a public hearing on this plan on February 9, 2005. We also sent a copy -- well, actually, we appointed a resident advisory board, which includes all tenants who receive Section 8 vouchers, gave

them an opportunity to comment on the administration of, and the goals for, our Section 8 program.

You may remember that we now have a little over 1,500 vouchers that we administer in the Section 8 program, and the second plan, the plan that is actually behind this grey sheet, will be plan that we will be submitting to HUD. And this plan is actually an annotated plan, so that as we have indicated what we will be doing for our five years, and then, also for our one year, that we are providing the Board, and then, HUD some explanation of the thoughts behind what we have said.

And I have checked with HUD. This will be the first time, I think, they have received an annotated plan, but I believe that the comments that we have added in here will certainly provide some insight to HUD as they look at the administration of our Section 8 program.

So, with that, I would request the Board's approval of our five-year plan, and then the one-year operating -- the one-year portion of the plan which includes our program operations, our services, and our strategies for how we will handle our concerns and services for our tenants.

MR. BOGANY: So move.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say, "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Madam Chair, sorry. There were two -- when I was re-reviewing my plan yesterday afternoon, there were two areas that we had stated that we would be receiving information from HUD about our family self-sufficiency program, since our vouchers have gone to Brazoria County. So the plan that we will submit to HUD will correct that in those two areas, because we have received that permission. We have received that waiver. So.

MS. ANDERSON: Very good. Let the record reflect that, please. Okay, 4(b), proposed issuance of multifamily mortgage revenue bonds and four percent credits -- oops.

MS. CARRINGTON: Capacity building program guidelines for housing trust fund.

MS. ANDERSON: Sorry, wrong place. We had been there.

MS. CARRINGTON: Item 4(b) is to request consideration of approval of the 2005 Housing Trust Fund Capacity Building Program guidelines. Later on in the summer, you will be seeing the proposed rules for the administration of our Housing Trust Fund Program for next year, along with our HOME rules. What we are asking the Board to do is take a look at these revised program guidelines for capacity building.

We have approximately \$500,000,000 -- 500,000, Penny -- available for proposed funding in our Housing Trust Fund for capacity building. The NOFA, the notification of funding availability that we will be putting out in early July, will have some changes in it, based on these program guidelines. We are providing some opportunities for the Department to track how awardees are actually moving from the concept of saying, "They want to be in the housing development business," to actually producing units. We are also providing more opportunities to link the impact of Housing Trust Fund dollars to actual, real housing development.

We have provided for you the guidelines, and I think, a couple of areas that I would want to point you

to. Eligible activities on page 1, so we are real specific about what will be eligible for funding. Funding is up to \$35,000 on a per applicant basis. With the amount of money we have, that would be approximately 14 applications. However, staff will not necessarily recommend 14 to you, if indeed we feel like that we don't have applications that can comply with all our requirements,

On page 3, we have established some minimum threshold in application requirements that are very specific to what we are looking for in these applicants. So again, what we are asking you to do is review these guidelines. They will show up at a NOFA, and then we will be receiving applications based on those NOFAs.

We've also provided for you our proposed funding plan for the Housing Trust Fund that shows what we have in the way of dollars, and where those dollars come from. We have about 2.5 million from appropriated funds.

We have about 300,000 in program income, and then, 5.3 million in what we call local revenues, and those local revenues are actually appropriated fees, junior lien bond money, and interest repayments. So that we have approximately 8.1 million for 2005 that we will be receiving applications for in our Housing Trust Fund.

MR. BOGANY: Approval of the funding plan for Housing Trust Fund Capacity Building program.

MR. CONINE: Second.

MS. ANDERSON: Discussion. Before we vote, I just want to applaud the staff for the work that's been done on this. I am mindful, as they are, that there was legislation proposed that would have removed -- in the last session, that would have removed capacity building as an eligible activity for the Housing Trust Fund.

Those of you who come to these Board meetings know that I've asked a lot of questions about how this money is used, and the efficacy of the outcomes from this money in the past. This staff has done a very good job, I think, of raising the bar about we expect as outcomes of capacity building grants, and I want to thank the staff for doing that.

In addition, as you heard Ms. Carrington, we are not compelled to spend the full amount of the money if the applications that come in don't, you know -- ultimately, this has got to result in the production of housing, and so I really appreciate the staff's work on this, and then the other thing I just want to say for the record is that this also, this proposed allocation for capacity building does not -- were all the

tax credit applications that have requesting layering with Housing Trust Fund dollars above the line, and if they underwrote, there's enough Housing Trust Fund money to fully fund all those applications.

So this is not competing with the rental development purpose of the Housing Trust Fund for this competitive tax credit cycle. So I just want to thank the staff for your work, and I want to encourage the non-profit community to ready themselves, and apply for these funds with the real focus on the outcomes that the Department expects from these grants.

Any other discussion other than mine? Thank you. Hearing none, I assume we're ready to vote. All in favor of the motion, please say, "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Item 4(c) is a request from a HOME tax credit applicant for 2005 to be reinstated. Their application was terminated. The Board has not seen these recommendations for awards yet. You will do that later this summer, but this is an appeal, a recommendation, an appeal by Alpha Concepts, and they had

applied for tenant-based rental assistance in the urban/exurban area of Jefferson County, and this was a situation where the application deadline was Friday, February 29, and the application was actually received in our office on Monday, May 2, which was after the deadline.

Our HOME program application guidelines specifically state that regardless if an application is hand-delivered, mailed through the U.S. Postal Service, or sent through a private carrier, the application must be received by the Department no later than April 29, 2005. Applications not meeting that deadline will not be considered for funding.

So they are requesting that the Board grant this appeal and do allow the receipt of that application into our office after the deadline. They did include in their letter to us, they had used U.S. Postal Service, I guess they had used -- anyway, whatever the post office has for their overnight delivery, and evidently, the postal service has said it was an error on their part; however, the application did come in after the deadline.

MR. CONINE: I'm going to move that we grant the appeal.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

MS. CARRINGTON: I have a couple of questions for staff on this.

MS. ANDERSON: Even if we grant this appeal, do I not understand correctly that TBRA, in this cycle, TBRA in urban/exurban areas is not an eligible activity? So even if we grant the appeal, there's another problem.

MR. PIKE: If TBRA is an eligible activity, it's just not in a participating jurisdiction.

MS. ANDERSON: And is Jefferson County a participating jurisdiction?

MR. PIKE: I believe it is.

MS. ANDERSON: And I have a second question. Are students eligible for TBRA?

MR. PIKE: Ms. Carrington, do you have any thoughts on that? I believe I can bring someone from perhaps the portfolio management compliance division. I'm not sure. There has been some discussion over the past several months, as to whether we would allow students to participate in the TBRA program, and that is, I believe, our POC division has done some study on that, and I'm not sure if their policy is to allow students at this time, or not.

If -- is there anyone -- Lucy, it's okay.

MS. TREVINO: Lucy Trevino, manager of

portfolio management, and students are not excluded, so they are eligible to participate in the HOME program.

MS. ANDERSON: Thank you. No other discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say, "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. The appeal is upheld.

MR. CONINE: Granted.

MS. ANDERSON: Granted. So they will be considered in the funding cycle.

MR. CONINE: Correct.

MS. CARRINGTON: Item 4(d) is requesting approval of a \$52,000 HOME contract for the City of Kaufman to assist one homeowner that has previously been assisted under a former HOME contract. The dollars for this assistance would come from the obligated funds. The City of Kaufman, several years ago, had a HOME contract where they assisted ten families with rehabilitation or reconstruction of existing homes. This is a homeowner

that fairly soon after the rehabilitation was done on their property, they notified the city that they were having difficulties with the foundation on their property.

They had notified HUD also. We have been in discussions with HUD, and HUD has asked that we consider doing an additional award to the particular family for \$52,000. We also note that both the city and TDHCA will make sure that that original contractor is not the contractor who will provide the work on this particular property.

It would come from deobligated funds. We do have some disaster relief awards that are going to be coming to you all in the next month, and we do have adequate funds to fund this \$52,000 in the disaster relief awards that we will be bringing to you in the next month or so.

MR. BOGANY: I have a question. They've got foundation problems here and it's going to cost \$50,000 to fix them? Well, that just seems like a whole lot of money to fix a foundation, and I guess, the other question I had is: is this contractor, is there any way we can have him -- is the city going after him to make this whole? Because we did pay him to do a job.

MS. CARRINGTON: I know that we have had some

of those conversations with the City of Kaufman. When we discussed this internally -- this unfortunately has been something that's been going on since 1996, so it dates way back, and I think there's a lot of entities who are culpable, Mr. Bogany, as it relates to the awarding of these funds and the monitoring of these funds.

MR. BOGANY: Well, why can't we get an engineer's report that says what is wrong with it then bid those three foundations, then fund toward those three bids? I just think \$50,000, like we're just throwing money away. To me, it just seems that way. I mean, open up the coffers and give them 50 grand.

MR. SALINAS: What is the value of the house?

MR. BOGANY: Yes.

MS. TREVINO: We do have an engineer's report. Lucy Trevino, I'm sorry. And the house will require 30 piers, and two pads to fix the foundation.

MR. BOGANY: How many? Two -- I'm sorry.

MS. TREVINO: Thirty piers and two pads.

MR. BOGANY: Two pads.

MS. TREVINO: In addition, there's a lot of interior damage to the house that will need to be repaired.

MR. BOGANY: What is the house worth, though,

Ms. Trevino?

MS. TREVINO: I'm not sure.

MR. BOGANY: I mean that just seems like 30 piers, even at worst, that's \$200 a pier, and you are talking -- it just seems like a lot of money, and it really does seem like a lot.

MR. SALINAS: What happened to your house?

MS. TREVINO: The house is built on an expansive clay soils, which caused the foundation to fail. So the foundation failed and then --

MR. SALINAS: Who built the house? Who is the builder?

MS. ANDERSON: We just repaired it.

MR. SALINAS: Oh, we just repaired it with our money.

MS. ANDERSON: With HOME funds, and it was done in 1996, and it's very clear to us that the city -- we awarded the HOME funds to the City of Kaufman, and the City of Kaufman then hired the contractor to do the work.

And it's very clear to us that the City of Kaufman did not properly monitor that contractor, and it is certainly our thought, in looking at this, that it was not done properly initially.

But what has happened since then, was that the

homeowner did complain to the City of Kaufman, did not receive any kind of resolution from the City of Kaufman, and then they brought this to HUD's attention, since it was funded with HOME funds, and so then HUD has come back to us and said, "We basically are asking you, Department, to use any available HOME funds that you might have to go back and correct what was not done properly in the first place with this particular homeowner's house."

MR. SALINAS: Okay, how did we get to the \$50,000?

MR. BOGANY: That's a valid question.

MR. CONINE: Who made up that number?

MS. TREVINO: The \$50,000 is an estimate. We do have preliminary work write-ups and cost estimates, and the total is a little bit less than \$50,000. We've just rounded up to allow for any additional costs in case, if necessary. But first, we are going to try and, you know, the city's required to go with lowest bid, and file a proper procurement.

MS. ANDERSON: So we are giving the money back to the city and letting them, then, turn around and --

MS. TREVINO: Exactly. This is an award to the City of Kaufman.

MS. ANDERSON: I think Shad has a good point,

about putting \$50,000 in a house when we're missing a piece of data, which is what is the market value of the house. I mean, I know the implication of not -- you know, it's probably easier from HOME's perspective to repair the house than to put the homeowner in a different house, but I mean, it's a fair question.

MR. CONINE: My daddy always said you can't make a new car out of an old one.

MS. CARRINGTON: I thought that was a purse out of a sow's ear.

MR. SALINAS: No, but I think here is what HUD is saying to "fix it." I mean, is that true, Edwina?

MS. TREVINO: With the owner-occupied program, with the HOME program, they are allowed to demolish and reconstruct if the bids come in higher than \$25,000, they do have the option to reconstruct.

MS. ANDERSON: Do we think 52 will reconstruct it?

MS. TREVINO: Typically, yes.

MR. SALINAS: I would like to see at least some restrictions done, engineer's report, they bid it out, and expect that they have somebody come back and check it. That engineer who did the report come back and look it and make sure -- I mean, we are just throwing money down the

drain here, and I can understand what HUD is wanting, but it just seems like it ought be something in place so that this doesn't happen. We've already put 38,000 into the house, and now we are putting another 52, and then, somebody's is charging \$2,000 for administrative costs. To me, that's the City of Kaufman's cost. It just seems like a lot of money going down the drain here.

MS. TREVINO: That \$2,000 is four percent of the contractor work, which is -- we took the full amount awarded for all HOME contracts.

MR. BOGANY: I just think -- I'd just like to see some restrictions.

MS. ANDERSON: How to we plan to monitor the City of Kaufman as they go through this process, differently than we did the last time?

MS. TREVINO: Well, we have been in contact with them. They know that this is not a typical HOME property. This is something that's out-of-the-ordinary.

MR. SALINAS: Who issued your CDBG funds? Do you own CDBG funds? Do you get HUD funds?

MS. ANDERSON: No, these are HOME dollars.

MR. SALINAS: I know, but the City of Kaufman. Do you get any funds at all from HUD?

MS. TREVINO: I'm not sure if they do or not.

MS. ANDERSON: They would not, most likely, be eligible. That's why they are applying to TDHCA. We receive the funds and then those funds we make eligible to local communities that are not participating jurisdictions. So their only avenue to HOME funds, or CDBG, would be through TDHCA or the Office of Rural Community Affairs.

MR. SALINAS: That's what I mean. Do they get any from Rural Community?

MS. TREVINO: I'm not sure.

MS. ANDERSON: I don't know if they get any CDBG funds.

MR. SALINAS: I move that we go ahead and award them the \$52,000 to try and do it again.

MR. GORDON: I don't remember a motion.

MS. ANDERSON: No, we didn't. Okay, so the Mayor has just moved to make the award.

MR. SALINAS: That's the recommendation from staff and HUD.

MS. TREVINO: Well, HUD has asked us to help this --

MR. BOGANY: I have a question. I would like, Mayor, I would like to see us table it, and then have the city provide us with the contractor bids and all that type

of stuff for staff to appraise on the house to make sure everything is kosher this time. I would prefer us to table it, and let them bring us the data back, and if they bring it back, I don't think we should pay a \$2,000 administrative fee at all, whatever that is. I don't think we should be paying that at all. They've already had it.

MR. CONINE: Is that a motion?

MR. BOGANY: I'd like to make that motion that we table it.

MR. CONINE: I'll second.

MS. ANDERSON: Not debatable. All in favor of the motion, please say, "aye."

ALL (except Mr. Salinas): Aye.

MS. ANDERSON: Opposed, no.

MR. SALINAS: No.

MS. ANDERSON: Thank you. The motion carries. The item is tabled.

MR. CONINE: To the next meeting.

MS. ANDERSON: To the next meeting.

MR. SALINAS: [inaudible]

MS. ANDERSON: No compendo.

MR. SALINAS: Well, the thing is, we are dealing with \$52,000, and we're going to have people

working, watching those \$52,000 is spend more money and our staff \$52,000. I just don't think it's good business.

If it would be \$2,000,000, they way we do with other developers, it would be fine, but you are dealing with a house, an issue with HUD, that HUD wants it fixed.

I guarantee you we are going to fix it. It's just going to be a matter of how we are going to get HUD to come back and tell us to do it. I just don't think it's good business to table it, especially for a little city.

MS. ANDERSON: Fair enough. Thank you, sir.  
4(e).

MS. CARRINGTON: 4(e) is to request approval for a mortgage credit certificate program for first time home buyers. It's resolution 05039. We will be taking a portion of our 2005 volume cap for single-family, and we will be taking 60 million of our volume cap for single-family, and turning it into 15 million in mortgage credit certificates.

Before the Board would take this action, we have a balance of 2005 volume cap authority for single-family of \$107,925,000. By removing this 60 million for mortgage credit certificates, that basically leaves us a balance of \$47,925,000 to be issued, to be utilized perhaps later this year. We have provided you a chart at

the bottom that outlines how mortgage credit certificates are used and what they -- how they apply to a borrower's tax liability.

This will be our third MCC program. You all may remember that we re-initiated MCCs about a year and a half ago, and with the current mortgage credit certificate program we have right now, the only amount of authority we left on that is authority that is under targeted -- that has to be set aside for a certain period of time. So we are proposing that we take a 60 million of our volume cap for '05, and turn it into 15 million of mortgage credit certificates, and that would be administered through our lenders that are currently in our network.

MR. GONZALEZ: So moved.

MR. BOGANY: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. 4(f).

MS. CARRINGTON: 4(f) for the Board's consideration is to request an increase in the area median family income for the first time home buyer program for mortgages that have assisted dollars with them, increasing that from 80 percent to 115 percent of AMFI, and these would only apply to those bond issuances, those dollars that are out there, that have satisfied the one-year, very low income restriction, pursuant to Rider Nine.

This is something that the Board asked us to take a look at a couple of months ago, to see, indeed, if we could determine what were the factors related to our assisted money, basically not -- those dollars not being originated in several of our programs. So what we did was choose eight areas around the state, which you will find behind your write-up. Austin, Dallas, El Paso, Fort Worth, Houston, McAllen, San Antonio, and Tyler, and we used the Texas A & M University Research Center to get the information.

We looked at the median sales price in each of those areas, then we provided the income at 60 percent of AMFI, and 80 percent, 100 percent, and 115 percent of AMFI, and then used the standards of two times income, and then two and a half times income, to see if we really had a mismatch between a median home price in the area, and

the income of the borrowers. Our thought was by capping it, or the Board's thought was, by capping it at 80 percent, that we, perhaps, needed to go up to 115 percent to actually be able to originate those dollars that had the assistance with it.

And as I was reviewing my Board book yesterday, I apologize. The chart for you all on page 1, which shows the shaded areas, and those were the areas that got the affordability -- really, you can't see those shaded areas. They really did not show up, so if you are on page 1, there was no affordability on the first chart, 60 percent of AMFI.

The second column at 80 percent of AMFI, there were three areas that had affordability at two and a half times, and those were El Paso, Fort Worth, and McAllen. At 100 percent, you got affordability at two and a half percent, or two and a half times income at all of those areas, and then picked up three at the two times, and then, obviously much great affordability if you went up to 115 percent of AMFI.

One of the other pieces of information we've provided you, and we provided it in the Executive Director Report item, and that is a chart that shows which programs would be affected by this increase from 80 percent to 115

percent, and this is something Ms. Anderson had asked us to prepare for this meeting, and it ties in very nicely with the information that we are providing you all. We actually have three programs that this increase, that the funds have been set aside for over a year, that have assisted funds, and we have dollars available, and that would be 57(a), 59, and 59(a), and that is in an additional chart that was provided to you.

So, with that, staff is recommending that we increase the Area Median Family Income from 80 percent to 115 percent for those borrowers that obtain assisted mortgages, and we doing this in response to market conditions, and also, we will be recommending to you all that the Board revisit this in two years to determine if the Board feels that it is still warranted to have this higher Median Family Income to qualify our borrowers for the median price homes.

MR. GONZALEZ: So moved.

MR. BOGANY: Second.

MS. ANDERSON: Discussion. Hearing none, I assume we are ready to vote. All in favor of the motion, please say "aye."

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. I want to just -- and I think, Ms. Carrington, on the mortgage credit certificate, did you read the resolution memo into the record?

MS. CARRINGTON: I'm not sure.

MS. ANDERSON: For the record, it is 05039, the action that the Board took on the mortgage credit certificate program. Thank you. I think you did, but just making sure.

MS. CARRINGTON: Ready for lunch?

MS. ANDERSON: We are, at this time, we are going to adjourn for Executive Session on this. And so I will read the certified agenda to you on this date, June 27, 2005, at a regular meeting of the governing board of the Texas Department of Housing and Community Affairs held in Austin, Texas. The Board adjourned anew. The closed Executive Session is evidenced by the following: the Board will begin its Executive Session today, June 27, 2005 at 11:55 a.m. Subject matter of the Executive Session is as follows: Board may go into Executive Session on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.

The Board may go into executive session Pursuant to Texas Government Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee of TDHCA.

Consultation with Attorney Pursuant to §551.071 of the Texas Government Code: 1. With Respect to pending or contemplated litigation styled Hyperion, et All v.

TDHCA, filed in Federal Court 2. Other pending or contemplated litigation, settlement offers or matters under Texas Government Code §551.071(2) unknown at the time of posting.

So we stand in recess until the conclusion of the Executive Session.

(Off the record at 11:55 a.m.)

(On the record at 12:45 p.m.)

MS. ANDERSON: We will come back to order, and the Board has completed its Executive Session of Texas Department of Housing and Community Affairs on June 27 at -- well, we'll say 12:45 p.m. here.

I certify this agenda of an Executive Session regarding Board of the Texas Department of Housing and

Community Affairs was properly authorized, pursuant to 551.103, the Texas Government Code. The agenda was posted at the Secretary of State's Office seven days prior to the meeting, pursuant to 551.044, the Texas Government Code, that all members of the Board were present with the exception of -- they were all present, and that this is a true and correct record of the proceedings, pursuant to the Texas Open Meetings Act, Chapter 551, Texas Government Code.

So we are ready for agenda item number five, and I believe Mr. Gordon is going to present on behalf of Mr. Bogany.

MR. GORDON: Yes.

MS. ANDERSON: And we should know, Mr. Bogany has left the meeting for a short period of time.

MR. GORDON: Yes, the Audit Committee met, and discussed four agenda items, which we are going to give a real brief overview of what was determined.

The first being that an internal audit report to determine whether the TDHCA was in compliance with the Texas Whistleblower Act, and it was determined that the Department was in full compliance. The second item involved some prior audit issues, which we discussed and determined that they were resolved.

Next, we discussed a HUD on-site monitoring of environmental procedural issues, and determined that there is a HUD audit was being conducted on environmental monitoring by the agency. We discussed that we had determined that there was a monitoring program in effect, but that they would determine what the scope of the audit from HUD would be at a later date. It had just started right now.

The next item was the status of an internal and external audits. It was determined that the internal audits that were being currently conducted by the TDHCA were all under way, and being filed in a compliance that we believe that they needed to be. A couple of the other items that were discussed is one on the internal audit. The streamlined -- the report itself that is being presented to the audit committee was streamlined, with time sensitive areas so we could determine the status of each of these particular audits.

We also discussed the status of these, and everything seemed to be in order. And with that, that was it. It was a very short audit committee meeting.

MS. ANDERSON: Thank you very much for your report. Ms. Carrington, the Executive Director's Report.

MS. CARRINGTON: The Executive Director Report,

the first item, is our outreach activities for the month of May. I'd be happy to answer any questions you might have on any those events that we have attended or meetings that we have spoken at.

The second was a UCP meeting in Arizona last week that I had been asked to participate in because of our involvement with UCP in our "Home of our Own" coalition. It was sponsored by Fannie Mae, so they wanted to showcase that initiative. Jose Reyes, who is in the Department of Policy and Public Affairs, or the Division of Policy and Public Affairs, went in my place since I was in federal court that afternoon, and did a fine job, I understand.

The next item is the uncommitted allocation report on our bond programs, which you all have already looked at. Then, also, there is a request -- there was a request from Mr. Anderson to make sure that all -- that there were no outstanding inspection fees, and indeed, there are no outstanding inspection fees. We did, as you all are aware, a very aggressive collection about a year and a half ago, of construction inspection fees that were outstanding. We got all of those collected and now this is no longer an issue with collection because that fee is paid up-front, and those inspections are then assigned to

the manufactured housing division.

So we also included, I think, how much has been transferred to Financial Services in those collection fees, and it was, like, \$580,000 so it was a nice chunk of change that we got in for those collection and everyone's current.

You all may remember that we did put in our Qualified Allocation Plan that anyone that had any outstanding fees owed to the agency was not able to participate in the program, and so that's probably one of the reasons that we wanted to report that that was going very well.

And then, I think, the only other thing was to point out to the Board, that we are moving around a lot this summer, and moving around a lot as it relates to the location of our Board meetings. Thank you. The one on July 14 will be back at our offices, The one on the 27th, we have already secured the Capitol auditorium. We were not able to secure it today because of the special session. August 19 will also be held at the Capitol auditorium.

My guess is, probably September and October will be in our offices, but the November and December are going to be elsewhere, and then, of course, in December we

move and so we don't have room for us, and so we really will be moving these meetings around to a hearing room in the Capitol complex that can accommodate us on our scheduled meeting day.

So as you all talk to the public, and as you know, people are attending meetings, what we just request them to do is just watch our website, because of course, it will be posted with the name of the building and the room number. And with that, Madam Chair.

MS. ANDERSON: Thank you, and I would advise the Board members that the July 14 meeting -- I should have done this in email and I haven't -- you will remember that once a year, we have a joint -- it's not a Board meeting, but a joint session with the ORCA Executive Committee to get their input on rural tax credit kinds of issues. That meeting will be on the afternoon of July 14, after the Board meeting, and because it's not a real Board meeting for us, we don't have to have a quorum there, so I'll just work with Delores, and I will stay for that hearing. I'm just sort of looking for a couple of other volunteers to participate with me in that meeting with the ORCA Executive Committee.

MR. CONINE: Madam Chair, I think if you take a look at the September meeting day, I think there's a

conflict for some of us that particular meeting date. You might want to check the date and move it around.

MS. ANDERSON: Would you attend to that?

MS. GRONECK: He's told me that he can't be here and I have to check with a few more people.

MS. ANDERSON: We'll work through that. On the July 14 meeting, staff anticipates that the majority of that meeting will be any appeals. We won't be taking awards, HOME or trust fund dollars. All those are going to be later, or it won't be the budget so we've already worked up a preliminary agenda for that meeting and I think it's going to be focused primarily on tax credit appeals.

Any other business?

(No response.)

MS. ANDERSON: Seeing none, we stand adjourned.

Thank you all very much.

(Whereupon, at 12:55 p.m., the meeting was concluded.)

C E R T I F I C A T E

IN RE: Board Meeting

LOCATION: Austin, Texas

DATE: June 27, 2005

I do hereby certify that the foregoing pages, numbers 1 through 111, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

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(Transcriber) 6/27/2005  
(Date)

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