

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Texas State Technical College
Cultural Arts Center
1902 North Loop 499
Harlingen, Texas

Thursday,
September 9, 2010
9:30 a.m.

MEMBERS:

C. KENT CONINE, Chair
GLORIA RAY, Vice Chair
LESLIE BINGHAM ESCAREÑO
TOM H. GANN
LOWELL KEIG
JUAN MUÑOZ

STAFF:

MICHAEL GERBER, Executive Director

ON THE RECORD REPORTING
(512) 450-0342

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MR. CONINE: Okay. We will call the meeting to order of the Texas Department for Housing and Community Affairs Board Meeting on Thursday, September 9, 2010. We are glad to be here in the Harlingen-Brownsville area.

And just wanted to say that the Board got here for the most part yesterday, had a chance to tour some of our projects, some of the Colonia areas, some of the tax-credit deals and so forth that we have in the area. And it sure puts a different perspective on it for us sitting up here at this table and ultimately, for the citizens who we affect on a daily basis and give an opportunity to live in some safe and decent and affordable housing.

And for that we're appreciative of everyone in the area that have made this trip possible for us and for all those people who put the tour together, the hard-working TDHCA staff. Again, thank you very much. We certainly have appreciated our time here.

Let me call the roll right quick.

Leslie Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. CONINE: Kent Conine's here.

Tom Gann?

MR. GANN: Here.

MR. CONINE: Lowell Keig?

MR. KEIG: Here.

MR. CONINE: Juan Muñoz is on the way.

Gloria Ray?

MS. RAY: Here.

MR. CONINE: Got enough to get started.

I would invite -- as typical, we have public comment at the beginning of the meeting for those who'd like to address the Board for any particular subject and then public comment during each of the agenda items if you'd rather speak to a specific agenda item.

I would like to open the floor for comments for anyone who would like to talk about the valley and some of the housing areas or the housing needs just in the generic term. I think again, speaking of the fact that we did get a chance to do some touring around yesterday and enjoyed looking around, but if anyone would like to speak to that now would be the time to come to the microphone and do so.

(No response.)

MR. CONINE: Okay. If not, then we'll go ahead and start with our public comment that we have. And my understanding is Senator Lucio's on the way and we will obviously stop what we're doing and give him a chance to speak when he gets here.

John Henneberger?

MR. HENNEBERGER: Good morning. My name is John Henneberger. I'm the co-director of the Texas Low-Income Housing Information Service. And I'm here to express appreciation for the remarkable efforts and success of this Department and your staff in obligating 100 percent of the Neighborhood Stabilization Program before the deadline imposed by HUD. Today you'll be presented the results of that and asked to approve it.

This is a extreme -- was an extremely difficult program and an unprecedented attempt to undertake a new program in a very short amount of time. We have raised concerns over the course of the operation of this program on the rate at which the funds were begin obligating, posing a potential loss of funds to the State of Texas. But I witnessed your staff and your executive leadership step forward and engage in Herculean efforts to be able to obligate those funds. And I'm very pleased to say that the TDHCA was successful in obligating all the funds.

Now, of course, it's up to the recipients of those funds to actually expend the funds in a timely manner. But this was a huge undertaking, an unprecedented undertaking and represents a major, positive accomplishment for low-income people to obtain affordable housing. Thank you

very much.

MR. CONINE: Appreciate those comments, John.

Thank you very much.

Any questions of the witness?

(No response.)

Donna Rickenbacker?

(No response.)

MR. CONINE: Donna Rickenbacker? Hah. There you are.

MR. GERBER: Mr. Chairman, while Donna's making her way to the podium, I'd just say that the credit for that really goes to Tom Gouris and to Marnie Holloway who have just really worked tirelessly on NSP. It is a tough program.

And appreciate it, John, of you acknowledging that and them.

MS. RICKENBACKER: Good morning. My name's Donna Rickenbacker. And during public comment I just wanted to give to the Board my comments and recommendations to the 2011 QAP. And during the agenda item I'll speak to a couple of the items.

MR. CONINE: If you could speak more directly into the microphone. We're having a difficult time hearing you in this room.

MS. RICKENBACKER: I'd like to give my comments

and recommendations to the 2011 QAP during public comment and then address a couple of the items in -- during the agenda item if that's okay.

MR. CONINE: Okay.

Is there -- Eddie, could you go grab those from her?

(Pause.)

MR. CONINE: She's going to wait? Okay.

Stephen Fairfield?

MR. FAIRFIELD: Good morning, Honorable Board Members. My name is Stephen Fairfield. I'm with the Houston-based nonprofit sponsor and developer of the proposed Orchard at West Chase in Houston, which is currently at the top of the presumed waiting list in Region 6 for tax credits.

And I merely wanted to ask that if the Board considers making forward commitments that you would consider the Orchard at West Chase, Project 10096.

We are a mission-focused group. We don't submit applications every year. But when we find the right opportunity to address our mission our outcomes are not sticks and bricks but enhanced quality of life of our senior residents. We use the draft QAP as a benchmark. Our senior services and our community exceed the maximum score by 50 percent. And we select the sites carefully with a view

towards that quality of life and long-term viability. In fact, a Cracker Barrel was just built next to one of our existing communities.

We have a wait list on a project that's currently in framing, the Orchard at Oak Forest, a wait list for 62 percent of the units, though the project has not been advertised.

Because of our focus on the quality of sites we don't always score highest in the point chase. This site would not normally be available but for the slow market. And we'll -- the site will not be competitive in the next year because there's no neighborhood organization that serves it.

The site has great access, great amenities, many unserved seniors. The market study shows a 5 percent capture rate. And there's over a million dollars in Ike credits that have yet to be allocated. So we would be grateful if you would -- do consider making Forest that you would consider this project, the Orchard at West Chase. Thank you.

Thank you.

Any questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

Okay. I have several witness affirmation forms

on a particular project. And as you know, we limit it to three speakers. So I have John Plaster, Stanford Knowles, Albert Leal. Those are the three. And then there's -- I guess it's an extra comment time. So --

You need to sign up? Did you put -- turn -- okay. Do they want to wait and speak at the --

VOICE: No.

MR. CONINE: They want to do it now? Okay. Yes, you can.

So John Plaster's up first.

Go ahead.

MR. PLASTER: Good morning, Honorable Board. My name is John Plaster with Freedom Air Conditioning. In today's market and the unrest of unemployment affordable housing is now needed for people that never needed it before. And in this area we need the work as a mechanical contract and the people need the housing. And we'd appreciate you all helping in any way you possibly could.

MR. CONINE: Okay.

MR. PLASTER: Thank you very much.

MR. CONINE: Thank you.

MR. PLASTER: Uh-huh.

MR. CONINE: Appreciate you being here today. Stanford Knowles?

Yes, you guys really need to speak into the microphone. It's hard to hear up here.

MR. KNOWLES: Good morning, members of the Board. Appreciate you bringing this up. We're here to speak on behalf of Champion Homes of Minnesota and Brownsville. Minnesota -- actually, when we talked to the city planner about this yesterday he was very happy to see us targeting this area. That's the -- it said east side of Brownsville. It's northeast.

It's actually in the area of the fastest growing high school in Brownsville. There's five high schools in Brownsville. We've got, I think, the 17th largest school district in the state. Now, out of our 150,000 population 50,000 -- almost 50,000 are students under 18. So you know that we need to provide them with good housing.

Beyond that we actually enjoy what we do as architects to try to provide better housing for our people in Brownsville. And I'm sort of in the hot house this morning because I'm supposed to be at Grandparent's Day with my grandson in Brownsville. But they will understand because his father is a contractor, as well.

We're working at probably 25 percent of our capacity in Brownsville. We do need the work. It's going to be something to keep idol hands busy, as much as anything

else. We need that in Brownsville. Because on the other hand, Minnesota's got a checkered past with the various things that have happened on that street. So this is going to be a vast improvement for that neighborhood and I think everybody would applaud that particular job. Thank you.

MR. CONINE: Thank you.

Any questions of the witness?

MR. KNOWLES: Actually, I was going to ask if there are any contractors here from Brownsville that support this project? So you can see we've got a lot of people who are involved in this work. One thing about Odyssey is that other contractors -- or other developers actually give lip service to bringing locals into the projects.

Part of what I've had to do is actually work with the local contractors. And I actually helped teach them and bring them up to par on what we need to meet TDHCA requirements.

So this is something that's actually improving our economy and the ability of our contractors in south Texas. Thank you.

MR. CONINE: Okay.

Any questions of the witness again?

(No response.)

MR. CONINE: All right. Thank you very much.

I want to welcome Dr. Muñoz here.

Glad you could make it.

DR. MUÑOZ: Thank you.

MR. CONINE: Albert Leal?

MR. LEAL: Good morning. Albert Leal. I'm the owner of Service Plumbing. As John had mentioned and they mentioned, as far as the unemployment rate down here is just pretty high. We do need the work. I had 15 employees. I had to let go of seven employees for the reason that, you know, not enough work down here. So just here to tell you that, you know, we do need the work down here. Okay. Thank you.

MR. CONINE: Okay. Thank you.

Any questions?

(No response.)

MR. CONINE: Appreciate you being here today.

Okay. Joe Clifford.

MR. CLIFFORD: Good morning, Honorary Board Members. My name is Joe Clifford. I serve as pastor of the First Presbyterian Church of Dallas, a congregation that has 35 years of experience serving the homeless of our community through the Stew Pot Ministry. And we are a partner with Evergreen residents in Application Number 10232. I believe we'll be covered under Item 4(f) of your agenda.

It's a project to develop 100 units of permanent

supportive housing to answer our city leadership's call for 700 units of new housing to address the challenges of chronic homelessness in our community. Across the nation permanent supportive housing is proving the most effective way to address the challenges of chronic homelessness. Not only does it raise area property values, more importantly it recognizes human values by offering opportunities to regain their humanity.

We come requesting an advance allocation of 2011 tax credits should you choose to do so to proceed with our project. And we're here because it's become clear that the current competitive point system makes it virtually impossible for projects serving the homeless community to win enough points to compete.

In 2010 our application fell five points short of approval. As you know, the current system awards 24 points for neighborhood support. We worked very hard to garner neighborhood support for our project. We met with the listed neighborhood association. After addressing their concerns they told us that they would not oppose our project. We held open meetings in the neighborhood, we created a blog and a Facebook page to offer information and solicit feedback.

We offered a commitment to engage every homeless person within a quarter-mile radius of our project to find

them housing. Current census estimate anywhere from 70 to 120 homeless people on the streets in the neighborhood that we are seeking to build this project.

In the process we received letters of support from property owners and we were selected by a neighborhood restaurant to be a beneficiary of their 20th anniversary celebration, yet a splinter group of well-funded property owners through the help of paid political consultants have succeeded in stirring up irrational fears based on deceptive information concerning our project. They've severed all lines of communication and have made it impossible to secure the support of the neighborhood and gain the 24 points.

This is not a new phenomenon. This strategy has been employed to ensure that no projects dedicated to serving the chronically homeless can ever get enough points to receive tax credits for developments. In the past six years only 50 units of permanent supportive housing have been developed in Dallas with the help of tax credits. And that is a mixed-use project not dedicated to the homeless. Those 50 units exist only because they were given a forward allocation.

The only way these critical projects can get done is if you choose to award advance allocations. We need leaders who are not subject to the whims of public opinion to lead by doing the right thing for the least of these in

our community. The City of Dallas has offered a pending funding commitment of \$3.2 million towards our project. And today we need your support to grant 3800 Willow an advance allocation to show the people of Texas and the City of Dallas that there is a place in the Affordable Housing Tax Program for supportive housing for the homeless. Thank you for your time and consideration.

MR. CONINE: Mr. Clifford, where is this project located again?

MR. CLIFFORD: It's at 3800 Willow in the Deep Elm area of Dallas.

MR. CONINE: Okay. So it's north of I-30 or --

MR. CLIFFORD: Just north of I-30 --

MR. CONINE: Okay.

MR. CLIFFORD: -- east of downtown.

MR. CONINE: Okay.

Any other questions?

MR. GERBER: Just to confirm. The city has a commitment to --

MR. CLIFFORD: They have a pending commitment. Depending on what you do. It's sort of a chicken and egg kind of thing. Three points --

MR. GERBER: Pending likely passed a resolution of committing the funds?

MR. CLIFFORD: No. That has not happened to my knowledge.

MR. GERBER: Well, who's given the pending?

MR. CLIFFORD: Jerry Killingsworth, the city staff who's over the Housing Department for the City of Dallas.

MR. GERBER: So just make sure there's 3.2 million sitting there for this project?

MR. CLIFFORD: That's our understanding. Yes, sir.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

MR. CLIFFORD: Thank you.

MR. CONINE: Appreciate it.

Graham Greene?

MR. GREENE: My name's Graham Greene. This is in reference to the Evergreen Residences, 3800 Willow, as well. The project is 100 units of permanent supportive housing in the form of a residential hotel. I am here today to request a forward allocation of 2011 Low-Income Housing tax credits for 3800 Willow and -- so we can proceed with the development.

We have been told by the city that they can make available \$3.2 million from funds available if we get support

from the TDHCA. And then we have to get support from the neighborhood.

Fifteen years ago I came down here and got an allocation for -- of Low-Income Housing tax credits for the Prince of Wales. Today I still own the project and it's been successfully run for the past 15 years and is sustainable into the future. We have never received a complaint from the neighborhood. To quote Councilman Pauline Medrano, who serves that neighborhood, "It has proven to be the most cost-effective and sustainable housing solution for this very needy population."

We did not receive an allocation of 2010 tax credits because we could not score enough points. The 24 points awarded for the neighborhood support are unobtainable for permanent supportive housing with the word homeless attached to it. And that's no matter how unique and creative and innovative we make the project.

Well, we tried to get the support, not only through outreach to the neighborhood, but we also offered to develop a LEED platinum building with a community garden and artists' studios and an art program to fit in with the creative ecosystem of the neighborhood.

We also offered 7,500 square feet of the property to an adjacent property owner to create a outdoor sculpture

garden for the display of his work that's funded by a private foundation. We have a project designed to contribute to the health of the neighborhood that we hope to be a part of.

But we learned during this process that the neighborhood opposition to our project is in reality a professionally organized media event. It's largely created by political consultants with close ties to the city, particular the Reids, who may have contacted you regarding this.

Effectively these political consultants have become the key instruments in undermining the civic policy enacted by the Dallas City Council years ago -- six years ago to create 700 more units of permanent supportive housing.

As Reverend Clifford said, only 50 units in the past six years have been created in permanent supportive housing in Dallas. And the need is growing every day. If this process is allowed to guide the competitive process this will become the de facto model to disable future efforts to provide needed housing for the most impoverished people in our society. It effectively turns the process into a beauty contest. And with projects that serve the more affluent scoring the most points.

Practically speaking, any development that has the stigma of housing of formerly homeless people will never

receive this coveted neighborhood support. The competitive scoring system is systematically biased against it. And no project has -- no project of this type has received allocations the last four years through using the system.

Our hope is to develop the project and include the community in the process. The final outcome, we think, will be beneficial to all. We are requesting your support and leadership in this request and hope to have that addressed in Item 4(f) later in this meeting. Thank you.

MR. CONINE: Mr. Greene, I know the previous speaker is a pastor, so he's not going to badmouth anybody.

But could you articulate -- when you say the opposition that has arisen, is it the residents of that area or is the business owners of that particular area or some combination thereof?

MR. GREENE: It is a few property owners and a neighborhood activist who's involved in the real estate business.

MR. CONINE: Okay. So the -- by property owners do you mean business owners or residents?

MR. GREENE: Well, they own real estate, so their business is owning property.

MR. CONINE: Okay. All right.

Any other questions of the witness?

MR. GERBER: Mr. Chair?

This is the same project?

MR. GREENE: Yes, sir.

MR. GERBER: What's the number on that?

MR. GANN: The application number is 10232.

MR. CONINE: Any other questions?

MR. GERBER: Mr. Chairman, I would like to ask -- I know the mayor has been very interested in issues of homelessness and transitional housing.

You know, we obviously had a great success with this Board approving tax credits for the Akard project. A lot has been spent on The Bridge in Dallas. Has -- what have been the efforts of this project to be coordinated with some of those other that have been happening and what community support has been earned through that effort?

MR. GREENE: The --

MR. GERBER: Because the city has taken a fairly sophisticated approach to dealing with --

MR. GREENE: Correct.

MR. GERBER: -- the homeless.

MR. GREENE: The Stew Pot is involved in The Bridge and provides the food service and also provides social services to homeless people. I would let Reverend Clifford give you some statistics on that.

MR. GERBER: Go ahead.

MR. CLIFFORD: We serve 1,600 meals a day seven days a week at The Bridge. The Bridge is just what its name says: It's meant to be a bridge to permanent housing. The challenge is there's not really places to go from The Bridge.

There's an -- they're working in partnership with the housing authority to move people into affordable housing but that's sort of robbing Peter to pay Paul. It just takes -- it takes housing off the market for workforce housing, for the working poor. And so the real solution is creating new housing, and I'm coming on the board of MDHA, which runs The Bridge, and so we are very much active partners with them in these efforts.

MR. GREENE: Did that answer all your question?

MR. GERBER: Yes, sir.

MR. GREENE: Okay.

MR. CONINE: Okay. Thank you very much.

Emily Horne? Oh, you're going to go on the agenda item. I'm sorry. I'll put that with the others.

That's all the witness affirmation forms that I have for the beginning of the meeting. I would like to take this opportunity, now that I see Senator Eddie Lucio in the room with us, to invite him to come up and address the Board and the crowd.

Senator Lucio, I said to open the meeting how

pleased we were to be here in the Harlingen-Brownsville area and how much we certainly enjoyed the hospitality of not only you personally but your staff and members of the community.

And we're certainly appreciative of you hosting us here and for us to -- getting the opportunity to come down and see the projects.

SEN. LUCIO: Thank you, Mr. Chairman -- Chairman Conine and members of the this -- what I consider most important Board.

Ladies and Gentlemen, I'm extremely pleased to join with you all in addressing some of our issues to TDHCA's board. I think we had a wonderful day yesterday. It's one that is -- will be very memorable to me and one that I know will never be forgotten with those individuals, those families that we visited with in Cameron County, especially in Cameron Park.

Let me share with you some thoughts, if I may.

MR. CONINE: Sure.

SEN. LUCIO: To say I'm excited would be an understatement. I am excited to have the Board of the Texas Department of Housing and Community Affairs back with us. Mr. Chairman and Members, Mr. Gerber, Michael, I trust that you and your staff have enjoyed our south Texas hospitality. I know that I have enjoyed being part of that for you.

I want to make you all rest assure that you have a number of agency supporters from the Lower Rio Grande Valley that join our board member, Ms. Leslie BINGHAM ESCAREÑO in welcoming you to the lower valley, the region where Bootstrap had its origins. And I consider that probably one of the highlights in my 24 years in Austin.

As I shared with the media yesterday, this past May we marked the tenth year anniversary of our Bootstrap Program and the 1,000 families that TDHCA through its administration of this innovative self-help program has assisted in making their dream of home ownership into a reality.

As we turn the page of this ten year accomplishment and get closer to the upcoming legislative session I ask for you diligent assistance. Now more than ever as the state faces historic challenges such as the unprecedented demand on our General Fund, it is time that we learn from our past, build on our history and work together to better address Texas' growing housing needs.

I want to commend the Board in making the funding of the Housing Trust Fund, both the restoration of its cuts and the \$8 million exceptional item your top appropriations priority. As we have seen firsthand, it will behoove Texas to strategically invest its resources so that real

transformational results can be seen in our state.

Over the last decade we have seen these results in the fruits of our labor of our Texas families to an innovative self-help program that had its origins in my senatorial district. Your Board, through the -- your support of the Bootstrap Program has enabled 1,000 families to become local property taxpayers as they achieved their dream of becoming homeowners. This sweat equity accomplishment of our Texas families skyrocketed our state to become the leader in self-help housing in the entire nation.

Now is not the time to change our course. Rather, we need to reinforce our commitment to proven initiatives and strategically invest our monies in programs that are successful, in initiatives that have proven results and in endeavors that build on the success that we have achieved.

That is why I join you and your Board, Mr. Chairman, in making the funding for our Housing Trust Fund a top priority in the upcoming legislative session. Again, I want to commend your agency and staff for working with stakeholders, along with my committee office in addressing critical issues important to our state.

I am informed that there are -- there has been much progress in the Rural Capacity Building Initiative which aims to better leverage and use available USDA 502 Direct

Loan Funds that if they are not used by Texas will be recaptured by the federal government and redistributed to other states.

Obviously, we don't want to see that happen.

Now, along the same lines I commend the Department for working with the leadership offices of my good friend, Lieutenant Governor David Dewhurst and Governor Rick Perry, as well as with the Texas Department of Rural Affairs, housing advocates and my committee office in addressing HUD's Neighborhood Stabilization Program, better known as NSP.

Now, back on June 29 advocates informed my committee that Texas was at risk of losing some likely \$10 million from TDHCA and \$16 million from the TDRA in uncommitted housing foreclosure funds, NSP funds. My committee members and my fellow senators from around the state were concerned that nearly \$30 million could have been taken from the -- Texas' allocation and given to other states. At that time members of my committee wanted to bring the state agencies involved together, along with the housing advocates to see how by adhering to federal regulations and guidelines Texas could meet HUD's September 3 deadline.

I am glad to inform -- to be informed that the by-weekly meetings that our committee office hosted with your staff, along with the staff of Lieutenant Governor David Dewhurst and Governor Perry increased dialogue and

cooperation among those parties involved.

I am informed by your office that by working together and following HUD's regulations and guidelines, TDHCA and TDRA are able to meet HUD's September deadline. I commend you, your department and staff on meeting this important federal benchmark which was extremely important for our state.

And I trust that the diligent efforts that enabled you to meet this critical September deadline will continue as you work with local NSP subrecipients and the families involved in these NSP closings and reimbursements.

Lastly, in closing, as evidenced through our work last session, my committee is always open to innovative ideas that will improve the delivery of housing monies in Texas.

As we continue to research our interim charges I want to thank the diligent resources and assistance that your department, especially Mr. Gerber, Mr. Lytle and Ms. Boston, has provided.

As we address hurricane reconstruction efforts the timely delivery of housing monies, regional and rural capacity and the better leveraging of federal housing dollars we need to ensure that the border and distress areas are not overshadowed by their metropolitan counterparts.

I ask for your assistance in developing

recommendations on how we can streamline our state programs, make them more provider -- quote unquote -- and user friendly while at the same time ensuring that we are being stewards of our taxpayers' dollars. I urge you to continue to work with our committee. Together I am convinced that we have -- we will have a productive session and better address the housing needs in Texas. And I want to reiterate that I stand ready for this upcoming Sunset legislative session and look forward to a productive dialogue.

Once again, welcome to the Rio Grande Valley. I want to add a couple of things, if I may, Mr. Chairman.

MR. CONINE: Yes, sir.

SEN. LUCIO: As always, there are very important projects that take place in every senatorial district. I just got back from the island. As a matter of fact, I went to the library and I was lost for a minute. But I just got back and there was an economic summit going on in the small communities, small cities, rural communities in south Texas.

And I was able to share with them some of the things that I feel they need to do to make sure that we connect properly this next session and ensure that their communities grow and that they keep their -- the young people in their areas as they would like to, their family.

I would like to share with you a letter that I've

addressed to Mr. Michael Gerber. And it goes like this, if I may, for the record:

"I am writing to vigorously advocate for a forward commitment from the Texas Department of Housing and Community Affairs, TDHCA, to the Sunflower Estates Housing Development.

The forward commitment will provide critical financial support to a development that is of great importance to the City of La Feria and the surrounding community.

"With the foreclosure rate in Cameron County reaching one in every 411 homes in July of 2010, the La Feria community struggles with a foreclosure rate nearly twice that of the state average. Regrettably, Hurricane Dolly and the subsequent flooding exacerbated the housing situation in La Feria, leaving many families displaced.

"Once the Sunflower Estates receives a forward commitment from the TDHCA, they will be able to begin construction on 80 new, high-quality living units to be rented at affordable rates to low-income residents. The property will provide critical tenants support services such as adult basic education, financial planning and homebuyer education courses.

"In closing, I thank you for your strong consideration of the City of La Feria's request for a forward commitment. This project is an important complement to

housing and rehabilitation efforts in the area."

I don't have to tell you how important housing is. You saw it yesterday. And I shared some of my own background on growing up in Brownsville and the valley and how hard it was for us to find housing of any kind, especially for a family of 12. Nobody wanted to rent to us. But there are families unfortunately, two and three living in one household. And that's commonplace in certain areas of the valley.

The more we can do at the state level to support the efforts of our small communities, especially the City of La Feria, the better we'll be, you know, the quality of living, you know, efforts that we're trying to make will take place. So I would like for you to consider that very closely.

Lastly, I want to mention -- there are so many other projects, but one in particular that I think will really help the Brownsville area is the Champion Homes at Canyon Creek, Project Number 10135. I wanted to also add that in my comments here this morning.

And I thank you again, Mr. Chairman, Members. We're -- it's a historical meeting that is taking place here.

I appreciate those that have taken time to be here this morning. This is probably the best, well attended meeting -- hearing that I've been to in quite a while. So

I think they're interested in what you're working on at the state level, which is music to my ears, as I mentioned. I apologize for my voice. I have a strong sinus problem this morning.

But once again, welcome. And *nuestra casa es su casa*. I think during the course of yesterday's visit you learned a little bit of Spanish. And I'll be talking to you in Spanish once in a while, because I'm sure that will help you communicate some of the issues when we go into these substandard subdivisions we call colonias in the future. *Gracias y que Dios de bendiga*. God bless you all. Thank you.

MR. CONINE: Any questions of the witness from any of the Board members?

MS. BINGHAM ESCAREÑO: Mr. Chair, if I could just say --

Senator, I live here and I've known for a long time what a advocate you are for families and quality of life and prosperity here in south Texas and that I'm very proud to serve on this board and see you being such an advocate for families and quality of life and prosperity for the whole state. And thank you for spending your day and night with us last night. It was a long afternoon but we all learned a lot. Thank you for sharing with us.

SEN. LUCIO: One of the things I like to share with the general public is Texas is not run by the Texas Legislature. That's not true. We pass public policy, we pass laws. Texas on a day-to-day basis is run by boards and commissions such as the one here today whose members are appointed by the Governor and confirmed by the Senate. I want to say this. I said it last night. I think Governor Perry chose the best in Texas for this particular board. And I say that very sincerely because of the issues involved. Men and women who have shown me in a short period of time how truly compassionate they are about the work they're involved with.

So I want to commend the Governor for that and, of course, commend you all for taking time away from, you know, your jobs and your livelihoods to be able to address these issues statewide, but especially here in the valley, where historically we've seen a lot of suffering, a lot of need. And you're addressing it head on.

So I'm happy you're on the Board, too, Leslie.

MR. CONINE: Senator, I'd echo Leslie's comments. We appreciate your passion for family life here -- down here in the valley and we appreciate your support of the Department in all of its activities and look forward to continuing to work with and your committee as we move forward into this

next legislative session. Thank you for being here today.

SEN. LUCIO: Let's go find some money. Right?

MR. CONINE: That's the bottom line. Thank you very much.

Okay. That concludes the public comment portion of our meeting. We will move on to the agenda and Item Number 1, which is the consent agenda. I have -- I wanted to pull item 1(b) if I might. And I also have a public comment on Item 1(h) looks like. Does any other board member have any other items they'd like to pull?

MR. KEIG: Yes, 1(1).

MR. CONINE: 1(1)? Okay.

Anything else from Agenda Item Number 1?

(No response.)

MR. CONINE: So I've got B, E -- no, I didn't -- did I say E.

MS. RAY: No, you didn't.

MR. CONINE: I didn't say -- I just said --

MS. RAY: H.

MR. CONINE: -- B, H and L.

MS. RAY: Uh-huh.

MR. CONINE: The rest of them are good to go. Any further -- do I hear a motion?

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, Ms. Ray.

MS. RAY: I move to accept the recommendation on the consent agenda.

MR. CONINE: Okay. There's a motion made by Ms. Ray. Do I have a second?

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying Aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Now we'll go back to Item 1(d).

Mike?

MR. GERBER: Mr. Chairman, I'm going to ask Tim to perhaps join in this. This item requests that the Board grant staff the authority to pursue outsourcing alternatives as possible partial solutions to some of the challenges that we've encountered in administering some of the large and expanded new programs under ARRA, the Housing Economic Recovery Act, as well as the CDBG Disaster Recovery Program.

This Board previously made findings of fact to accompany a request to the Governor and to others for oversight for approval of temporary increases to the numbers of FTEs and related expanded authority to utilize appropriated receipts.

Staff has concluded at that point that the temporary increases in FTEs, chiefly to provide for required asset management, expanded underwriting activity and related financial services assistance in the administration of TCAP exchange was the best way to go, providing the best possible execution of these responsibilities at the lowest cost.

But some of the signals that we received involved discussions with these offices whose approval are required, is that at this particular point in time in dealing with some of the state budget issues is that it's really not going to be possible to get a clearance in increasing the FTEs above our current cap level. Yet we still have a need for those functions to be done.

So we remain cautiously optimistic that we may be able to get some approval and increase our authority to use appropriated receipts. And with those appropriated receipts we would like to go and have the ability to quickly procure those functions that we need to be able to manage the program well, particular in the areas of asset management.

Tim, anything you want to add to the --

MR. IRVINE: Yes. Thank you.

For the record, my name's Tim Irvine, Chief of Staff. You know, I think this is basically a matter of finding the best possible uses for resources. We have full-time equivalent employees within our CAP that are performing a number of functions that could potentially be outsourced. But then we have other challenges that are pretty complex and pretty sophisticated where we would like to be able to staff those and operate them in-house, such as the sophisticated asset management requirements associated with the TCAP and exchange.

If we were able to, for example, outsource some more conventional function that would free up CAP FTEs to be hired to staff up and have a more robust in-house asset management function. So this is simply requesting the authority to pursue all possible avenues to get the best possible cost-effective solution in place.

And we also would comment that it does have potentially trickle down or outside impacts, in that asset management costs are ultimately going to have to be borne by the development community in the fees that they pay. We are optimistic that we can get approval for additional appropriated receipts authority to use those fees. But we

believe that we can do great work in this area on a more cost-effective basis and thereby keep fees down for the community.

MR. CONINE: Well, the reason I pulled it is that when I read this it reminded me of off-balance-sheet accounting to a certain degree, in that, you know, in a very abstract theory you could outsource everything we do and still have 300 employees --

MR. IRVINE: Sure.

MR. CONINE: -- floating around. And I didn't see that this particular resolution was written to restrict these activities to any particular program. It's just almost kind of a blank check.

MR. IRVINE: It's really requesting broad, unfettered authority to look at all aspects of our operations, and where we find pockets here and there that could potentially be outsourced, thereby enabling us to re-target those FTEs to other activities, that we at least be given the authority to explore those options.

MR. CONINE: And I don't have a problem with that. I just have a problem with you having the authority to do it without coming back to the Board --

MR. IRVINE: Okay.

MR. CONINE: -- for approval. And --

MR. IRVINE: I see.

MR. CONINE: And -- because it's, you know, incumbent upon us to understand --

MR. IRVINE: Oversee it.

MR. CONINE: -- what the employees are doing and what's being outsourced and what isn't. And so that little piece of mechanisms, I think at least from this board member's perspective, needs to be added to the resolution in order to -- because obviously, if we can do something cheaper outside than we can inside and we can reallocate inside and/or -- I'm not in the mood to eliminate jobs today -- but if we can do that then, you know, the Department and the community will be better served. But I think the information and the approval process needs to stay here with the Board.

MR. GERBER: I think we can build that into the resolution. And just to give you a sense, one of the things we've been struggling with, particular on the area of asset management, is we think some of the complexities in that program and what's going to be required means that we still may want to keep that in-house but, in fact -- and, in fact, outsource other functions like, for example, doing environmental work, doing some of the things we cover in program services that may be a bit more routine. But then again, we have some, you know, extremely qualified folks that

we, you know, brought on board to address those issues. So we just have to look at the whole staffing picture. But that feedback is important.

MR. IRVINE: Right. And I frankly apologize for not including in the draft resolution the necessary control of the board oversight.

MR. CONINE: You tried. That's okay.

Any other comments about by any board -- other board members?

(No response.)

MR. CONINE: So I guess we need a motion to allow the staff to go forward and do that but to ultimately come back to us for approval.

MS. BINGHAM ESCAREÑO: Mr. Chair, I'll move to support the resolution as drafted with the addition of the staff coming back to the board for final acknowledgment. Or would you prefer it be approval or --

MR. CONINE: Yes, I would.

MS. BINGHAM ESCAREÑO: -- for final approval of decisions to outsource FTEs.

MR. CONINE: Motion by Ms. Bingham.

MS. RAY: Second.

MR. CONINE: Second by Ms. Ray. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying Aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Okay. Item 1(h), was it?

MR. GERBER: Yes, sir. Mr. Chairman, Item 1(h) is two recommendations for the City of Primera under the HOME Program. Several NOFAs are being presented today in separate action items for the Board's approval. But with the Board's approval of this item, \$732,000 in project funds will be awarded to assist 21 low-income households.

Do we have a witness?

MR. CONINE: Yes.

Javier Mendez?

MR. MENDEZ: Good morning. For the record, my name's Javier Mendez. I'm the City Administrator for the City of Primera. I just wanted to take this opportunity to officially thank, especially TDHCA staff with our application. I know initially we had some hiccups in our application but your staff was very helpful in us addressing those hiccups, especially Ms. Abby Combs and your Executive

Director, were very helpful to us. I just wanted to go on the record to thank them for all their help and hopefully, and appreciate the Board can recommend that we get funded on this.

And on behalf of the citizens of Primera and the Board of Aldermen, the mayor, Mayor Patterson, I thank you.

I know that these two programs will help some of our local contractors getting some work done and hopefully, we'll be able to help them out in our area of Primera. Thank you very much.

MR. CONINE: Thank you.

Any other questions of the witness?

(No response.)

MR. CONINE: If not, then I'll entertain a motion.

MS. BINGHAM ESCAREÑO: Move to approve.

MR. CONINE: Motion to approve by Ms. Bingham.

MS. RAY: Second.

MR. CONINE: Second by Ms. Ray. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying Aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Item L.

MR. GERBER: Mr. Chairman, Item 1(1). I'm going to ask Tim to come forward and respond to the questions on this, as well. It's a resolution regarding the holding of real estate beyond a three-year period. Texas Government Code 2306.174 requires the Board to adopt a resolution in the event that the Department holds real property for more than three years.

The property in today's resolution are single-family tracts of land that the Department foreclosed on after participants in our First-Time Homebuyer Programs failed to make the payments. And we're working with staff -- with the General Land Office right now on the disposition of those properties.

MR. CONINE: Did you have some questions, Mr. Keig?

MR. KEIG: Yes. My only point was that we have -- this is another open-ended type of approval and that we ought to -- if we have a three-year deadline that we give ourselves a new deadline of say, six months or a year. And if we still are having problems at the end of that deadline we re-assess and it comes back to the Board rather than

indefinitely opening this up.

MR. CONINE: Is there a time frame, Mike, that the staff would feel more comfortable with than --

MR. GERBER: I know Tom and I were talking about it. About a year, I think, was the --

MR. KEIG: I'd move staff's recommendation on 1(1) with the caveat of a deadline of one year.

MR. CONINE: Okay. There's a --

MS. RAY: Second.

MR. CONINE: -- motion been made by Mr. Keig, seconded by Ms. Ray to amend the -- Item 1(1) to have a one-year limitation and to come back and see us after that period of time. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying Aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

We're going to take a five-minute break here. And I'm going to do this in order to go through the agenda to see if I can quicken this thing up to get everybody out of here a little earlier today. So let's take a five-minute

break and we'll be right back.

(Whereupon, a short recess was taken.)

MR. CONINE: Okay. If we'd come back to order, please. Okay. In the spirit of moving the meeting on and trying to get out of here as expeditiously as possible, given the amount of public witness affirmation forms I have for various agenda items, I'm going to give you one last chance to submit a public witness affirmation form if you haven't already on these particular agenda items that the Board is going to -- hopefully, if I get a motion to do this -- consider all at the same time just to kind of get them over with. Okay? And these are the items on the agenda. Items 3(b), as in Boy, D, as in David and E -- B, D and E -- Item 4(c) and Items 5(a), (b), (c) and (d). Those are the agenda items that we're going to take en masse unless someone has an objection to. So if you have -- if you wanted to speak on any of those particular agenda items and you haven't, get to the microphone right quick. If not, I would entertain a motion from one of the Board members.

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray?

MS. RAY: Seeing no movement concerning those items, I move the approval of staff recommendation for Item 3(b), 3(d) and 3(e), 4(c), 5(a), (b), (c) and (d).

MR. CONINE: Is there a second?

MR. GANN: I'll second.

MR. CONINE: Second by Mr. Gann. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying Aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Back to Item 2(a). Mr. Gerber?

MR. GERBER: Mr. Chairman, with your indulgence, we'd like to --

MR. CONINE: Oh, 7. We wanted to go to 7 first.

MR. GERBER: Yes, sir.

MR. CONINE: That's right. Sorry about that.

MR. GERBER: We'll go down to Item 7, which is a report on ARRA stimulus funds. And Brooke Boston, our Deputy for Community-Based Programs, will talk about that. Brooke?

MS. BOSTON: Thank you. I think we have a lot of good news with the Recovery Act. So I was hoping to go early and -- can you hear me? Okay. So I just wanted -- this

is behind 7(a) in your board item. And I just wanted to point out a few highlights of what's been going on with the Recovery Act.

Under the Weatherization section we're now executed with contracts for 98 percent of the funds. I'm working on the last 2 percent in the next couple weeks and should have that done by the end of the month. We've made our request to the Department of Energy for access to the second half of the funds. That was a huge benchmark and took a pretty significant amount of documentation and spreadsheet generation to do. And so they're reviewing that right now.

As of the 6th -- so after the book went out -- we now did 811 units last week for a new total of 15,381. So again, we're really moving along on weatherization, which is great. On homelessness prevention and rapid re-housing, the next row down, you'll note that we are at 41.8 percent.

So we're definitely on pace as we need to be for that program.

CSBG, it says that we are 89 percent expended. And we're actually drawn for that amount. So we have 10 percent left.

The good news is this is one where we need to be fully expended by the end of this month. However, they'll have a couple months where they can still bill and do invoices. And we've been working very closely with the subrecipients.

We generate a report and the subrecipient who until

last week was the most poorly performing, which sadly was the City of Austin -- they were at 50 percent -- just yesterday entered a huge batch of invoices and documentation and just bumped up to 80 percent. So they're really, you know, delivering on some pressure that we're putting on them, and so we feel very good about CSBG, as well.

And then TCAP, the information in here is correct. There's nothing to update specifically from your board materials.

And then Exchange, I would note we've actually executed 71 contracts as opposed to 70, so we're at 82 percent of all of those agreements actually being executed.

And as you'll see -- and I think this is a really great figure, as well -- on that total column out of 1.1 billion, we've now drawn through our system 255 million. So we're over 20 percent of all of our cumulative ARRA, even for programs that are going to be two or three years long.

So -- and that number has actually gone up a little bit since this report. We're actually at 257 million. So --

MR. GERBER: Brooke, let me just highlight, just because I think it's important to draw out some of the negatives.

First, with the Community Services Block Grant, we have two subrecipients that are not functioning at the

moment. The Community --

MS. BOSTON: Action Program.

MR. GERBER: -- Action Program, Inc. in -- that's based in Abilene. We actually have staff there, and we are trying our level best to expend all of those CSBG ARRA funds that we can by doing a variety of things. But we have staff on the ground there working that program. And the amount of money that's involved there is fairly -- it's fairly small.

MS. BOSTON: Yes.

MR. GERBER: We also have issues with an organization called The Institute for Rural Development, where we have suspended their program. They have received, I think, about \$150,000 from us. And we are trying to work through issues there. But it is probably going to preclude us hitting 100 percent of CSBG. But we will -- by the September 30 deadline. But we will likely hit well over, you know, 97, 98 percent. But there are those two outliers. And we're working with them. Our internal auditor has been involved with those organizations to address issues that exist there. And -- but just wanted to let you know candidly that there are those outliers.

MS. BOSTON: And I would note for this program, this is one of the ones where we are not allowed to federally move the money. So those two entities not being able to finish

up spending -- or us not letting them in this case because we feel like they're a risk and we don't want to put the federal funds at risk -- means we can't move it elsewhere, which is -- you know, if we had that ability we'd definitely actively still shoot for 100 percent, of course. So that would be why we can't achieve it.

MR. GERBER: And I would also add, on the Weatherization Program there are four organizations. Those -- that -- those that I just mentioned. And I would add the City of Austin to that list.

MS. BOSTON: Uh-huh.

MR. GERBER: And we had a chance this week to meet with Mayor Leffingwell and with the City Manager, Mr. Ott. And I think that they are working very much in earnest to address those issues.

We're also working with the City of Dallas. In those cases we have the ability, of course, to de-obligate funds and to move them if we need to. So just to -- and we have, you know, appreciably more time. Those contracts run till next August with those subcontractors.

And then actually, the federal government doesn't take those dollars back until March of 2012. So we will probably start de-obligation, if necessary, over the next 60 to 90 days if we're not seeing an appreciable ramp up.

Because they'll just never hit the numbers that they need to.

Anything else you want to add on that, Brooke?

MS. BOSTON: No, that's good.

MR. CONINE: Brooke, on the TCAP and Exchange Programs we're showing expended to date? That's dollars that have actually gone out the door.

MS. BOSTON: Correct.

MR. CONINE: Is that right?

MS. BOSTON: Correct.

MR. CONINE: And if you were to take -- instead of using the word "expended" and used the word "close" --

MS. BOSTON: Uh-huh.

MR. CONINE: -- what would -- those two numbers -- would you have a guess as to what those two numbers would be?

MS. BOSTON: I don't. But I bet Tom might.

MR. GOURIS: Very close to [inaudible].

MS. BINGHAM ESCAREÑO: In dollars?

MS. BOSTON: So close to the 148,900?

MR. CONINE: So TCAP would go from 28 million to 148 million?

(No response.)

MR. CONINE: I bet that's not right.

MR. GOURIS: Take 35 of the 60 --

MR. CONINE: Thirty-five out of 46. Right?

MR. GOURIS: It's actually going to be six -- we're at 60 now. So 35 out of 60. So about --

MR. CONINE: Sixty? Okay.

MR. GOURIS: So we're just over 50 percent closed with TCAP. We're at 81 percent or something like that with Exchange.

MR. CONINE: Okay.

MR. GOURIS: TCAP is certainly a significant concern for us, because it's got a --

MR. CONINE: I guess --

MR. GOURIS: -- 75 percent --

MR. CONINE: I guess my point would be if a deal's closed and it's just a matter of the construction going on and expenditures --

MR. GOURIS: Right.

MR. CONINE: -- take place, then we're a lot further ahead than the 21.9 percent that it shows --

MR. GOURIS: Right.

MR. CONINE: -- at the bottom in reality.

MR. GOURIS: Right. We're moving -- especially on the Exchange side we're moving some pretty significant dollars every week. It's pretty spectacular.

MR. CONINE: All right. Can you -- next time we see this report can you add --

MR. GOURIS: Yes.

MR. CONINE: -- that to the list --

MS. BOSTON: Yes.

MR. CONINE: -- just so --

MS. BOSTON: We'll do that for TCAP and Exchange.

MR. CONINE: Okay. Thank you.

MS. BOSTON: And actually, I'm glad you mentioned that. If there's anything else, if there are any other fields or pieces of data that you Board members would like to see on here, you know, this is a tool for you. So, you know, we're happy to evolve it however makes it beneficial to what you all are wanting to see. So --

MR. CONINE: On the job creation side can you tell me one more time on the Tax Credit Assistance Program and the Exchange Program, are you getting those by using the NHB formula on multifamily or how are you getting those?

MS. BOSTON: No. It's reported directly from the subrecipients. And so it's jobs that either they -- at the subrecipient level or that they are reporting through the construction on the property. It's not a multiplier. We aren't allowed -- based on the federal guidance relating to the Recovery Act, the state's subrecipients are not allowed

to extrapolate or use multipliers. That's all done only at the federal level. So we can only report up what the subrecipients tell us.

MR. CONINE: Okay.

Any other questions of Brooke?

(No response.)

MR. CONINE: Thank you very much.

MS. BOSTON: All right. Thank you.

MR. CONINE: Now we'll go back to 2(a). Is that correct?

MR. GERBER: Yes, sir. Mr. Chairman, on 2(a) the first is Gateway to Eden. We have an appeal termination of an application for Gateway to Eden, which is Application Number 10270. Gateway to Eden was terminated because administrative deficiencies were not clarified or corrected by 5:00 on the seventh business day that's pursuant to the requirements of the 2010 QAP.

Additionally, the application is also terminated because one deficiency remains outstanding which makes this application incomplete. The applicant has not provided documentation required by the QAP for an experience certificate. And that's a very important part of what we do to make sure that we have well-skilled applicants who are able to get deals across the finish line.

I believe there's some public comment.

MR. CONINE: There is.

Emily Horne? Hang on. Ethan Horne.

MR. HORNE: Right.

MR. CONINE: Come on up. Get a little extra time.

MR. HORNE: Good morning, Members of the Board.

Thank you for your time. As Mr. Gerber mentioned earlier, our application is Gateway of Eden. And we were terminated recently for 42 deficiency items. And in addition, there is one outstanding item, the certificate of experience, that we have not met.

When we received notice of the 42 deficiency items I was out of the country. When I got back -- I got back on the fifth day and was able to get 38 of the items returned by the seventh business day, which still left seven that were not taken care of. We went ahead and filed an appeal to the termination. And at the time of the appeal the only remaining deficiency was the certificate of experience.

When we had first got involved with the -- turning in the application back in February the certificate of experience had some wording that we weren't clear on. We wanted to make sure that we were good to go before we turned this in. And I think -- does the Board have a copy of the letter? I just wrote a letter to the Board. I don't know.

Do -- did you all get a copy of that or not?

MS. RAY: Yes.

MR. HORNE: Okay.

MR. CONINE: Your letter, yes.

MR. HORNE: Okay. On the back of it is a copy of the QAP. And this is in regards to the certificate of experience and the qualifications. And it's under paragraph 1(a). It refers to, That the developer needs at least 200 residential units or less than 200 residential, 80 percent of the total number of units the unit is applying for to build, e.g., you must have 40 units built to apply for 50 units.

So whenever we were preparing for this we thought, you know, that sounds like if we're going to do 17 homes so we'd need to have 80 percent done, which is 14 homes. So we talked preliminarily with staff up front and said, Is this correct on the way to interpret this. And we received, you know, just when speaking with them, they said, That's -- they believed that to be correct. So we went forward with that.

Recently, in speaking with staff, we -- and we did go ahead and turn in documentation that showed that we had the 14 structures that we've completed. Recently, in speaking with staff, we've learned that that was an incorrect way of reading that document and that the correct way of reading the rules were that at least -- paragraph (b), At

least 36 residential units if the development was a rural development. So anyhow, you know, we would not have wanted to go this far and spent this much money to go down this process if we were -- you know, didn't think that we were going to qualify up front. So we were -- maybe didn't do that correctly.

We are asking that the Board maybe give us some clarification or tell us what needs to happen there. If there's a way that we could go forward, we'd like to go forward.

Myself and my family have been working with the City of Eden for quite awhile, over two years. City of Eden has been very helpful, very supportive in working with us on this. They have -- I've gotten -- my family has gone down there. We've gotten to take part in their Fall Fest. I've gotten to judge a barbecue cookoff and enjoyed the fine folks out there. And we would appreciate anything that could be done, as far as to help this program go forward. Just ask that you look at it based on its own merits and not on some -- I mean, not just on technical. That's all.

MR. CONINE: Okay.

Any questions of the witness?

(No response.)

MR. CONINE: Can I hear from staff on a --

Robbye, do you want to come up and clarify the

experience issue?

Or, Raquel?

MS. MORALES: Raquel Morales, Housing Tax Credit Program Administrator. The experience certificate requirements are split, you know, between urban and rural requirements. And I believe the documentation that Mr. Horne submitted in his application was specific to an urban development. However, Gateway to Eden is a rural development. So the minimum requirements for getting an experience certificate is that they have to previously constructed or developed 36 units. And they haven't documented that.

MR. CONINE: Okay.

Any other question?

(No response.)

MR. CONINE: Not --

DR. MUÑOZ: So --

MR. CONINE: Go ahead, Dr. Muñoz.

DR. MUÑOZ: So you're saying that he -- that the -- those who submitted the application misunderstood which evidence of experience they were supposed to satisfy, they are -- they do satisfy urban but they don't satisfy rural, where --

MS. MORALES: Well, they submitted documentation

to satisfy based on an urban development. But their proposed application is not for an urban development. It's for a rural development.

DR. MUÑOZ: All right.

MS. MORALES: And --

MR. KEIG: Might I ask a question --

MR. CONINE: Sure.

MR. KEIG: -- Mr. Chairman?

MR. CONINE: Mr. Keig?

MR. KEIG: During the discussion that you or Ms. Meyer had with Mr. Horne was -- did you talk about the difference between an urban and a rural application and the difference in the rural?

MS. MORALES: I -- yes, sir. I spoke to Mr. Horne. You know, this was after the fact, after the application had been terminated, you know. Discussions previously or during their preparation of the application, I don't know if he spoke with Robbye or -- he didn't speak with me. But I know I clarified it after the fact. Who he --

MS. MEYER: At the beginning it wasn't clarified between urban and rural. So there could have been a miscommunication at the very beginning. The point being now is we still don't have experience -- we don't have sufficient evidence either way. I mean, he hasn't supplied the evidence

to meet the requirements for rural development or for urban.

So, I mean, either way you look at it he still doesn't have the experience to meet either requirement. So we don't have -- we still can't -- even if you gave him the opportunity to say, Okay, we'll let you meet it under the urban guidelines, we still don't have sufficient evidence to meet it under those guidelines. Even if you want to do it that way we still don't have sufficient evidence to do it that way.

DR. MUÑOZ: Did I misunderstand you to represent that you did satisfy (a) of the urban area?

MR. HORNE: That's what I believe.

DR. MUÑOZ: You're under the impression. But have you submitted anything formally to represent that?

MR. HORNE: Yes, I have.

DR. MUÑOZ: So, Robbye, you're saying that nothing's been supplied?

MS. MEYER: We have not issued a certificate to that effect.

MR. KEIG: That wasn't the question. His question was, was something submitted evidencing compliance with 1(a).

MS. MEYER: He has submitted information but he has not submitted sufficient information to meet either one

of them. So we have not issued a certificate either way. That's what I'm saying. He hasn't submitted sufficient information for us to be able to issue a certificate in either category.

MR. KEIG: Okay. Let's just assume for the sake of argument 1(a) was applicable and he could meet -- if he could meet 1(a) he would be okay. What did he submit and why was it deficient?

MS. MEYER: We haven't been able to put the pieces together in order to be able to submit a certificate. He hasn't submitted enough information in order -- the information that has to be submitted. He hasn't submitted sufficient evidence to be able to get that.

MR. GERBER: Robbye --

MS. MEYER: And we -- there's --

MR. GERBER: -- walk him through -- what does he need to submit specifically and what did Ethan not submit?

MS. MEYER: Okay. He has to submit 8609s or he has to submit G704s for completion of a development. And he hasn't submitted that information in order to be able to prove that he's done development. And he hasn't done that.

DR. MUÑOZ: Let me --

Have you done that? Have you submitted those particular -- those specific documents?

MR. HORNE: The -- no. I have submitted certificates -- because I went through the QAP and read what was required. That is what I submitted. Now, 8609s, I know, is one of the items. There were also certificate of occupancies.

VOICE: There's a list.

MR. HORNE: Yes. There's a list of items. And I believe that I've submitted the items for that list. 8609s and the different terms, I'm not as familiar with the terms. But --

MR. GERBER: We're looking for experience in having done tax credit property. And those are the key items that we look for as prerequisites to issuing our certificate of experience and saying that Mr. Horne is qualified. And those were -- those -- that was what was deficient from staff's perspective and why we didn't provide that and why he was terminated.

MS. MEYER: That is correct. And I do believe in the letter that he submitted you in that section of the QAP it actually lists the forms that he could submit. And he hasn't submitted sufficient evidence in order for us to issue that certificate on either one of the persons that he has submitted for that certificate. So we still don't have someone that we can issue a certificate for for this particular

development.

MR. GERBER: And this is a -- it's fair to say this is a key issue for the Department because we want to make sure that we have qualified folks who can prove up that they've got experience, especially in the current market we're dealing with. And also, this is the second time at the rodeo for Gateway to Eden. I know that they submitted last year. And I think in the year --

Is it fair to say, Ethan, that we've -- I think a lot -- you know, a fair amount of technical assistance and other -- we've been trying hard to -- we know and have heard about the strong community support in Eden and we've tried to see if there are some things we can do to help. But, you know, we want folks to be successful in the program. And it's very, very complex. And would you agree that we've tried to do that in addressing deficiencies and other issues along the way?

MR. HORNE: Yes. I -- yes. We have spoken at length with yourself and your staff. And they've been very helpful. The -- go ahead.

MR. GERBER: This is just a hard one that we just do not -- have not been able to figure out how to get this one across absent that certificate.

Tim, anything legally you'd want to, you know add

to the mix?

MR. CONINE: Make sure and state your name for the record.

MR. IRVINE: Hi. I'm Tim Irvine. Yes, in your board materials behind Mr. Horne's letter there's an excerpt from the QAP regarding experience pre-certification procedures.

And in essence I think what we're saying is that the applicable requirement is the one that's there under 1B, basically to prove up at least 36 residential units if the development's a rural development. And that's pretty straightforward.

And then under number 2 there's a laundry list of documents that I understand a person who's not familiar with and experienced in the Tax Credit Program is going to say, Those are just numbers to me. But when you're bringing the experienced partner in they should know exactly what those numbers are and they can provide any one off of that list.

MR. GERBER: And I would just -- and you may be represented by counsel. Maybe your counsel could offer some additional perspective on it. If you are. If you're not --

MR. HORNE: I'm not.

MR. GERBER: Fair enough.

MR. CONINE: Okay. Any further discussion?

(No response.)

MR. CONINE: Entertain a motion.

MS. BINGHAM ESCAREÑO: I -- Mr. Chair, I'm going to move staff's recommendation to deny the appeal. I think probably I speak for the Board in that, you know, the Eden project, we're familiar with it and we'd love to see it happen.

At this point I have to move staff's recommendation because I don't see how at this point we can move forward without that unfortunately.

MR. CONINE: Move staff recommendation on Item 2(a). Is there a second?

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying Aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

I don't think there's anything on 2(b).

MR. GERBER: There isn't. I would just add how, you know, that's a tough one. And we -- a lot of staff time's

been spent with the City of Eden, and we'd like to try to continue to work and provide help. It's hard to do these deals in rural communities. And I'm sorry.

MR. CONINE: Okay. Moving on. I think (b) through (f) there's nothing there. Is that correct? On Items 2(b) through (f)?

MR. GERBER: Yes, sir. That's correct.
Unless --

MR. CONINE: All right.

MR. GERBER: Robbye, Tom, anything late on appeals?

(No response.)

MR. CONINE: Item 3(a)?

MR. GERBER: Mr. Chairman, Item 3(a) is the new HOME Program Rule that was approved for publication in the Texas Register in June. Public comments were accepted through August 9. And one public hearing was held. The Department received three public comment letters and copies have been included in the Board action item. And the public comment that was received was primarily regarding the use of manufactured housing units to provide replacement housing in the various housing programs, as well as match requirements and various provisions of the Homebuyer Assistance Program.

Within the preamble of each subchapter the public

comment was summarized and a reasoned response was provided.

And if a change was recommended it was noted. Additionally, staff recommendations were included to make non-substantive clarifications and technical corrections and all recommended changes are indicated in the black line to the rule that are included in the subchapters.

Staff is recommending the Board's approval of the final orders to adopt the new HOME Program Rule and the repeal of the previous HOME Program Rule.

MR. CONINE: I have one public witness affirmation form. Donna Johnson?

MS. JOHNSON: Good morning. My name is Donna Johnson. And I'm with a company called Grant Works. First, I want to tell you thank you very much for giving me the opportunity to speak to you. I also want to thank Mr. Gerber and his staff for inviting myself and some other consultants that work with these programs to participate in the rural roundtable and really listen to us. We're very pleased with the rules, how they've come out.

And briefly -- I know we all want to get out of here so I'll be real quick -- but I have a letter from the City Manager of the City of West Tawakoni, who participated in this program with the horrible 2006 rules, which made my hair look like this.

And he looked at the new rules and we talked about them. And just briefly he just wanted to say that he's writing to thank the TDHCA staff and the Board for looking at the new rules and proposing the changes that can only help the program run more efficiently.

He realizes that the devil is in the details of implementation, that he feels that the proposed rules and staff's willingness to listen to your constituents and implementation issues can be worked out as we move forward in these. As a city manager who's utilized HOME owner-occupied funds multiple times and as an [indiscernible] board member, I recommend the Board approval of the changes in regard to the Owner Occupied Program by staff. So --

And that is typical from every one of the cities and counties that Grant worked -- personally works with that has dealt with OCC in the past. So good job on your staff.

MR. CONINE: Thank you.

MS. JOHNSON: The one thing -- but there's always a but. Right? I know. The one thing -- and I've already spoken to Ms. Arellano about this -- is that we feel like -- want to suggest that in Rule 53.30(3)(a) it says, The Department will reimburse only for the first time a set of architectural plans are used unless any subsequent site-specific fees are paid to a third party architect

semi-colon.

What we would like to suggest is that we add to that, Or a licensed engineer. And the reason why is that we're all very clear on the architectural part of it but often because of soils or city codes or various other reasons we actually have to have foundations engineered to build these houses. So we'd like to add that. And that's my comment. Thank you.

MR. CONINE: Okay.

Any questions of the witness? Staff, any comments to her suggestion?

MS. ARELLANO: We did discuss this during the roundtables. So this is an acceptable change to us. I would also recommend that we include that change in subchapter E 53.502(a). It's -- the reference that Donna provided was on page 28 of the Board book. And the one that I'm providing is on page 53. So it's just adding after architect the phrase, Or to a licensed engineer.

MR. CONINE: Okay.

Any questions of Ms. Arellano?

(No response.)

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

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray?

MS. RAY: I move staff's recommendation of the HOME rules and the suggestion of the witness and accepted by the staff.

MR. CONINE: Okay. Motion to move and amend Item 3(a). Is there a second?

DR. MUÑOZ: Second.

MR. CONINE: Second by Dr. Muñoz. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying Aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Going to 3(c).

MR. GERBER: Mr. Chairman, Item 3(c) is a discussion and possible action regarding publication of the QAP. I'm going to let Teresa Morales --

MS. MORALES: That's correct.

MR. GERBER: -- lead us through that.

MS. MORALES: Teresa Morales, Multifamily Bond Program. Chairman Conine and members of the Board, the 2011 draft QAP being recommended by staff contains several

recommended changes from the 2010 QAP. But the majority of these changes are organization or clarification. We would like to thank a number of interested and helpful parties for devoting significant time, attention and expertise to this draft QAP in offering thoughtful suggestions.

Staff will, as we will describe in a moment, be recommending that the Board consider approving the publication of this QAP for formal public comment with policy direction to include most of these suggestions. That way the comment and adoption process may move along the necessary tight time line.

In order to provide for the best possible product we ask that the Board approve these changes on a policy level and ask staff to develop the detailed language changes needed.

We would like to make adjustments to the following, which are not currently reflected in the draft QAP before you.

First, on page 22 of the black line, Item 9 under Ineligible developments should be revised to read, Any development which is intended to house seniors -- and that's the part that we are recommending be added -- that is not fully consistent with the definition of a qualified elderly development. Second, on page 23, Fire sprinklers must be in all units. And we're adding, Where required by local code. Rather have local code drive that process than the QAP.

In addition, we received comment as it relates to requiring ceiling fans in all developments. In the draft QAP there is a provision that deviations for good cause by which one or more of the unit standards not provided could be approved by the Executive Director. Third, on page 25, we would like to clarify that a resolution for a Phase 2 that would violate the maximum unit size would be due on April 1 and not March 1 with the application, as it currently reads.

Fourth, on page 26 of the draft we've removed two options for the developments to be eligible for the 30 percent boost, those that qualify for the renewable energy tax credit and developments to be located in a school attendance zone that has an academic rating of exemplary or recognized. These items have instead been included under the scoring criteria.

Public comment was received that expressed a preference for these items to remain in the 30 percent boost section.

Staff does not believe that neither of these increases the cost of the development. However, staff suggests that the draft be revised to allow for renewable energy tax credit with some language that adds to the current architect certification, a statement that the increased cost to the renewable energy item exceeds the value of the energy tax credits to be received.

Staff do not recommend moving the location of

exemplary and recognized schools back to the 30 percent boost because high median income areas already qualify for the boost. Developments in exemplary or recognized school areas are still encouraged through the development location scoring item.

As a somewhat related item staff would like to clarify that any amenities provided such as those that would make them eligible for the renewable energy tax credit must benefit the entire development.

Next, on page 64, three of the lower scoring point categories under Income levels of the tenants that have not historically been utilized by applicants have been removed.

However, based on public comment received and concern over combinations with the rent levels scoring item may be attempted but unrealistic to achieve. Staff is therefore, recommending that the first scoring item relating to income levels be removed and the rent levels, which can be found on page 67 for increase number of 30 percent units be reduced from 5 percent to 2.5 percent.

Next, based on public comment received for commitment of funding from a local political subdivision staff would like to clarify that the draft requires that the application include a letter from the funding entity indicating that the award of funds with respect to the funding

cycle for which the applicant intends to apply for will be made by August 1, 2011. This will eliminate the ability for phantom sources of funds to exist and drag out infusible transactions.

Regarding the list of tenant services on page 68, we would like to add the following to the list based on comments received: specified and pre-approved case worker services for seniors and persons with disabilities and home chore services such as trash removal and quarterly maintenance for seniors and persons with disabilities.

Next, staff would like to adjust the scoring for developments in census tracts with no other existing same-type development, which can be found on page 76, from six points to four points based on public comment. The last few items I would like to mention are those that staff received public comment on; however, staff is not recommending any changes to the draft. I would like to walk through those with you now.

Staff received comment regarding the ineligibility of a developer or principal of the applicant that has been removed, which can be found on page 19 of your draft. Specifically, the comment indicated that the temporary ineligibility for being voluntarily or involuntarily removed was too harsh.

When a developer is removed, whether voluntarily or involuntarily or removal litigation is instituted we believe it is important that the Department be promptly notified and that the surrounding and underlying issues be understood so that we can assess whether the developer ought to be limited as to future deals.

We propose a mechanism under which the removed party would provide staff the necessary information to assess what happened. If the Executive Director recommended debarment the Board would hear and act on that manner -- matter. The assessment and any recommendation to debar would address key factors, including whether the developer had invested more in the development than was taken out, the ability of the developer to address any disputes or other issues via means other than removal and the presence or absence of circumstances beyond the developer's control such as major market changes and the developer's ability to anticipate them.

Next, the credit amount, which can be found on page 24 of your black line, is revised to clarify who is not considered for purposes of attributing the two million CAP.

General contractors who solely provide a guaranty but have no interest or controlling interest in the partnership will not be attributed credits under the CAP. However, the ability

to prorate the CAP based on the partnership between experienced and inexperienced developers has been removed.

Based on a quick survey of other large states staff could not find evidence of a CAP higher than two million or that any other states prorate that CAP.

Next, we received public comment regarding quantifiable community participation or QCP, which can be found on page 61. We wanted to clarify the changes that are reflected in that draft. If there is no neighborhood organization already on record the applicant will now be allowed to provide technical assistance in the creation of and/or placing on record of a neighborhood organization. The scoring of letters has been revised to reflect 18 points for neutral letters and applications where there are no existing neighborhood organizations would receive 12 points.

In relaxing the rules and allowing applicants to provide technical assistance in the creation or placing on record of a neighborhood organization and with the points structured in this way it encourages the applicant to outreach to and even help formalize neighborhood organizations to at least secure either a neutral letter or no letter. In both of these scenarios the applicant will be eligible to receive up to six points for input other than QCP and thus achieve the maximum points of 24 per QCP.

Staff was asked in comment to clarify our recommendations regarding changes to the development location and economic development initiative scoring items, which can be found on pages 73 and 74 respectively. Both of these scoring items are worth four points. We moved the first two items under development and location to economic development initiatives.

Furthermore, we moved a previously stand-alone item, third party funding sources for developments outside of a QCT, underdevelopment initiatives and increased the points to qualify from one point to four points. We added the concept of a high opportunity area as a development location criteria and identified three 30 percent boost items that would qualify for these points. We do not believe there is any additional competitive advantage offered through these two scoring items.

In closing, staff recommends that the Board repeal the 2009 Qualified Allocation Plan and approve the draft 2011 Qualified Allocation Plan for publication to receive public comment with the ability to modify to ensure consistency based on policy directive. And that concludes --

MR. CONINE: Okay. Thank you for that presentation.

I have several witness affirmation forms, as one

might suspect on this topic.

Diana McIver. And she's got some extra time looks like.

MS. McIVER: Diana McIver. And I'm here representing the Texas Affiliation of Affordable Housing Providers. The handout that I just gave you was one that we e-mailed to you a couple evenings ago. But I wasn't certain that everyone had hard copies of it.

As you all know, the Texas Affiliation of Affordable Housing Providers has a membership of over 200 and we represent the professionals in this industry and a wide perspective from investors and lenders and developers and contractors and nonprofits and housing authorities. So we really feel like we are the voice of the industry. We have spent some time this year working on the QAP changes.

And our process as TAAHP is that we can only come before you with the consensus of our membership, and so we -- prior to the draft being produced we actually met with our membership, we had a webinar, we had 37 participants on that.

And so all of the comments that we've given you have been ones that have been approved by that group. If they did not approve it, if there was not consensus then that does not come to our recommendations.

The first of our recommendations deals with that \$2 million CAP issue. And we really strongly believe that the agency should go back to either the -- preferably the 2009 version of prorating that CAP or the 2010 version. The reason for that -- and remember, that in both cases those joint ventures are only allowed as capacity-building joint ventures. And I can sit here and tell you that they work.

And what has happened is that as you heard a few minutes ago, it is not that easy in the State of Texas to get an experience certification. The agency is really looking for experienced developers. And so under this capacity building pro rata CAP that we've had for the past -- I believe the past five QAPs, what that does is it allows an experienced developer to joint venture with an inexperienced developer and to prorate that CAP, either on the development fee basis or on the ownership basis.

I will tell you personally -- and you heard from Grant Works a few minutes ago -- our firm did three capacity-building joint ventures with BETCO.

And BETCO is an affiliate of Grant Works. They at the point in time we started -- our first project was in Jasper in 2006.

And at that point in time they did not meet the experience definition. They know your programs well. They do great

grants. They have wonderful relationships with cities. But they do not meet the experience requirement.

We have done three developments with them in Jasper and in Bowie and in Maybank and because of that today they are a qualified entity and they could get their own experience certificate. And we actually trained them at each and every step of the way. So that is a great test for actually building capacity of more groups out there.

So I will tell you from personal experience another one is the Seton Home Project. That -- it couldn't have been done. I mean, they don't have experience. But we worked with them and trained them and used our experience to get that project done. So it definitely does have a value.

I think it's easier to administer than it used to be in the fact that recently in 2010 the Department went to an experience certificate that follows the individual not the entity. So I think now it's even easier for you to trace the principals involved and really assign that CAP to the principal, you know, to a Diana McIver or to a Kent Conine, not to an ABC Corporation. So I think it's much easier to administer. So our membership strongly believes that that's been an important part of this project -- this program. And to the extent that it has capacity building we're very, very supportive of it.

Our membership also would like to see reinstatement of the -- this was one that, when Shad Bogany was in the board, got inserted in the QAP. And it was a one-time exemption from the CAP for an experienced developer that would partner with a HUB and give the HUB 51 percent ownership. So we also recommend that reinstatement, too.

And our recommendation prior to the new QAP coming out was if a contractor is serving as a guarantor and is not a principal in the deal then to limit that to the fee that the contractor gets as that guarantor. So that's recommendation number one.

Recommendation number two has to do with quantifiable community participation. Our suggestion to the staff was just a little reverse of the one that came out. Our suggestion was to allow 18 points for those situations where you do not have a neighborhood association.

And our reasoning for proposing that in the first place was that is the most inequitable part of the QAP. And that is, if you do not have a neighborhood association you have no way to get to that 24 points. So our suggestion was to leave where you have a neighborhood organization and they are neutral, to leave that at 12 and to allow 18 points where you don't have a neighborhood association and then the 24 where they -- when you have one that supports the project.

So it's similar to what staff is recommending but with a different twist on it.

Our third recommendation deals with local political jurisdictions and the funds that we need from them.

And what we are finding even in the larger cities now is the money's not there. Our cities in Texas are hard pressed for dollars. So what we were recommending and still continue to recommend is a lower dollar amount per unit so that they're easier to achieve and even in rural communities so maybe it could be achieved by waiving a building permit or by doing some infrastructure.

So what we're just recommending -- squeeze the funding so it's a 12, 15 and 18 point item instead of a six, 12 and 18 point item and to lower those amounts to a point that it's more reasonable to get those particular points.

Our recommendation number four -- I think the staff has added back in the renewable energy. We still would recommend a 30 percent boost for the exemplary or recognized school attendance zone, mostly because it is more difficult to develop in those areas with good schools, but it's highly desirable. We appreciate the services. That was one of our recommendation. We appreciate the scoring points on existing same-type developments. That was one of our recommendations.

Ceiling fans, as long as people can go to Mr. Gerber

for a waiver on those I think we'll be fine with that. As long as it doesn't constitute an ineligible project that there's some negotiations there. And recommendation -- fire sprinklers we appreciate.

The rent levels of units. We still have concern on this one. And I haven't -- I understand that staff is suggesting reducing the math from the additional 5 percent to 2.5 percent. Initially, the requirement was so strict that a project where for option one you had proposed to do 80 percent of your 50 percent, then you couldn't add another 30 percent of your 50 percent units to get to -- you could have a project 100 percent 50 percent and not qualify for all the points, which wasn't logical, wasn't mathematically correct.

I still -- just in this time of economic times let us get past the credit crisis, let us get back to reasonable interest rates and reasonable tax credit rates. I really would recommend that we go back to the 2010 version of this.

And it really creates a very healthy mix. I mean, we in Texas, as you look at the 2010 QAP, you are creating an extremely healthy mix of income levels of 30, 50, 60 and market rate units. That's where we need to be.

This program, the Tax Credit Program, is there for working families and for seniors on fixed incomes. And

let's not target so deeply that we can only serve folks who are basically on welfare. We need to be serving working families. That's who the program's for. That's that group from 50 to 60 percent. And it's an extremely healthy mix that you have in the 2010 QAP that you're rewarding people for. And our membership would recommend that you go back to that.

The -- we did make some more comments on the cost of development per square foot. And that including only eligible basis items. I think that's something we can discuss with staff once a QAP is posted. And we also want to work with the staff on the development location and the economic development initiatives to make certain that within each of those categories that we have the ability for rural projects and for senior projects to get those, as well.

An example would be there is a provision in there that if you locate in an area with incomes, I think 10 percent less than poverty, then you get points. But it's only there if you're doing family projects with a certain number of two and three bedrooms. Well, why wouldn't senior projects -- you don't want senior projects in areas of high poverty, either.

So we're going to be working hopefully, with staff to get some of those equalized treatments. But those are

things that once it's posted I think we can continue to work through those and make sure that it's fair. But essentially, those are our comments. We have appreciate working with staff. We want to continue to work with staff. And I'll be happy to answer any questions. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you for your efforts and hard and thought out as they were.

David Koogler?

MR. KOOGLER: Good morning. My name is David Koogler. I'm with Mark Dana Corporation. We're -- we develop affordable housing in Virginia and in Texas. And I just had a couple of things I was hoping you might consider in the QAP. First, let me say I agree with TAAHP's comments.

Just real quickly. One, I noticed that with respect to amendments that have to go to the Board, it looks like those need to submitted 60 days prior to the board meeting where it would be considered.

We try to do these projects so that we don't have to do amendments, but sometimes things come up. And we like to build them fast for all sorts of good reasons. And 60 days, if you have to get an amendment before you can make a change, especially if it's during construction, is a lot

of time. So if you'll give that some thought.

Secondly, I noticed with respect to energy star fixtures, it looks like it's been changed so that energy star lighting, light fixtures are required. In the past the QAP said energy star light fixtures or -- and I forget the wording, but it was wording that allowed the use of compact fluorescent in a normal fixture. And I'd like to see us go back to that.

Requiring energy star light fixtures themselves adds a fairly significant cost. We've done that in a project that we have under construction because we misread the QAP to require energy star light fixtures. And it added probably about \$20,000 just for that item. And it also limits your choices significantly, as to style and, you know, what you have -- be able to put in there that looks nice and that sort of thing.

And then the last thing. I was just curious. And this has been in the QAP for awhile and I've wondered about it. On the experience certification it says that you're required to have experience in the same type of construction.

So if you haven't done a tax credit project with single-family homes, for example, I read that to mean you couldn't get an experience certificate in order to do tax credit projects with single-family homes.

It seems to me that if you have experience building

multifamily housing in this program then it shouldn't really matter whether it was a garden style apartment complex or an elevator-served apartment complex or single-family homes.

The really hard part about this program and the important part is really understanding all the rules in the QAP and, you know, how to get the financing, how to work with investors to sell the tax credits and not so much whether you've built, you know, 20 single-family homes versus 200 multifamily apartments. And that's all I have. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Sarah Anderson?

MS. ANDERSON: Good morning -- or afternoon.

Sarah Anderson, S. Anderson Consulting and S2A Development Consulting. First off, I'd like to say that I agree with the comments made by TAPP and hope that they'll be taken under consideration. I have four items that I'd like to discuss with you today.

The first one has to do with -- and actually, all of these are going to have to do with scoring items. And primarily, it's because in my opinion scoring is where you're dictating policy and the direction of the program as it incentivizes us to do certain things.

Scoring Item Number 7, which has to do with the

rent levels. In doing a little bit more deeper skewing, Diana covered that. But one of the things that I'd like to bring to your attention and one of the reasons I'd like to encourage us to go back to the 2010 language on this is that we went back and ran numbers on the deals that were in the valley that were in El Paso and were rural. And what we found was that with this deeper skewing our deals are going to have -- if they can even pencil out and pay back the deferred fee, what we're finding is they're not going to meet the 65 percent rule that you have in underwriting that has to do with your -- has to do with the income to expense ratio.

So I'm worried that we're setting up a very large portion of the deals to fail our own underwriting tests. So I'd like to ask to go back to the old language and spend the next year maybe looking at this and making sure that there isn't an unintended consequence to rural and valley deals.

The next one's -- the next three have to do with scoring and really trying to set up priorities within the program based on development location. Scoring item number 16 and development location specifically was -- the scoring item that we used to try and incentivize, at least us, as we read it, was to go to higher income areas or better areas of Texas to produce our housing. And it's worked well. It's been census track based for the most part, which meant going

to higher income census tracts or going to low poverty census tracts.

What's been added this time is one item that I think is neutralizing that scoring item entirely. And it's the addition of the third-party funding source in a non-QTC area. If you go back and look historically I believe that's probably a one point scoring item that every application has gotten through the years. So you're taking what was once a census tract in a very targeted point item and now making it where everybody can get it. So I think you're neutralizing trying to get us to go to higher opportunity areas.

The next item has to do with scoring item number 14, which has to -- and in this case it has to do with the pre-application and whether or not you're going to have the same developer and participants as you had at the pre-application and full application. I believe at the last board meeting you did set precedent that it didn't matter as long as the site didn't change, that it didn't matter if the developer changed. And it seems that staff has reversed the Board's direction on that. And we'd like to be able to see -- these deals are fluid. And we need to be able to move people in and out of the deals between pre-application and full application.

And last off has to do with scoring item number

13. This was originally -- there were two scoring items that gave preference or priority to rehab deals. And that now has been neutralized in that you have rehab and revitalization put together, one scoring item, where new construction can get those points. So now we have in essence no priority for rehab deals. I believe that there is in statute some requirements to do some preference to rehab. And I'd like to see that looked at, also. And that's it.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

John Henneberger?

MR. HENNEBERGER: John Henneberger, Texas Low-Income Housing Information Service. Appreciate the opportunity that I was given to serve on the committee that looked at this and to represent a voice of the people who live in the housing. And about 15 hours into the process I began to think I understood the QAP and about 16 hours into the process I realized I probably still don't understand the QAP. But I understand a few things about it. I'd like to talk about those today.

First of all, predictably, I disagree with the owners and developers of the units regarding the rent levels. That -- I believe that it is incumbent upon the state to

try to make this housing affordable to people who need it.

It is a mischaracterization in the extreme to say that rent levels at 30 percent of median family income are affordable to people on welfare. In no city in this state can a person on welfare afford to rent at 30 percent of median family income.

The staff's recommendation to provide additional incentives, scores, scoring criteria is the appropriate way to incentivize the industry to produce units at more affordable rents. The industry comes to you and asks, Don't provide scoring incentives to allow competition for people to come forward with producing more affordable rents. I don't believe that that's good public policy.

I do agree, however, with the industry concerning the question of high opportunity areas. Tenants are concerned about three things, the quality of the units, are they located in good neighborhoods, safe near a good school and can they afford the rents. The way that high opportunity area points are being commingled with the third-party funding points does not provide sufficient incentive in order to drive development into high opportunity areas. And so I agree with Diana and Sarah regarding those questions.

With regard to the question of quantifiable community participation, we believe that quantifiable

community participation as is in the current Texas statute is a severe impediment to fair housing. We recognize that you are constrained by that statute. However, the structure that's proposed in the proposed QAP removes the explicit assumption that the failure of an existing neighborhood association is a neutral response, which we believe is the correct assumption. If neighborhood association doesn't object that ought to be treated neutrally.

The staff solution is sort of, Well, incentivize the developer to go out and set up a neighborhood association so they can get those points. That's a phony solution. If there's a neighborhood association there, it's a legitimate neighborhood association, they can get points. Under the statute you clearly have to honor that. But if there's no neighborhood association let's not go through the fiction of incentivizing developers to create neighborhood associations. Let's just give them the points.

And then finally, regarding the question of comprehensive market analysis, we believe as I've testified every year in the QAP that a third-party market analyst as selected by the developer under the current process undermines the public's belief that those third-party market analysis are truly independent.

We strongly urge the Department to go to the system

which has been adopted and works very well in Florida which is that the market analyst should be randomly assigned from a qualified pool of market analysts and thus -- and look at these expanded factors in the QAP so that we can remove the controversy about some of these questions that neighborhood associations get into about safety and roads, school capacity, things like that.

If you were to require there to be a truly independent market analyst, not one hired and selected by the developer that would be the basis for telling neighborhood associations that there has been independent third-party eyes to assess these factors and it would allow these projects to more fully fulfill the mandate to affirmatively further fair housing and be located in high opportunity areas. Thank you very much.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Donna Rickenbacker?

MS. RICKENBACKER: Good afternoon, Chairman Conine, Board Members, Mr. Gerber. Thank you for giving me the opportunity to speak to you again today.

MR. CONINE: Going to have to speak up now. There you go.

MS. RICKENBACKER: I'm still not talking loud

enough?

MR. CONINE: No, you're going to have to get aggressive.

MS. RICKENBACKER: I'm not known for not talking loud enough.

MR. CONINE: You got to be aggressive with this group.

MS. RICKENBACKER: There you go. My name is Donna Rickenbacker. I'm with Marquis Real Estate Consultants. I submitted to you all a letter this morning with my recommendations and comments to the 2011 draft of the QAP.

Given that I only have three minutes, I thought I would narrow down my comments to a couple of topics that I think with some minor adjustments will affect the changes that we're seeking.

Adaptive re-use is an under-utilized housing activity in the Affordable Housing Program based on the 2010 application logs. And in reviewing the terms of the QAP I found that the provisions relating to adaptive re-use in several instances actually discourages this housing type, especially if the intent is to convert an older, historic building into a residential project that favors tenants involved in artistic or literary activities. This is an allowable, affordable housing development under code.

Municipalities are very supportive of

redevelopment that favors artist tenants, especially in their downtown centers, historic districts and areas that they're seeking to revitalize. And as such, it's been a very successful housing activity in other states.

Projects favoring artists consist primarily of one-bedroom units with large, open work/living areas and as such, would be considered ineligible developments under our QAP, which prohibits projects which more than 30 percent of the total units are one bedrooms unless they're qualified elderly developments. The maximum unit percentages in the QAP is even more problematic when you consider adaptive re-use of historic buildings because they are frequently not large enough to support three and four-bedroom configurations. In order to allow this type of housing I request that the Board consider excluding adaptive re-use developments from this limitation or alternatively, excluding adaptive re-use if it relates to preservation of historic buildings.

Lastly, the QAP acknowledges the benefits and the Department clearly supports historic preservations. But the additional cost of adaptive re-use is treated in the same manner as new construction. The cost of new construction is simply, as everybody knows, not comparable to an adaptive re-use, especially when historic preservation is involved. Therefore, I once again respectfully request that an adaptive

re-use development be treated in a similar manner as -- and be allowed to qualify for the same points as a single-room occupancy with respect to the selection item addressing the cost of the development by square foot. Or alternatively, that the adaptive re-use of historic building be afforded such treatment.

I appreciate the Board's consideration of these recommendations and consider adding these recommended changes to the 2011 QAP for public comment and consideration. Thank you.

MR. CONINE: I'm intrigued by your request because obviously, adaptive re-use of historic or even just old buildings --

MS. RICKENBACKER: Yes, sir.

MR. CONINE: -- is generally not conducive to a typical garden apartment project.

MS. RICKENBACKER: Yes, sir.

MR. CONINE: I'd be curious as to staff's perspective on her suggestion that the adaptive re-use provision have an exemption to the typical one-bedroom, two-bedroom, three-bedroom scenario. Either that -- an exemption -- or how we could provide for an early warning system or an early approval system of a perspective development relative to an adaptive re-use, whether it be,

you know, a slug of one bedrooms or whatever.

You know, you don't want a perspective developer to go through a lot of costs and jump through hoops with local and -- local officials, as well as maybe the neighborhoods.

But the project might -- you know, might be merited. May have -- may be located in a great school district, may be located downtown where stuff needs to happen. So I'm -- I guess I'm curious how staff would feel about that. Or have you flushed that out? Can somebody help me with that one?

MR. GOURIS: Tom Gouris, Deputy Executive Director for Housing Programs. We have done some successful historic rehab projects and they have successfully scored enough points to be awarded, despite not being able to score the points for the cost per square foot and having some of the other considerations that Donna was referring to.

I don't think we've fully flushed out what all those possibilities are. Because generally, it's going to cost more and that hasn't been a policy directive or initiative that you all have shared with us to pursue. We certainly could do that and look at that in the coming year and add that to the coming year's QAP if that's an area that we want to drive down.

I'd be a little bit more cautious about trying to come up with something on the fly today to address all

the different components of adaptive re-use and historic rehabilitation that could drive that kind of a policy --

MR. CONINE: All right.

MR. GOURIS: -- process. But it's something that we could certainly consider. Again, the big picture is okay, we've got a limited amount of credits. This year or next year may be the years to use them more fully with a fewer number of projects because it may be that we have fewer number of transactions that get syndicated. But in normal years, if we ever get back to normal years, I would think we'd want to be as efficient in allocating to maximize the number of units as possible.

MR. CONINE: Okay.

Any other questions of the witness?

(No response.)

MR. CONINE: Thank you for your input.

MS. RICKENBACKER: Thank you.

MR. CONINE: Appreciate it.

Cynthia Bast?

MS. BAST: Good morning. Cynthia Bast of Locke Lord. Before I start, I just want to commend Teresa Morales on the work that she has done with the QAP. There have been many times that I've just wanted to sit down and rewrite the QAP, but the idea seems way too daunting.

And she's had the task and done such a great job of looking at the statute, figuring out what's required, what's discretionary and trying to put something together.

And it was a huge task, and I just want to give her credit for that.

But today I am representing the McDonald Companies of Kerrville, Texas for comments on the QAP.

MR. CONINE: You can sit down now.

MS. BAST: Come on. I've got to be --

MR. CONINE: Just teasing.

MS. BAST: -- an improvement.

MR. CONINE: Just teasing.

MS. BAST: First, we would like to echo all of TAAHP's comments in their letter and Ms. McIver's presentation today, particularly with regard to the QCP and the idea of switching the 18 and 12 points so that you get 18 for no neighborhood organization and 12 for a neutral. In this regard, Mr. McDonald specifically agrees with Mr. Henneberger that incenting the creation of these neighborhood organizations may be a slippery slope that you don't want to go down.

With regard to the debarment issue for removal, we appreciate the staff recommendation that the matter be compiled and considered by the Board. We do think that there

need to be specific parameters for those considerations, as Ms. Morales suggested. Things like money that has been put into the project versus taken out, foreseeability, things like that. We believe that the more objective and the more parameters you can have in making this decision the better off you are, that a subjective process could actually be troublesome.

Finally, they believe that the requirements for signage should be considered. The statutes certainly require notice. Notice is important. But we believe that signage does not affirmatively further fair housing and actually goes in the other direction of putting a great big bull's eye on a piece of property and saying, Look, low-income people coming here.

Finally, the movement of the third-party reports that were originally due on April 1 to March 1 does create an additional burden on the developers and applicants who are trying to put together an already extensive application. And we would request that the April 1 date be maintained. And thank you very much.

MR. CONINE: Do you --

Any questions of the witness?

Didn't -- on the subject of signage, staff, didn't we go to a more friendlier signage approach as to what we

require?

MS. MORALES: The language that's proposed in the draft QAP merely changes the requirements on the template.

So rather than saying, Notice to public and all the information that is currently required, we're proposing that it only state that an affordable -- or that a residential rental development is on its way or could be and that it provides an applicant contact information so that they can obtain more.

MR. CONINE: Number of units or not?

MS. MORALES: No.

MR. CONINE: No number of units. Just --

MS. MORALES: Just that a residential development --

MR. CONINE: -- Here comes Sunny Acres or whatever the name is.

MS. MORALES: -- is proposed and the applicant contact information.

MR. CONINE: A little more marketing approach then?

MS. MORALES: Correct.

MR. CONINE: Okay. Great. Thank you.

Jean Latsha?

MS. LATSHA: Good morning. Jean Latsha with

National Farm Worker Service Center. You know, I don't know if that invitation was for me earlier to talk about housing in the valley. But I didn't take you up on it because I didn't have anything prepared. But, you know, Senator Lucio actually attended our grand opening last summer for housing tax credit property in Edcouch. And I was just there yesterday afternoon and they've got a waiting list that's five pages long. And they're doing great.

And so I just want to thank the Board for that previous award and let you know that it's doing well.

And earlier today, too, you approved a Housing Trust Fund application that will help us build some farm worker housing using the USCA program there, too. So we're doing some more.

MR. CONINE: Great.

MS. LATSHA: As far as the QAP goes, I just wanted to also echo TAAHP's comments and just a couple little minor details to you. I -- as far as tenant services go, there's now different scoring for different services that are provided.

And I would request that GED preparation and ESL classes be given two points. There's only two other services that are given two points right now. It's daily transportation and weekly exercise classes, which I do agree

with. But to give GED preparation and ESL classes that are -- we do those a lot. And those are held a couple times a week and take a lot of effort on the supportive services provider. And to give those the same scoring points as like, a monthly art class or a quarterly financial-planning class, I don't think is quite equitable.

And, you know, it's been a couple years since we've actually put an application together. So I'm not sure if this is going to be relevant or not. But I noticed that the 18 points for income levels, having 10 percent at 30 percent was taken out. And I think that we actually used that. I got the impression that nobody else had ever used it which is why it was being removed. But I would suggest maybe leaving that back in. If nobody uses it, nobody does. But I think we actually did.

And I just want to say, also that I'm pretty happy with the neighborhood organization changes that were made.

And just to throw it out there to you, I know there's been some discussion about two cycles. I know that that discussion is going to be long. But I think it's a great idea.

One thing that I know we've had trouble with in the past is you might find a site that would make a great tax credit property in February but you can't get the seller to wait for 18 months before you're willing to close on the

deal because you're getting it. So it might help out our community to have two cycles. I know that that's a complicated venture. But I just think that discussion could -- should continue.

MR. CONINE: No, you just have to convince staff to do that.

MS. LATSHA: Yes.

MR. CONINE: We'll be fine with it.

MS. LATSHA: I'm all for it. And that's all.

MR. CONINE: Thank you. See, if you can make that sale we'll put you to selling something else.

Scott Marks.

MR. MARKS: Hello. I'm Scott Marks with the Coates Rose law firm.

And like Cynthia, I'd really like to congratulate and express my appreciation to the staff of the agency for doing a complete, you know, reorganization of the QAP which was badly needed. And Tom Gouris and Teresa Morales have done a great job of bringing the various stakeholders and completely reorganizing that QAP.

I love the table of contents now. It's going to be a much more useable QAP with the table of contents and pulling the definitions out and them in a general rule. I mean, that took a lot of work and I really appreciate it.

Just a couple of comments. One, removal of general partners. It's been a bad economy for the past few years. This might be the wrong time to make developers ineligible if they've been removed from tax credit developments no matter what the reasons. And so it might be good to go back to what -- the role we had last year, 3 point -- penalty points for anyone who's been removed. And talk about the ineligibility or debarment in next year's QAP.

I do appreciate that the staff are trying to make some revisions, though to make that work, given all of the many situations, many of which I can tell you, you know, developers just got caught in bad market areas, bad market conditions in the past few years. And they really should not be made ineligible for five years as a result.

The other comment on the QAP is cost per square foot. You know, it -- we really think that we should look at eligible costs per square foot, costs that are eligible for the tax credits, not total costs. Tell you that we had a client that wanted to do all the right things and in Dallas in a high opportunity area, four-story construction, near commuter rail. The problem is that type of construction is expensive.

And the QAP is trying to encourage that type of construction in other areas because it meets so many of our

policy goals. And so with one little change to the cost per square foot just allowing developers to get the points for the eligible tax credit cost per square foot rather than the total cost. We could do a lot more to encourage that type of construction. That's all I have. Thanks very much.

MR. CONINE: Thank you.

Any questions?

(No response.)

MR. CONINE: Tony Sisk?

MR. SISK: Chairman Conine, Board Members, Mr. Gerber, I'm Tony Sisk, Churchill Residential. We develop and operate senior living primarily in north Texas and northeast Texas. I have three points today, all related to the selection criteria or scoring points.

Under quantifiable community participation we support the staff recommendation as contained in the QAP draft. We feel that the statute was drafted to specifically encourage the second-highest point score from proximate neighborhoods that are most impacted by new HDC projects. We worked very diligently to get the support of these neighborhood associations that meet the definition contained in the QAP. So we request that no changes be made in the current QAP draft.

Selection criteria number five, development

funding by local governments. We support the staff recommendation as contained in the QAP draft. We believe the current statute intended to incentivize new developments by encouraging a material amount of funds to be obtained from sources other than tax credits. This allows the use of less tax credits and puts less financial stress on new developments in difficult -- in this difficult financing environment. Again, we request that no changes be made in the current QAP draft with the wording for selection criteria number five.

And finally, selection criteria number 13, community revitalization. We request simply that four words be removed in section 13(c). And those four words are, That has existing housing. We believe that local jurisdictions should be allowed to define land use for their revitalization areas. And we know of several cities that would like to designate areas as revitalization in order to meet fair housing and other mandates. However, these areas are undeveloped land and do not contain any existing housing within those areas. So that by removing the four words, That has existing housing, it would allow more opportunity to meet the city's goals of providing more HTC housing. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Colby Denison?

MR. DENISON: Chairman Conine, Members of the Board, Executive Director Gerber, thank you. My name's Colby Denison with Denison Development. I kind of want to just -- I'm -- I feel like I'm on both sides of the fence on so many different people. So kind of echoing what Tony just said, I do agree with staff on the qualified community participation as it's currently in the QAP. I agree with Tony in that we work really hard to garner neighborhood support. And to go through all that effort and to have, you know, somebody else have no neighborhood support and get the same score, I think that is contrary to the legislation.

On revitalization I kind of was coming up here with the same request to get rid of the existing housing language. I think that again, cities, if they want to claim an area as a revitalization area, I don't think that TDHCA should put any additional restrictions on what's contained in those revitalization areas.

I wanted to agree with TAAHP on the rent levels.

I think it is really difficult right now to finance projects and should I develop in the Austin area where rents are high and we can support some of those lower-income levels and love to do that. I think it's really difficult to do right now.

So I'm just echoing TAAHP.

And then Cynthia earlier talked about removal, and I think one other gentleman, and I thought that was just echoing their sentiments about there are some kind of legitimate -- I've never been removed; it's not an issue I've had to deal with. But I think that there are probably some legitimate situations and circumstances that shouldn't be penalized if partnerships change. Anyway, thank you all for your time.

MR. CONINE: Colby, let me ask you a question on the rent skewing 30 percent number. If we leave it like it's in the draft now and there are certain areas of the estate that have high enough median incomes to create the competitive juices in the subsidy, if you will, of those 30 percent units why wouldn't it be best to leave that in the QAP so that those areas of the state that have those higher incomes can compete in that manner. But all the lower-income areas like the valley, let's say, as a for instance, nobody would even dare suggest that they do that because the -- there's just no way they would be financially feasible. Why wouldn't that work?

MR. DENISON: I think I heard you say that nobody would dare. And I kind of would say that people are pretty interested in first, getting awarded tax credits and hoping for higher tax credit prices. So I would think of a scenario

where somebody would maybe make some assumptions that -- I don't know -- that may make it feasible.

But if they're running against some of your other rurals about the underwriting analysis on the 65 percent ratio and it doesn't work they're not going to submit an application.

So I'd agree with you 100 percent on that. I just -- it's probably circumstantial, the differences. I think it's a great direction to go in when the financial sector turns around and tax credit pricing comes back. I just think that it's -- we're having a lot of trouble out there and hopefully, things --

MR. CONINE: Well --

MR. DENISON: -- are getting better.

MR. CONINE: -- but then when tax credit pricing comes back debt rates will be higher. So you -- that will be the excuse then. I was just -- you know, debt rates can't get any lower, I don't think.

MR. DENISON: And honestly, it doesn't really impact me. I -- either way. But just wanted to kind of voice it.

MR. CONINE: Okay. Thanks.

MR. DENISON: Thank you all.

MR. CONINE: That concludes all the comment we have on that particular agenda item. Why don't we -- you

think we ought to do that now? Okay. Why don't we -- I don't know. I'd rather go ahead and finish this up now. I think I'd rather go ahead and finish this item now while I got stuff written down on my mind. You all want to go ahead and finish now and --

MS. RAY: Yes.

MR. CONINE: Lunch is still ten or 15 -- we're going to take a lunch break and do an executive session at 12:30-ish or so now, based on the way we are. Why don't we open the item up for comments and let's go through staff questions and see if there's anything that the Board would like to amend or change or whatever to the draft QAP.

Remember, I think -- and I'm sure our general counsel would advise us -- this is -- all we're doing here is approving the draft for circulation. And it comes back to us after public comment and some public hearings, I think, for final adoption in November at our November meeting. I'm sure all the comments that have been made here today are going to be a part of the record. And he is probably going to advise us that we can't, you know, pull something out of thin air in November and put it in the QAP. But if it's been mentioned here or has been circulated for discussion in the draft then it's pretty much fair game.

MR. IRVINE: Well, anything that's memorialized

in the draft QAP that's published for public comment can be considered. You don't have to adopt every single item that's put out there for public comment. You can pull items down, you can make a limited amount of non-substantive -- non-material changes to those items as long as the issue that was out there for consideration was fairly presented and disclosed. But you certainly -- once you publish the draft you can't expand on it.

MR. CONINE: Right. Well, why don't we open it up for discussion for the Board. Do you have any comments for staff?

MS. BINGHAM ESCAREÑO: I have a --

MR. CONINE: Ms. Bingham?

MS. BINGHAM ESCAREÑO: I have a couple. Just one was from Cynthia Bast's comments. And it may be just a misunderstanding. On the third-party reports and the deadline changing from April 1 to March 1 did we say that we were going to change it back again or is it in the draft? Will it stand March 1?

MR. GOURIS: No. We -- that was not one we were changing back. We were moving it to the earlier date in part because some of those third-party reports are important for the applicants to see and review before they finish their application. For example, if they find out that the market

doesn't bear the rents that they were proposing and they've already submitted the application they have a disconnect. So --

MS. BINGHAM ESCAREÑO: And then I guess I'm interested in staff's thoughts on the community revitalization and what Tony Sisk and Colby just talked about, about the existing houses. I'm kind of naive. I would have assumed that revitalization meant that it was an area with existing homes. So --

MR. GOURIS: That's what we would have imagined, too. I suspect we put that in there at some point in the past to be clear. What -- I think what they're proposing is that if a property was currently agricultural and it was going to be revitalization to become housing that that would be an option.

MS. BINGHAM ESCAREÑO: Uh-huh. Or --

MR. IRVINE: Yes.

MS. BINGHAM ESCAREÑO: -- industrial or --

MR. IRVINE: Yes. That doesn't sort of speak to --

MS. BINGHAM ESCAREÑO: That's it, Mr. Chair.

MR. IRVINE: Yes.

MR. CONINE: Well, but I tend to side with Tony on this one because I think that -- back to some of the adaptive

re-use conversation we had earlier, there are areas of town that if a local city council decides that, you know, it's kind of funky for people to -- you know, the younger set to move into that area and have restaurants and all that kind of stuff then we ought to have a provision or have the ability for this particular program to go into that, especially workforce housing. So I have sympathy for removing the verbiage of, That has existing housing, in order to make some of that happen.

We still have, you know, a governor on the engine relative to the bedrooms and cost per foot and the like so it can't get totally out of control. But I tend to think that we -- and I don't know how you define, That has existing housing, anyway. If you got one resident in a, you know, six square block area that would be technically housing. So --

MS. BINGHAM ESCAREÑO: Right.

MR. CONINE: -- rather than getting in that box then my as well take it out and see what shows up. So I'd like to see us do that.

Go ahead. I don't want to steal your thunder. You're --

MS. BINGHAM ESCAREÑO: That was it.

MR. CONINE: -- doing great.

MS. BINGHAM ESCAREÑO: That was the extent of my thunder. I'm thundered out.

MR. CONINE: You're thundered out?

Let's talk about the five-year debarment for just a minute. What we have on the books in the 2010 is a three point penalty. Is that correct?

MR. GOURIS: That's correct.

MR. CONINE: And is the three point penalty still in the 2011 or not?

MR. GOURIS: It's not.

MR. CONINE: It went away?

MR. GOURIS: Yes. Can I give you a little background on that? Or --

MR. CONINE: Sure.

MR. GOURIS: Okay. So we've had several developers who we know have been removed. We believe they've been removed for cause. But the syndicator has refused to tell us or say for the record that they forcibly removed, that instead they negotiated a resolution. And in these two cases that I know of that -- You know, one situation this developer took down some bonds, some local bonds and got a tax credit determination notice, closed on the bonds, never moved forward with the development, couldn't make that development work. The development plan

didn't work for the site. Years went by. The syndicator finally removed him, put another developer in, changed the site completely, got that deal developed. That developer came back in for several additional developments. I mean the first developer did. And those deals have fallen on tough grounds. And now with another development that he has he's facing foreclosure.

If we'd have prevented that -- if we'd have been able to catch that the first time, because he was voluntarily or involuntarily removed, and made the case that we believe that, you know, he pretty much walked away from this transaction I think we could have prevented some additional transactions that, while they meet the tests of our feasibility requirements they didn't have the wherewithal, the developer that could actually get the transaction accomplished.

It's very difficult for us -- we hear constantly from the syndicator and lender community that credit quality, that, you know, we need to be evaluating our developers. And yet we get very little support from them when it comes to this issue in particular. Say, This is a developer you shouldn't be doing business with. And we think that some kind of ability, even if it's not a five-year term, maybe a three-year term, but some kind of a requirement that at

least gives us the opportunity to have a hearing or a discussion about their continued qualifications, that either the ED gets to address or that ultimately the Board gets to address would be helpful. Though it could cause some more difficulty, consternation, you know, in this body, it would still be helpful to the overall picture of who's doing deals with the Department.

MR. CONINE: Well, I would be -- I tend to gravitate toward the more objective than the subjective discussion. And I'm not sure we've gotten enough objective criteria placed out there. And I also think the five-year debarment is akin to the SMU death penalty of the football team. I mean, you are just gone. And believe it or not, there are some unscrupulous syndicator out there.

MR. GOURIS: Sure. For sure.

MR. CONINE: So, you know, each case is different. I understand where you're coming from and, you know, you had a repeat offender and, you know, you could have re-allocated those resources to someone else who would have done a better job and you want to be -- you want to try to catch that if you can if it's possible. You know, maybe -- and I -- the last thing I want to do is put another layer of responsibility on this particular board. But maybe staff could make, I guess, a case for a debarment of a particular

developer for a particular reason and the Board could then decide what they wanted to do up to a five-year debarment.

And that way that would give us the flexibility of doing nothing or letting them stay in or have one year sitting on the sidelines or two years or whatever the case would warrant in that particular case. What would your thoughts be to something like that.

MR. GOURIS: And taking that one step further, that -- if that went to the Executive Director first and no debarment was recommended at all then it wouldn't have to come before you. But if he agreed with the debarment then it would move on. So there would be a level of review even before, you know, staff's basic recommendation.

MR. CONINE: Now, this is only in the case of removal? Is that correct? So if a sale is created --

MR. GOURIS: Correct.

MR. CONINE: -- a general partnership sale, we've got --

MR. GOURIS: Correct.

MR. CONINE: -- other ways to deal with that.

MR. GOURIS: Correct. And we approve sales on a regular basis.

MR. CONINE: Right.

Board have any feelings about that? Does that

sound like kind of a middle ground that --

MS. BINGHAM ESCAREÑO: Uh-huh.

MR. CONINE: -- at least the development community would at least have the Board to appeal to in a particular case.

MR. GOURIS: And so what we can do there is work with counsel and develop some language that goes into the draft and then take the comment on it. And if there's things that we need to adjust from there --

MR. CONINE: Right.

MR. GOURIS: -- in November we'll be able to adjust back, I believe. Is that right, Tim?

MR. CONINE: Yes.

MR. IRVINE: We essentially like the Board in their action, assuming they approve publication of a draft QAP, to include specific authorization to staff to flesh out a concept consistent with the policy you just articulated.

MR. CONINE: And I'd like to again, have some more objective criteria listed if we got time to think of some.

MR. IRVINE: Well, you know, that presentation Teresa gave had an awful lot of information.

MS. BINGHAM ESCAREÑO: Uh-huh.

MR. IRVINE: But I believe she did enumerate at least three specific criteria like, Did you put more money

in than you took out, Did market change occur that, you know, was something beyond your control and, What was your ability as the removed party to deal with the other parties to reach some other resolution such as a sale.

MR. CONINE: Okay. I mean, I could sit here and go on. The -- let's talk about the deep skewing and the 65 percent expense ratio.

Tom, do you have any -- with your longstanding experience on underwriting --

MR. GOURIS: One of my very favorite subjects.

MR. CONINE: Yes. Do those two subjects --

MR. GOURIS: Well --

MR. CONINE: -- conflict?

MR. GOURIS: -- they, in fact, do. And purposefully so. You know, the idea behind the 65 percent expense-to-income ratio, the idea behind the long-term affordability, the idea behind financial feasibility is point chasing can lead to -- you know, in its ultimate end, if you chase all the points you're going to end up with a project that doesn't work. There's no guaranty that if you choose all the points that doesn't mean you've got the best project that's going to work. It just means you scored the most points. It may not be at all financially feasible. That's why we do financial analysis on a transaction.

The 65 percent expense-to-income ratio is a really easy task for folks to figure out, Hey, I'm deeper and targeting too far, I can't do that in this market. It's a really easy test. That's why we developed it and that's -- it's been fairly successful. There are probably better, more complex tests, but that one's a pretty easy one that everyone can see quickly that, Hey, I got to back off of the 30 percent units.

Now, as far as the deeper rent targeting goes, I think we've got some miscommunication going on, because I think the things that we've adjusted there -- on the income side we've taken away three scoring criteria. One Jean mentioned was one that she thought she utilized. We didn't think anybody utilized it. If folks want that one back we'll put it back. It's not -- it's a lesser point total. It's an 18-point thing. That's not a big deal.

It was a combination of the top scoring of -- there are two top-scoring items. And one of them is 80 percent at 50 percent, and the other one is 40 percent at 50 percent with some 30 percent units.

Most folks choose the second one. They score the same. If you choose the first one, you're really not going to be able to do a whole much more deeper rent targeting. That's been the -- that was the case last year. It's the

case this year. What we're proposing now is -- well, what Teresa mentioned in her notes was to take that first one out, because that just complicates the matter and to take that out.

On the rent side of things what we've done frankly, isn't to deep-skew further. It's to deep-skew less. Instead of requiring 10 percent more units to get points at 50 percent we're only requiring 5 percent more units at 50 percent to get the points. And we're increasing the points from one to two. So we're making it -- we're less deep rent skewing, which --

John, I'm sorry. That -- I don't know if you -- I don't think you caught that, either, because I think you were --

I get where the arguments were going, but --

MR. CONINE: Well, he admitted he was slow earlier.

MR. IRVINE: Yes. But we did that so that we could make deals more financially viable in these times.

The second thing that Teresa mentioned in her speaking notes was that I think we would -- since we moved the 30 percent rent level -- I'm sorry -- the amount of 50 percent units we moved from -- that you needed for rent levels from 10 percent to 5 percent. We moved the amount of 30

percents or we're recommending now today that they move from 5 percent to 2.5 percent, making it easier to do a few more 30 percent units and get it in to be financially feasible to get the maximum points.

So I'm not sure -- beyond that, I'm not sure where the change -- the confusing change is to make that -- that we've made that more difficult. Because our intent was to make it easier. And --

MR. CONINE: All right.

MR. IRVINE: -- I guess I need to --

MR. CONINE: Refresh my memory then on financial feasibility, our underwriting guidelines reflective of deferred developer fees. Because I don't want -- my vision -- what I see happening is you got folks that would like for us to serve lower-income populations. Yet you have lenders and syndicator that want our developers to be more financially feasible. In order to get the lower-income populations you got to defer all your developer fee and that then starves the developer from being financially capable himself. So what do we allow? Do we allow 100 percent deferral in your underwriting scenario or not? I can't remember.

MR. IRVINE: I think it's still possible to have 100 percent deferred developer fee in a transaction in a very

robust market without a lot of competition. It's much more likely -- it -- it's -- you know, we saw plenty of bond transactions that were able to get done in years gone by with 100 percent deferred developer fee because they were using variable rate, short-term financing structures.

I don't see that in the near future happening. I don't see transactions with significant amounts of deferred developer fee getting done. And we haven't seen -- and you can ask -- maybe Brent would be a better measure of this -- in the past year if the deferred developer fee levels were as high as we've seen them in previous years.

One of the things that happened with the Exchange and TCAP Program is most of the deferred developer fee issue was resolved with the additional funds from either Exchange or TCAP, at least as they were presented to us. The deferred developer fee numbers went way, way down.

MR. CONINE: Some of the syndicator letters I've seen recently are requiring 100 percent deferred developer fee. And I don't think that's prudent.

MR. IRVINE: I think that's not prudent to say --

MR. CONINE: And so in order to -- and I may be talking about this at the wrong point in time. Is it in the QAP or is it -- would it be over in the underwriting --

MR. IRVINE: It -- well, there's not a restriction

on the -- the only restriction on the amount of deferred developer fee in the underwriting rules, which you have already actually approved for publication --

MR. CONINE: Right.

MR. IRVINE: -- is that the amount of deferred developer fee has to be repaid, has to be able to be eligible to repay in 15 years, I believe, at zero percent. So -- out of cash flow.

MR. CONINE: Right.

MR. IRVINE: So -- and that's been a rule that we've had for years and years.

MR. CONINE: Right.

MR. IRVINE: I think it's probably too generous of a rule but it's been what, you know, everyone has agreed to. I think we could be a little bit more conservative --

MR. CONINE: You're going to get booted out of here if you say that.

MR. IRVINE: Well, I think it could be more conservative in these times, as far as, you know -- we know that when we start with a project what we've seen is what we started the application -- things always seem to get worse from there. You know, there's high expectations with the application. It's a -- more of a dream picture of what it's going to be. And as things get -- evolve and materialize

more, you know, Oh, shoot, we got to include this or, Oh, shoot, this lender needs this or, Oh, shoot, this syndicator needs that.

MR. CONINE: All right. So we've got low-interest rate environment for debt purposes, but we've got low syndicator prices.

So if we were to suggest in the QAP that no more than 50 percent of the developer fee can be deferred to determine financial feasibility are we endangering the policy approach of trying to hit a few more 30 percent units?

MR. IRVINE: Potentially, yes. I think -- the other -- the tack that we've taken addresses the concern. I think we could certainly, you know, add to our underwriting criteria or at least, our reports, just a heads up that this is over 50 percent and that's a cautionary issue.

But by itself, having 50 percent deferred developer fee isn't a death knell for a transaction. It's a frustrating situation for a developer, I'm sure. But they -- you know, we see lots of transactions get done that way. So I don't know that we would have to put such a -- I think we've got enough criteria in place to address what you're looking to do. But we're glad to do it if -- we can --

MR. CONINE: Yes. I'm going to suggest we add it to the draft QAP for circulation. Let's get some comment

on that --

MR. IRVINE: Okay.

MR. CONINE: -- on the 50 percent developer -- deferred developer fee. Because I really believe in rehabilitating the balance sheets of the developers out there because they've had three years of just tough times.

Granted, Exchange and TCAP helped provide some relief. But I see too many lenders/syndicator putting the squeeze on these folks. And especially when it comes to the nonprofits of the world. They need their kitty replenished, as well. And the only way to do that that I can see from, you know, all the participants in the process is for the Agency to require it.

MR. IRVINE: Could I just make sure I've got it clear? We'd have a prohibition on submitting an application with over 50 percent deferred developer fee? Or would it be an underwriting task that after underwriting's complete the deferred developer fee can't exceed 50 percent?

MR. CONINE: I don't think the submission of the application, which includes the sources and uses and should include a syndicator letter, which it does typically, would require -- would be eligible unless it required more than the -- unless it required less than 50 percent.

MR. IRVINE: Okay.

MR. CONINE: It would be ineligible if it required more than 50 percent.

MR. IRVINE: It's an application test, not a underwriting test is what --

MR. CONINE: Correct.

MR. IRVINE: Excellent. We can do that.
That's --

MR. CONINE: And I'm just putting that out for comment.

MR. IRVINE: Sure.

MR. CONINE: And we'll -- you know, I might change my mind two months from now. But let's just see what happens.

MR. IRVINE: Okay.

MR. CONINE: Ms. Anderson's item on scoring item 13, where we've taken away the incentive to do rehab versus new construction -- or at least, that's the allegation in her comment -- can you -- I mean, I remember us elevating the rehab up to the maximum points allowed by 2306 several years ago so that we could get more rehab to new construction. Is that -- have we taken that away based on what we're changing or not?

MS. MORALES: What we did with regards to the rehab is that it used to be a stand-alone scoring item that was worth three points. What we've done is we have kept that

intact and just lumped it into the community revitalization scoring items. Still worth three points. Statute doesn't designate what the point association needs to be.

MR. CONINE: I thought it was six points at one time.

VOICE: It was.

MR. CONINE: So you took it away from me and I didn't even know it. Okay. Go back to -- again, her comment was it puts it on a -- you know, *pari passu* with new construction. Is that a true statement or a not true statement?

MS. MORALES: We've included the option for new construction as a part of that particular item --

MR. CONINE: Right.

MS. MORALES: -- as well as a rehab. So if you still want the rehab points you can qualify for the rehab points under the community revitalization item.

MR. CONINE: That's what I think I would like to see is us still prefer rehab as opposed to new construction. So I'm not sure I know how to --

MS. MORALES: So then --

MR. CONINE: -- structure --

MS. MORALES: -- we would just need to revert -- or swap those points out. So the new construction we can swap

out to three points --

MR. CONINE: Okay.

MS. MORALES: -- and then do rehab at six --

MR. CONINE: Okay.

MS. MORALES: -- consistent with the other
items --

MR. CONINE: That's --

MS. MORALES: -- in that category.

MR. CONINE: That's what I remember was there.

The issue of the QCP and us going out forming new property owner associations or homeowner associations or whatever, I'm a little uncomfortable with that. We don't need to be in that business. It is a slippery slope, I think, as someone suggested. And I'd like to see us just go back to the old language there.

MR. GOURIS: Okay.

MR. CONINE: I'd just --

MR. GOURIS: Well, what they were asking for us to do is go 18 points for no entity and I believe 12 points for a neutral letter versus we had that switched.

MR. CONINE: I'm under the firm belief that there's going to be several folks in this room down at the Legislature trying to get 2306 fixes.

MR. GOURIS: Yes.

MR. CONINE: And this is one of the --

MR. GOURIS: Yes.

MR. CONINE: -- big issues. So let's just not mess with it until they get a chance to mess with it next spring.

MR. GOURIS: So not make any changes to that scoring criteria and not allow any flexibility in assisting neighborhood groups in --

MR. CONINE: That's -- yes.

MR. GOURIS: -- writing the --

MR. CONINE: I want to go back to the way we had it. I think.

MR. GOURIS: Okay.

MR. CONINE: One more year of that and let's see what happens.

MR. GOURIS: Okay. So that would be -- just to be clear, that would be any deficiency responses or anything like that that we have with the neighborhood group the developer would not be allowed to help them submit that? That's where we are --

MR. CONINE: Of existing ones, you mean?

MR. GOURIS: Yes.

MR. CONINE: Yes, I'd be all right with that. I'd be all right with them helping a neighborhood -- an

existing neighborhood group get the right information to us to complete the application and score the points. I'm okay with that. What I don't want to do is incentivize a developer to go out and form one.

MR. GOURIS: Right. Here's the slippery slope there. Often times there are neighborhood groups that exist, they're just not on record. And the developer goes out and helps them get on record. It's impossible for us to tell if that development -- if that neighborhood group actually did exist or did not exist before. But I believe there are lots of neighborhood groups. I live in a neighborhood group that the state has no record of. So I believe there are lots of neighborhood groups that exist like that. So my thought is that it's impossible for us to tell if that group existed or not if they give us some information that they seem to exist and they've helped them meet the obligations of, you know --

MR. CONINE: They're going to have organizational bylaws that have a date on them, aren't they?

MR. GOURIS: They could be 20 or 30 years old that are, you know, somebody who used to live there had and, you know, they just moved on. I mean, I --

MR. CONINE: I -- then I wouldn't call them an official group --

MR. GOURIS: Okay.

MR. CONINE: -- in the definition. If they don't have organizational bylaws with a date on it they're not a group in my world.

MR. GOURIS: I will tell the neighborhood associations that.

MR. CONINE: I mean, a loose knit, just gathering of folks, you know, is just -- doesn't quite get to the line --

MR. GOURIS: Sure.

MR. CONINE: -- for me.

MR. GOURIS: Okay. So as long as they exist but they are -- they can help with filing deficiency things is what you're getting at?

MR. CONINE: Right.

MR. GOURIS: Okay.

MR. KEIG: While you're looking --

MR. CONINE: Yes, go ahead.

MR. KEIG: Do you all have a reaction to the suggestion to bump up GED and ESL classes to two points versus one?

MS. MORALES: I don't know that staff necessarily has an objection to that. Our task when we were going through, with regards to the tenant services and trying to identify the frequency, trying to provide guidance on the frequency

of those -- we were unable to determine exactly what the frequency of those classes being offered would be. And therefore, associate the appropriate number of points to it.

But as public comment indicated, there was -- it's time consuming on the part of the service provider.

MR. CONINE: Couple of comments. The amendment 60 days ahead of a board meeting. I do have sympathy for that. Did we change from 30 days or what did we change from?

MS. MORALES: We changed from 30 to 60.

MR. CONINE: Would you have a problem going back to 30? Any big issues? Or was -- so you're just trying to get a little ahead of the game?

MR. GOURIS: Just in the world of NSP and ARRA and HARA we've been --

MR. CONINE: Right.

MR. GOURIS: We have not been able to be as quick on the job as we would like. And it certainly would help us to have a little bit more time and not feel like we're violating our own rules.

MR. CONINE: You want to settle for 45?

MR. GOURIS: We --

MS. BINGHAM ESCAREÑO: Split the difference?

MR. GOURIS: Sold.

MR. CONINE: Okay.

The energy star light fixtures. You know, again, you know, we harp about costs going up of these deals and using up a bunch of credits and here's another, you know, and yet we want green projects and all that. And we've got major light bulb changes coming in the next two or three years.

And so let's kind of let -- I would -- my feeling would be let's let a lot of that flush itself out. Go back to the standard light fixture. And, you know, let's see what happens to the bulb industry before -- and in 2000 -- I think it's 13 they're all supposed to change and the old light bulb's going to go away and we're going to have a bunch of new ones, anyway, for replacement purposes. So I would have sympathy there relative to that.

MS. MORALES: Where staff was coming from with regards to that item had to do on the compliance side and that when compliance goes out and inspects -- because the current reading says that it needs to be energy star --

MS. RAY: Uh-huh.

MS. MORALES: -- or equivalently rated lighting they would expect to have that particular type of light bulb in there. However, if the fixture is itself energy start or equivalently rated it can only handle that type of bulb.

So as opposed to having potential out of compliance.

MR. GOURIS: So they go out to the site and the

light bulb's been changed by the tenants.

MR. CONINE: Right.

MR. GOURIS: It's not in compliance.

MR. CONINE: Right.

MR. GOURIS: And the applicants get busted for a tenant fix that -- yes.

MR. CONINE: Yes. I think we should concern ourselves with what goes in at construction.

MR. GOURIS: Okay.

MR. CONINE: And let's just -- let's keep the cost down for the time being, you know. It may be right to do it a year or two from now but not now.

MR. GOURIS: Okay.

MR. CONINE: I think I'm done. Anybody else have anything else?

Juan?

DR. MUÑOZ: Explain to me -- several mentioned this issue of the proration of two million CAP and they assert that it will somehow reduce the number of less experienced developers to join and partner with more experienced developers. I'm looking at Donna Rickenbacker's points about the ability to prorate the credit cap based on partnerships between experienced -- what was that? What was the thinking behind change -- that change?

And the second point or the next point she makes is about experience certification when combined could minimize or marginalize less experienced developers from becoming involved and competing.

MR. GOURIS: I think the -- I think that it's possible that fewer inexperienced developers will be able to find an experienced developer to participate with because the experienced developers are going to use their credit cap for their own benefits. I think there is the ability, though for an inexperienced developer to partner with an experienced contractor to garner the experience that they -- some of the experience that they need and to garner the financial strength that they might need to get the project completed.

And that's -- the proposal that we've made allows for that whereas previously the general contractor would have been considered had they given a guaranty for the project, they'd have been considered as part of the development partnership to -- or development team to get -- to take part of the cap.

I think it's very difficult to prorate the cap. As much as folks want to say that it's -- you know, it's just what it says in the partnership agreement or it's just what the -- you know, percentage of fee. It's -- it becomes very manipulatable and very difficult to track, quite frankly.

I think, also that the \$2 million cap that the Department has is, you know, as high as it is in the nation.

And we don't see any evidence of other state as pro-rating.

And so I don't -- I think when you think of it from a perspective of a lender and a lending limit you wouldn't prorate your lending limit. It's a liability that you have.

You've parsed out some of your funds in this way to this entity and they're liable for all of these funds. And you wouldn't say, Well, they're only partially liable because they're a partial partner. They're fully liable for those funds. And so we look at it kind of from that perspective.

We also frankly, have concerns with how the statute is written currently and how we've been utilizing that and are just -- we're much more comfortable with the draft recommendation as to a solution to try to facilitate some of that experience, less experience.

Tim, do you have thoughts?

MR. IRVINE: Yes. With respect to the statutory issue, you really got to look at two things. First of all, the definition of an applicant is an applicant is an applicant and any affiliates of the applicant. Second, the \$2 million cap provision in the statute says the Department will not allocate more than \$2 million to an applicant. And since applicant includes affiliates that means that that applicant

and all of their affiliates are capped at a hard cap of \$2 million the way I read that.

MR. CONINE: Any other questions of staff?

MS. BINGHAM ESCAREÑO: I --

MR. CONINE: Any other --

MS. BINGHAM ESCAREÑO: -- just need a -- Mr. Chair, what did we decide to do with QCP? What -- just to -- besides -- I know it's heartburn for everyone. But --

MR. GOURIS: I think the idea was to go back to the -- what's exactly in the 2010 --

MR. CONINE: With the ability --

MR. GOURIS: -- for -- point-wise for the --

MR. CONINE: -- for the developer to actually help --

MR. GOURIS: -- developer to help with deficiencies.

MR. CONINE: -- existing homeowners associations.

MS. BINGHAM ESCAREÑO: And -- okay.

MR. GOURIS: The -- but we want to make sure that the actual submission by the neighborhood is independent of the developer but any deficiency thereof can be assisted.

MR. CONINE: Yes. I mean, those are all volunteer people and they need help. I mean --

MR. GOURIS: Right.

MR. CONINE: -- they're not familiar with us or our processes or our application. And they need some help.

MR. GOURIS: Right.

MS. BINGHAM ESCAREÑO: Okay.

MR. CONINE: Anything else?

DR. MUÑOZ: I'll just mention one thing in the event it comes up later on so that we'll have it on the record if -- apparently, we've removed intergenerational housing as a housing category? So --

MR. GOURIS: We have.

DR. MUÑOZ: All right. Well, should it come up in the future from additional public comment we will have mentioned it at this meeting. And I'll say one other thing about my earlier question. Here's what concerns me. You know, what may be purposefully or coincidentally a methodical privileging of more experienced developers, you know, I heard a case earlier, Eden -- of what may have been -- I don't know -- an expression of inexperience. And we want to encourage more developers, more applicants to compete for these dollars.

But I can't help but feel that there are some because of their resources and experience that somehow become systemically more privileged than maybe other applicants in more disadvantaged parts of the state with greater obstacles.

And what I'm concerned about is whether we do something by policy, purposefully or coincidentally that somehow marginalizes these less resourced, less experienced, equally eager applicants. So --

MR. CONINE: Okay.

MR. GOURIS: I agree. I think he could get a general contractor that has experience to help him complete -- you know, complete the --

MR. CONINE: Yes. And I --

MR. GOURIS: -- process.

MR. CONINE: I think --

MR. GOURIS: And that's -- I think that --

MR. CONINE: I would agree with Tom's comments.

The ability for an inexperienced developer to hook up with an experienced contractor takes away a very large risk profile for a lender and syndicator. Now, if they -- you can have an inexperienced developer that's very wealthy that could then provide the other risk guarantees that syndicator and lenders might require.

But to have the ability to take the construction risk off the table and have all these guys that build units around here provide that to an inexperienced developer and not get dinged with it provides a great deal more activity, I think, and latitude for the inexperienced developer to come

in and partner up with one of those contractors and get a deal done. So I -- I'll -- I think it actually promotes that as opposed to shutting it out. But we'll see. I guess the proof will be in the pudding.

MS. RAY: Location has a lot to do with it.

MR. GOURIS: Can I just mention on the intergeneration issue, we've removed it as a defined area and defined term. It doesn't mean it's a prohibited activity in any way, shape or form. It's just that we weren't comfortable with laying out some of the -- what might be construed as a free pass for -- housing-wise or some other way.

We really believe that that's a very -- it's a very -- folks should be very cautious if they're going to pursue that kind of activity. And we didn't want -- you know, we don't want to overly promote it by having a definition.

I think some folks actually thought that that would -- there was scoring criteria incentivizing that activity in a way.

And I don't think that was what the intent was. It was just to give some bounds to it.

MR. CONINE: Okay. How about a motion, Board? Let's get a motion to approve Item 3(c).

DR. MUÑOZ: Motion to approve Item 3(c).

MR. CONINE: With all the changes.

DR. MUÑOZ: With the changes.

MR. CONINE: Do I hear a second?

MS. RAY: Second.

MR. CONINE: Second by Ms. Ray. Any further discussion?

(No response.)

MR. CONINE: All those in --

What do you want now?

With all the changes that we talked about over the last 30 minutes.

MS. BINGHAM ESCAREÑO: Mr. Chair?

MR. CONINE: Are we clear?

MR. GOURIS: Could -- would it be possible for us to --

MR. CONINE: You want to go through them?

MR. GOURIS: Well, maybe we can create a list of them and --

VOICE: Yes.

MR. GOURIS: -- circulate them or something after --

MS. RAY: Yes. That would --

MR. GOURIS: -- the fact to make sure that we got them all.

DR. MUÑOZ: Pursuant to the presentation of an

appropriate list for review.

MR. GOURIS: Thank you.

MR. CONINE: And the second accepts that amendment?

MS. RAY: I accept that amendment.

MS. BINGHAM ESCAREÑO: That's -- I'm fine with that.

MR. CONINE: Any further discussion?

(No response.)

MR. CONINE: All those in favor of the motion signify by saying Aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

The Board will now go into executive session.

MR. GERBER: The Board will begin its executive session today, September 9, 2010, at 12:50 p.m.

The Board may go into Executive Session Pursuant to Tex. Gov't. 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; pursuant to Tex. Gov't. Code §2306.039(c) to meet with the

internal auditor to discuss issues related to fraud, waste, or abuse;

Pursuant to Tex. Gov't. Code, §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer, including:

The Inclusive Communities Project, Inc. v. Texas Department of Housing and Community Affairs, et al., filed in federal district court; pursuant to Tex. Gov't. Code, §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this Tex. Gov't. Code, Chapter 551;

Pursuant to Tex. Gov't. Code, §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person.

(Whereupon, the Board met in Executive Session.)

MR. CONINE: Call the meeting back to order.

MR. GERBER: Mr. Chairman, the Board has completed its Executive Session of the Texas Department of Housing and Community Affairs governing board on September 9, 2010, at 1:50. No action was taken.

MR. CONINE: Thankfully. Okay. Moving on to item 4(a).

Mr. Gerber.

MR. GERBER: Mr. Chairman, for item 4(a), this is a discussion of the status of applications that were awarded Housing Tax Credit exchange funds, and possible action on extensions, ratifications and awarded remaining exchange funds. The Department has closed 71 of the 86 awards, and 15 remain to be closed.

Although staff has worked diligently with every applicant to close, there are a few applicants that have been unable to meet the deadline. Staff has significant concerns for the abilities of these applicants to complete the developments by the required placed in service deadline of December 31 of 2011, as well as to meet the applicable 1602 exchange program funds distribution requirements.

These are listed in your Board materials with this writeup, as well as an individual and extension request for each applicant. Tom, anything you want to add to that mix? Robbye?

MS. MEYER: There is one that was left off individually, and that was Peachtree Senior. And they are requesting a September 30 deadline. I just want to make sure that that was put in there.

MR. CONINE: Peachtree Seniors, I think, is what she said.

MS. MEYER: Yes. For the closing deadline that the individual listing.

MR. GERBER: Right. And rationale.

MS. MEYER: They were late in getting their lenders together. And so they are just now getting those parties all to the table. But they are

moving forward. And they have anticipated being able to meet the 30 percent expenditure date by the end of the year. And their placement in service by 2011.

MR. KEIG: So moved.

MR. CONINE: Hang on. I have got public testimony. I have got Jan Thompson. Is she here?

(No response.)

MR. CONINE: David Joseph?

(No response.)

MR. CONINE: Scott Marks?

(No response.)

MR. CONINE: Benjamin Farmer.

MR. FARMER: I could answer any questions.

MR. CONINE: Okay. I guess we will just move on. I said an hour. Let's go.

MS. BINGHAM ESCAREÑO: Move to approve staff's recommendation for the extension.

MR. KEIG: Second.

MR. CONINE: Any further comments or discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries. Item 4(b).

MR. GERBER: Mr. Chairman and Board, for Item 4(b), this is a Housing Tax Credit amendment. The owner is requesting approval of a release of a four acre tract of vacant land from the land use restriction agreement. That is on the property.

The owner's original application included, proposed to include a sports complex with a new baseball field, soccer field, basketball court, and covered basketball court. The owner requested an amendment to forego the baseball field and soccer field.

MR. CONINE: Withdrawn.

MR. GERBER: Oh, I am sorry. They have withdrawn.
Okay. Sorry, withdrawn. All done. Item 4(c).

MR. CONINE: Hang on a second. I have got -- it is just mismarked, I guess. Okay 4(c), go ahead.

MR. GERBER: 4(c) I think was already been approved earlier.

MR. CONINE: Yes.

MR. GERBER: So moving on to Item 4(d), Chairman Conine, and Board. At the July 29th meeting, the Board approved the award of final commitments for the 2010 Competitive Housing Tax Credit application round. The list of awards presents to the Board should have included one additional application.

In Rural Subregion Eleven, the highest scoring application,

Artisan at Port Isabel was one of the applications that did not have final underwriting that was complete at that time. There was not enough allocation available in that sub-region to recommend the next highest scoring application, which was Las Brisas Manor. And staff followed the standard procedure and process, and did not recommend that development for an award.

Subsequent to that meeting, the underwriting was completed for Artisan at Port Isabel, and it was determined that there would have been enough allocation in the sub-region to recommend the Las Brisas application before allowing the remaining balance to be added to the rural collapse. The Department has also confirmed additional returned credits from TCAP awards which become available statewide, because they are insufficient to satisfy the need for the next development in the region for which they were originally pledged.

And this will allow all previous recommendations from the July 29th meeting to remain unchanged. Staff is recommending application 10-262 Las Brisas Manor for a final commitment of housing tax credits from the 2010 round.

MR. CONINE: I have no witness affirmations. Do I have a motion?

MS. RAY: Mr. Chairman, I move staff's recommendation.

MR. CONINE: Ms. Ray moves to approve. Is there a second?

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MR. GERBER: Mr. Chairman, Item 4(e). The view of the Board, consistent with Section 2306 of the 2010 QAP are required to establish a waiting list of additional applications, ranked by score, in descending order of priority, based on the set-aside categories for regional allocation goals, concurrently with the initial issuance of commitments for housing tax credits.

The list in your Board materials reflects a list of the applications that have received awards, and applications that remain, that have not been approved by the Board for a commitment of 2010 housing tax credits, and have not been terminated by the Department or withdrawn by the applicant.

And they are ranked by score, in descending order of priority for regional allocation purposes. Staff is recommending that these remaining applications be approved or amended, or amended and approved by the Board today, and accepted as the 2010 Waiting List.

MR. CONINE: Okay. This is 4(d), right?

MR. GERBER: 4(d).

MR. CONINE: I have got several folks --

MR. GERBER: 4(e).

MS. RAY: 4(e).

MR. CONINE: Well, I have got a ton of 4(d)s here. All right. No, I just have one. I am sorry. Breck Kean, here? We just approved your Las Brisas Manor. Are you okay with that?

MR. KEAN: I am fine. Very short.

MR. CONINE: Let's hope so.

MR. KEAN: Which is just to thank you very much for your support and consideration, on behalf of Councilwoman Tina Martinez, and particularly the senior citizens of Del Rio and Val Verde County. Thank you very much for your support.

MR. CONINE: I apologize for missing it. My fault. I will take the lump on that one. All right. Now we are back to 4(e), right? Noor Jooma.

MR. JOOMA: Can I talk after Bobby?

MR. CONINE: Can you talk after Bobby? Bobby Bowling?

MR. BOWLING: Good afternoon, Mr. Chairman, members of the Board, Mr. Gerber. What I am handing it out to you, or what staff is handing to you right now is an updated list, from the regional allocation formula, the short presentation that I gave to you at the July meeting. This is newly updated.

I anticipated that you would take that action on 4(d). So now there are only eight projects on the original list that are still underfunded in the regions. The one that I am here to speak specifically about in 13 Urban, our project, Canutillo Palms has now gone from fifth on the waiting list to fourth,

after your action.

I know you are going to have in the next agenda item or maybe in the next couple of months, a lot of requests for forward commitments. And you are going to hear a lot of compelling reasons to do those forwards. I think typically, staff is going to recommend that those deals not be forward committed, and that the competitive round should stand.

However, I want to point a few things out about this year's round that I think are a little bit unique. First, before I start, you heard from Senator Lucio about the two deals and eleven urban and eleven rural. And this chart doesn't reflect. But eleven rural, I still think is about 3 percent underfunded, even after that 4(d) item. So that should be on here too.

So the two that he spoke to this morning would both be on this list, with his testimony. So having said that, again, getting back to, I think, some special circumstances this year, I mean, I hate to be the bearer of bad news, but I think some of the projects that you have awarded credits to, without an exchange program, are simply not going to get done.

And the normal course of that process is, there is not a whole lot of deadlines for us tax credit developers throughout this process. I mean, we get to go for a long time --

MR. CONINE: Homer, would you open the door back there, so those folks can come in? Thanks. Go ahead, Bobby.

MR. BOWLING: Yes, sir. We kind of half a pretty loose time line as to when we can continue to try to make our deal work. And then finally, when as sometimes it happens, a deal misses its deadline, and placed

in service can't be achieved, the credits come back. But it doesn't come back to the State pool for, sometimes, two or three years after awards.

So what I am speaking to today, and what I want to encourage you, and if you are not going to consider forwards today, or make final action today, is to keep in the back of your mind, that a lot of these awards, from what we are hearing, Congress is more likely not going to pass an exchange program. They are for sure not going to pass a TCAP program again. That is not even in any legislation or any proposed solution to anything.

So please consider giving forward commitments. And if a solution is to forward commit everything on the waiting list, of course, I would be in favor of that. I know staff and maybe the Board has some reservations about doing that again, like what happened in 2008. But I think there is an objective way to look at giving forward commitments. I think Demetrio Jiminez gave me some time too, Mr. Chairman.

MR. CONINE: Go ahead.

MR. BOWLING: But I think the objective way to do it is to look at this Regional Allocation Formula and in most of the regions in the state, or many of them, I took some notes while I was sitting there. There are eleven of the 26 sub-regions that have no deal on the waiting list.

There are five sub-regions out of the 26 that have only one deal on the waiting list. Out of every, of the 26 sub-regions in the entire State of Texas, if you take out Houston, Dallas and San Antonio, no sub-region has more than two deals on the waiting list.

So if you looked at it as a whole, and the impetus in 2008 was I

think, very wise, Mr. Conine, when you said you know, we ought to let all of these developers go and try to get their deals done. Because those of us that are not in the CRA areas of Houston, Dallas, San Antonio, Austin, you know, it is a struggle to get these deals done.

And with credit pricing where it is at, what you approved in July, and I will bring you more information on that one, as I have a chance to analyze it, I think you are about to award the lowest number of units in a long time, for LIHTC. And it is just a function of you know, credit prices so low until every deal meets so many more credits.

So I am here basically to speak, you know about the forest, instead of just my tree. Which again, my tree is number four, Canutillo Palms, on this list. But in a broad policy discussion, I think it would benefit the State of Texas to look at this very closely, and consider taking some maybe, a little different tack with the forward commitments this year. And really look at that in a favorable light.

Is there any questions? I would be happy to talk about RAF again.

MR. CONINE: Thank you for your studious work.

MR. BOWLING: Thank you, Mr. Chairman.

MR. CONINE: Noor Jooma.

MR. JOOMA: Good afternoon, Chairman Conine, Board, Mr. Gerber. I am here to talk about Sulphur Springs Seniors in Region Four. As you just heard from Bobby, and also saw his chart, where he moved up from number five to number four, I'm still number one.

(General laughter.)

MR. JOOMA: Region Four is the most underfunded region. After the award TO the first applicant, there were significant funds left towards a second award. You also heard at the last meeting from Senator Deuell, Representative Homer, and the mayor, watching their unequivocal support for housing in the City that has over 130 applicants in the Section 8 waiting list program, consisting mostly of seniors.

Sulphur Springs is a city that never had any tax credit awards. Please keep the above facts in mind. I once again humbly request the Board to award tax credits to Sulphur Springs. Should for any reason the Board not be able to award credit from this years pool, then to kindly award it as a forward commitment.

I would also like to take this opportunity to thank the staff for the diligent and hard work in a timely fashion in closing the exchange transactions.

Thank you.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Thank you. Jay Chapa.

MR. CHAPA: Good afternoon. I am Jay Chapa, Director of Housing and Economic Development with the City of Fort Worth. I am also the Assistant General Manager of the Fort Worth Housing Authority. And I am here to speak on Terrell Homes, project number 10117.

And last month, I spoke at the Board meeting as a request for the forward funding on this project. And what is being passed out to you

currently is additional information, why we believe this project deserves forward funding.

What you will notice is the location of the project. This is an urban infill project, in a neighborhood that has a tremendous amount of vacant properties. It is supported by the whole City Council. It is actually our number one project that we turned in. We missed the cutoff by a point.

Initially, we believed we had been awarded. But there was a miscalculation on the numbers. And so we lost a couple of points, and fell below the line. The project is the only single family scattered site, affordable project in the state, that applied.

Our goal for this project is to actually be a path to home ownership for those residents that take up tenancy in those homes. The reason the general partner, the forward finance corporation being involved is that we feel that at the end of the day after the 15 years, once the tax credits roll off, that we will have the ability then for those tenants that are in the homes to be able to buy those homes for the debt that is left on them.

And currently, our numbers estimate that it will be about \$30,000 apiece, which would allow them, the tax credits to serve as a funding mechanism for home ownership. The reason this is the number one project for the City of Fort Worth is, we believe we can use this model again and again in future years, and other neighborhoods, in an urban area that need to be infilled.

Specifically, in the southeast part of town, on the west side of town, and on the north side. As you see on the map in there, this

neighborhood is within one mile of downtown, the CDB, and within one mile of the hospital district of the City, which are the two largest employment areas of the City.

So we believe it will be a big draw to workforce families where they can find jobs and live close, and also serve to benefit the neighborhoods and the community in whole, as far as traffic and trying to reduce the amount of time spent commuting back and forth to work.

As I mentioned I think at last week's meeting, this project is endorsed by the Mayor and the Council, State Representative Marc Veasey in the area, and also State Senator Wendy Davis.

So again, I request and ask the Board for forward funding on this project. And we would like to be able to move forward. The City has already approved approximately a million dollars of home funds for the project.

Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you. Councilwoman Kathleen Hicks. I may have mispronounced that. I see you are here. Oh, that is her. Okay.

MS. HICKS: Good afternoon, everyone. Actually, Kathleen Hicks. And I come to you actually not as a council member this afternoon, or as Chair of the Housing Finance Corp. But as a proud South side resident of the City of Fort Worth. One exit from downtown.

But as you can see from the pictures that was presented to you, it might as well be as far away as another world. Because there has

been so much decay in the area. Not so long ago, the area of the south side of Fort Worth was very different. And with your help, I think it could look very much on the rise again.

As a child that was raised in that area, I have watched the decline in that area, so near our downtown corridor. Yet, in recent years, we really think and hope with the promise that we have seen in the medical district and nearby downtown. The problem remains, though, the lack of affordable quality housing in the near South side area.

Funding of Terrell Heights would truly completely turn the chapter for this area. And I am very proud of the work that we have been able to do in the City of Fort Worth, when it comes to affordable housing. But Terrell Heights truly offers something different. It offers that path to home ownership, something that we all know is truly the American dream for so many. But yet, it remains so far off.

These 54 houses, could truly be, no only a significant milestone for that community, but other areas. Not only in Fort Worth, but I think all over Texas. Terrell Heights means a new generation of families that might not ever be able to own their own home, would be able to do so. If this project is approved, it will truly transform this area. And we feel that it can be a model all over.

I passed out to you a number of support letters from state and local elected officials. Our Council and Mayor have been wholeheartedly supportive of the project. Perhaps, most importantly, I have also passed out to you numerous letters from the numerous residents that live in that

community, and support and encourage you to help us begin this new chapter in Southeast Fort Worth.

Not only would we be getting those 54 new houses, but it would also be a community center in that area. That is truly lacking in that area. And again, would bring that new lease on life.

And so with all of that said, I respectfully request funding of this project. I hope that you will make the dreams come true of this community, and let us continue this new chapter in Southeast Fort Worth. Thank you again.

MR. CONINE: Sorry for mispronouncing your name, Ms. Hicks.

MS. HICKS: No problem.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Meghan Garza-Oswald?

MS. GARZA-OSWALD: Thank you, Chairman. And thank you Honorable Board. My name is Meghan Garza-Oswald. I am the Vice President of External Relations at Haven for Hope. And I am here to speak with you on behalf of the Terrace of Haven for Hope, Project 10-114 in San Antonio, Texas.

I won't spend too much time talking about what Haven for Hope does. I know that you have heard a lot from our Board Chairman, Mr. Greehey, our CEO, George Bloch. And I am sure none of you could forget that cute little boy, little Lucky who came to see you guys last month, two

months ago.

What I will tell you is over the summer months, as we begin to commence on transitional housing, we have, are filled to capacity. We have 1,500 individuals living with us today. And our family dorm filled up in 22 hours. So over 250 family individuals came to move in with us in 22 hours.

So I urge you to help us fund this permanent supportive housing. Because it is the final step in their transformation. Our homelessness, we already have 79 non-profit and government agency partners working to transform lives, create jobs, give them job skills, give them job training and education, and really put them on a path to permanent self-sufficiency.

And with that, that final step is that permanent supportive housing, this project is so crucial in a City where our waiting list is long and getting longer every single day, especially with our economy. So I urge you and respectfully request a forward commitment for this project. Thank you.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: All right. Since some of you creatively got on 4(e) before we got to 4(f) and some of you went ahead and put 4(f). And some of you put 4(e) and (f). I am just going to trans -- I am just going to go right on through all the way through 4(f) and listen to all of the public comments, in case anyone wants to know. Walter Moreau.

MR. MOREAU: Walter Moreau, the Director of Foundation Communities. Thank you for the chance to speak. Thank you for your past

support. I am here to speak for our project, Shady Oaks.

And I will try to think of some new fresh way to pitch the project.

The best I came up with was that, if we can't get the credits this year, you know we are going to be back next year, and then I am going to be talking about it every month.

(Simultaneous discussion.)

MR. MOREAU: We are passionate about the project for a lot of reasons. First and foremost, it has got 24 units of supportive housing for homeless families. That is the program that gets the biggest waiting list and calls to our office. And that is not a scoring item. That is ten percent of the units just because it is our mission and our work.

And we are also building a learning center on site. Actually just opened the first day of school. About 100 kids. We make up the majority, between Sierra Vista and Shady Oaks, of that St. Elmo Elementary School. So it is a huge opportunity to work with our partner agencies and create that cradle to college comprehensive set of services.

Austin is the region that sort of has an asterisk by it. Because there was no new project funded in Urban Region Seven. We are third on Bobby's list. We have the second highest score out of 113 applications. So it wasn't a scoring issue. It is just that there wasn't enough credits left in Austin.

And we are the only project in the City this year. The waiting list rules don't help us too much, unless there is a prioritization to the waiting list. Because there wasn't any project in Austin funded this year, there is no

chance of anybody dropping out.

And we are ready. We have already raised \$3.8 million for the project. Those funds are -- some are already received and ready to go. We don't -- we are not waiting on State HOME funds, or exchange. We have got four bidders on the credits.

We just usually appreciate your help and ask for a forward commitment or a priority wait list, because of the merit of the project. Thank you.

MR. CONINE: Thank you. Colby Denison.

MR. DENISON: Chairman Conine, members of the Board, thanks again. What is funny, I am here largely because I am here to ask for a forward commitment.

But earlier, you all listened to me when we talked about the revitalization language. But I am -- Tony out of Dallas, and me in Austin were new construction builders. And we were talking about revitalization language because we thought we were on an equal footing with rehabs finally.

This is the second year I have almost scored every point possible in new construction and not gotten an award. It is just -- it is exactly because the rehabs have a scoring advantage on us.

This is -- I am speaking on behalf of 10-040, The Ashton Senior Village. You have heard from a ton of our -- a ton of support from our neighborhood to senior citizens to the City. I think Chairman Conine, you actually mentioned that you were worried about the City falling apart, because all of their leaders were here. But anyway, we are a high scoring project.

We are a senior project. We are wanted. We scored high. And I didn't really know Bobby Bowling before the last couple of meetings, but I really liked the guy. We are number two on his list.

So I just think there is some really compelling reasons for us being on a priority waiting list for forward commitments. So I appreciate you all's time. Thank you.

MR. CONINE: Thank you. Alan McDonald.

MR. MCDONALD: Chairman Conine, Board. Thank you for the opportunity to speak. I am here representing the Hillside West development in Dallas. I didn't catch the number.

I wanted to seek a forward commitment or other consideration for this project. It is a unique project. And Terri Anderson and Brandon Bolin are here to speak more about the technical merits of it.

But from my perspective as the investor partner, this project is unique, in that it is urban Dallas. It seems to be very difficult in Dallas to get a tax credit project done today. The environment is challenging.

This project is also unique in that it is a seniors in the heart of the four mile city center radius of Dallas. It is adjacent to retail, and employment base for seniors. There is a Walmart and a Lowes within walking distance of it. They have focused senior hiring program. There is restaurants.

It is part of a large billion dollar -- multi million square foot mixed use development that is unique. That will provide walkability features, trails, integrated water features and civic place. And it is a great environment

for seniors.

And in the Oak Cliff area that is located, there is not a great deal of new quality seniors housing. I think this project on those merits receives some consideration. And ask that Brandon and Terri can speak about the technical issues. Thank you very much.

MR. CONINE: Okay. Thank you. Terri Anderson. MS.
ANDERSON: Good afternoon, Chairman Conine, members of the Board, and Mr. Gerber. I am Terri Anderson with Anderson Capital. I am here to speak on behalf of Groundfloor Development who is the property owner and developer for Hillside West, TDHCA number 10-200.

There are two components with regard to Hillside West. It did score a 216. And there were actually four developments that were listed as having scored a 216 in Region Three.

There was comment at the last Board meeting at the award, that one application in particular, potentially could have truly scored a 215 based on the criteria in the QAP, which basically says if you have a preapplication score, in order to qualify for six points, you can't have more or less than a 5 percent increase or decrease to your preapplication score.

So had that been done to the 5 percent criteria and not exceeded beyond that, and rounded down, then they would have scored either a 215 or a 210. And not begrudging any other applicant at all. Just having scored a 216 according to the QAP, I would believe that it would be fair for Hillside West and all others that scored a 216 to actually move forward and receive a forward commitment.

In addition to that, there is another application I was made aware of, that had potentially a threshold issue with regard to the experience certificate, and whether or not that developer, who by his own admission did not have any previous participation. Because although they had had extensive experience as an employee, they did not have any experience according to the experience certification criteria.

And every development does have to have an experience certificate in order to move forward. So just with those couple of components as well as the true score for a 216, I would respectfully request that Hillside West be considered for a forward commitment.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Brandon Bolin?

MR. BOLIN: Good afternoon.

MR. CONINE: Hello.

MR. BOLIN: I have a couple of points I want to make in reference to the Hillside West project. I am one of the principle owners of the Hillside West project.

At the last Board meeting, Chairman Conine said that we have a horse race in Region Three. We have four deals that effectively scored a 216 during the review process, leading up to the allocation in July.

I pointed out at the last Board meeting that of the four deals, one above the line, in the money, and one below the line had not been underwritten. And in fact, I think two to three deals that were above the line

had been underwritten.

So before actually underwriting all of the deals above the line, or the four deals that scored the same score, staff had recommended that over a million dollars be swept from Region Three into the statewide collapse, the statewide pool. My argument was, that it is inequitable for four deals that have scored a 216 to not be given sort of the same underwriting review.

Secondly, as Terry said, we don't want to begrudge any of the other deals that were awarded. In fact, we think that they are quality deals. But we do think that in light of some of the technicalities that have gone on in the scoring, that it is fair and equitable for the four deals that scored a 216 to be awarded a current allocation or a forward commitment.

Thirdly, I want to just say that the project has been endorsed by Representative Rafael Anchia, who is on the Sunset Review Board. It has also been supported by Representative Alonzo. And also, the project has been awarded \$1.6 million in TIP proceeds from the City of Dallas. So it has been supported by the neighborhood and City Council, both City Council, the Council member.

All around it is a good project. That is all I have. And I will take any questions.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Dru Childre.

MR. CHILDRE: Good afternoon, Chairman, Board Members, Mr. Gerber. My name is Dru Childre. And I know that I have been up here in

front of you for the past few months. But it is only because of the importance, I feel, of the issuance of a forward commitment for North Court Villas in Frisco, Texas.

I would like to remind you of a few facts regarding this deal. One thing, the City of Frisco has, I am sure as you know of these items, but they have a population of over 106,000 and are rapidly growing. And have the capacity of 280,000. The median family income of Frisco is over \$100,000. The average home cost is over \$200,000.

The students that will live at the North Court Villas will be attending an exemplary school within an exemplary school district. I know the City of Frisco is well known for their education programs. And they have a great school system there. And this is a wonderful opportunity for kids of low income families to attend the high education schools that Frisco will offer.

We do have the support and financial commitment of the City of Frisco. This town has a thousand, has many people who work in the City of Frisco, but they cannot afford to live in the City of Frisco. And that is the reason why I feel that it is necessary for me to come up here and stress the importance and the necessity of tax credits for North Court Villas.

And hopefully, you will obtain or issue a forward commitment for them. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you. Sean Green? By who? Brian Roop. Yes. Actually, I have four witness affirmation forms, but I assume

only three of you are going to speak? Okay.

MR. ROOP: Good afternoon, Chairman Conine, Board Members, Mr. Gerber. It is a pleasure to speak in front of you today. I am Brian Roop. I with Bank of America Community Development Corporation.

I am here to ask for a forward commitment for the Windwood Seniors Housing Project. That would be number 10-044, I believe. Projects in the at-risk category. It was the highest scoring project that did not receive an allocation. And we would very much love to get a forward commitment so that we can proceed with the project.

I will give you a very brief history of the Parks at Windwood, which is the project we are talking about redeveloping here. The Parks at Windwood was actually redeveloped back in 1993. But originally developed back in the late 1940s, ostensibly for returning war veterans and their families.

It was all built as a two bedroom one bath, community, 484 units. And back about 17 years ago, we were going to redevelop that into 404 tax credit units. And it is still serving its purpose. It is doing a great job of housing low and moderate income families, and has been now for the last 15 years.

But the fact of the matter is, it is aged. And you have a 60 year old infrastructure. You have a certain amount of functional obsolescence that exists with a project 60 years old. And so it is our plan at this point, to completely redevelop the 48 acre site. Yes, ma'am.

MS. RAY: Excuse me, before you go any further, we are

having -- the way our board book is portioned, could you tell us what region you are in?

MR. ROOP: It is in Region Three, but it is in the at-risk.

MS. RAY: Oh, at-risk. Okay.

MR. CONINE: There you go.

MS. RAY: That explains it.

MR. CONINE: Now I have got it.

MR. ROOP: In any event, the project was redeveloped. Again, 15 years ago, but as I said, at this point, it is aged. And there is a number of features that are obsolete, that we weren't able to fix 15 years ago, and certainly couldn't afford to fix now.

And so our idea here, our want is to completely redevelop this 48 acre site with 404 units on that 48 acre site, in a series of phases. What we have applied for this year is Phase One of that multi phase redevelopment plan. And it is 140 units of seniors housing.

I guess I will answer the question that I am sure is on all of your minds; why this development as opposed to all of these other quality developments that are seeking a forward commitment. And let me go ahead and try to explain why I think it is deserving.

One is, there is a significant need, as I said earlier, in the Oak Cliff area of Dallas for good quality seniors housing. There are lots of affordable units in the Oak Cliff area.

I am not sure that I would say there is a lot of quality affordable units in the Oak Cliff area. And this would be a terrific opportunity to provide

high quality seniors housing with services built in, especially for seniors, and help cure some of that need.

Secondly, we have a HAP contract that is expiring. The reason that we are in the at-risk category is we have a HAP contract that expires. It covers 127 of our existing units.

We want to take 30 of those units, pull them out of that contract, and put them on our seniors project, to continue to provide good quality housing for our seniors. And for the remaining units that will be covered in our existing phases, or remaining phases of the project, we will replace or continue to carry that HAP contract forward.

Fifteen percent of the project has been allocated to families at 30 percent or less of median income. So we are trying to reach down and cover families that in fact are at the lower levels of the income strata, and very much an effort to try to reach them.

I guess the other comments that I would make, we have the support of the community. We have the largest neighborhood organization adjacent to the project have come out in support of this project.

We have elected officials in support of this project, which include Councilman Newman, Senator West has very much a proponent of the project, as is Commission John Wally Price. Very much would like to see this project done.

We have our financial commitments lined up. As I said earlier, I am with Bank of America. There is some built in advantage, not always, but some built in advantage to being a subsidiary of the bank. Financing won't be

a problem, nor will the syndication of the tax credits. So we do have that ability to move forward.

We have also secured a commitment by council resolution of about \$1-1/2 million in Section 108 monies which have been committed to the project as well. I guess it was said earlier, or perhaps intimated earlier that the City of Dallas received only one allocation of tax credits in this go-round.

A number of applications were made. But in fact, only one, whether it be in Region Three or in the at-risk pool have actually received an allocation. This would be an opportunity for the Board to award credits to an area, highly urban, very well populated area that certainly needs high quality affordable housing.

Again, a forward commitment from the Board would allow us to move forward on that basis. We are partnering with Central Dallas CDC. You just heard John Greenan, and he will get up and speak here, in a few minutes.

We are looking forward to the opportunity to partner with Central Dallas CDC. I think they are one of the, if not the most preeminent developers, non-profit developers in the City. We have known them for a long time. We look forward to working with them.

And again, we very much would appreciate your support for this project. We think it is clearly a needy project, and one that would make a great difference in the Oak Cliff Community in Dallas.

Thank you for your time. Thank you for your service to the State of Texas. I appreciate it. And I would be happy to answer any

questions.

MR. CONINE: Could you tell me how many units are there now?

MR. ROOP: How many units in total?

MR. CONINE: Uh-huh.

MR. ROOP: 404. Actually, 408, Chairman Conine, 404 which are tax credit units.

MR. CONINE: So only 140 is what we are dealing with out of the 400?

MR. ROOP: Yes. We would be tearing down 117 and be replacing those 117 with 140 new units.

MR. CONINE: Okay. Thank you. Any other questions?

(No response.)

MR. CONINE: John Greenan?

MR. ROOP: Thank you.

MR. GREENAN: Chairman Conine, members of the Board, Mr. Gerber, thank you for the chance to address the Board. I am John Greenan. I am the Executive Director of Central Dallas Community Development Corporation. We are a partner of Bank of America's proposed project.

I would like to just talk for a second in a broader context than Dallas, why I think this is an important project to be completed. As you have heard from other people, and probably for unfortunate historical reasons, Dallas has become a very difficult market to do affordable housing and tax

credit projects.

And one of the things that I think that we need to work very hard to do is improve the perception of the quality of affordable housing, to show that there can be a benefit, not a detriment to a neighborhood. With your help, I think we are making progress with that, at City Walk at Aker downtown.

But the project that we are talking about today poses a particular problem. It is very large, very old. It has 20 more years to run on its LURA. So it is going to remain affordable housing. But if steps aren't taken to improve and correct it, it is going to be rather a black eye on the whole project.

We are fortunate right now, in that we have a party that owns it, that has both the willingness and the capacity to invest money to improve it. If we don't take the opportunity to step forward and really rebuild this property while it is supported by the neighborhood before it becomes a complete problem, I think we would regret it in the future.

The bank has put a lot of money, and a lot of effort into trying to maintain the property. But in fact, it is probably functionally obsolete. And at some point, I am just worried that it will become run down and become a problem, that will be very difficult to fix at that time.

My friends at the bank also, they might not be pleased to hear this. But I think this is a project that is actually better off with a forward commitment than with a direct award. The property is occupied. We will have to relocate all of the current tenants under the Federal Uniform

Relocation Act.

It is going to be a long and difficult project. And this extra lead time, I think will actually prove a benefit to getting this job done, and getting it done well. And I think for those reasons, this is a project that deserves a forward commitment. Thank you.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Barry Palmer?

MR. PALMER: Good afternoon. Barry Palmer with Coates Rose. And I just wanted to make a couple of more points in support of the Windwood Seniors project. As Brian mentioned, this is in the at-risk set-aside.

And the reason it is an at-risk project is because it has a project based Section 8 contract that has expired, and is on a one year renewal. We have a commitment from HUD that if we are able to redevelop this project, that they will give us a long term Section 8 contract. So we can provide long term rent subsidy to a number of seniors in this community.

And we have heard earlier about the desire of the advocates to have more 30 percent units. And the development community talk about how hard it is to develop 30 percent units. But when you have rental subsidy, you can do it.

So this is an opportunity to extend that rental subsidy on a long term basis for the seniors in Dallas. So I would ask you to support the project.

MR. CONINE: Okay. Questions?

(No response.)

MR. CONINE: Richard Washington?

MR. WASHINGTON: Good afternoon, Chair and members of the Commission and Mr. Gerber.

I come before you a third time, asking for something, and that something is a forward commitment for Darson Marie Terrace in San Antonio. This is a senior project that again, three times before has been on the cusp of -- actually twice before being on the cusp of getting an award from you, but having failed for no fault of its own.

It is a senior project. And we have heard a lot today about senior new construction not being competitive with other types of projects in the region. So every year, in San Antonio, except for one, there has been a rehab project being considered, rather than a new construction project.

Like my colleagues before me, and I am not going to go through it. But it has all of the same characteristics, the characteristics of need. You have a low income population in San Antonio that is not being served by quality housing. And that, I believe we can provide.

We also have some other characteristics in that, like our other colleagues, and that is, we have got commitments on debt and equity. Plus, we have a \$740,000 commitment from the City of San Antonio, which this year would be at risk of expiring. And therefore, we would be back into the pool for 2011, competing for these dollars again.

And as you know, we can see here, we don't know the vagaries

of what may happen, what may happen with the competitive pool. I may add that one year, two years ago, you actually did offer a forward commitment for Darson Marie Terrace. But it was the year of chaos going in the market, as well as the fact that you made it a requirement that we have a construction start by the end of the year.

And we just happened in September, we weren't in a position to be able to start construction. So we returned that back commitment. So it was like this bird in the hand we let go out of a sense of integrity, when we knew that we couldn't get started. So we gave it up.

I have come a long way, which I suppose is no excuse, from California to come here. And it is good to be here in South Texas. We have a project down in Mission. So I have been here before. Again, I plead for you to look kindly upon good old Darson Marie. Thank you.

MR. CONINE: Thank you. Appreciate you being here. In the spirit of time, we have some planes to catch this afternoon, and get back. And there is a lot of multiple people on the same project.

So if you could make your comments concise, we would appreciate it. I have one, two, three, four witness affirmation forms on Champion Homes at Candle Creek. Alejandro Lopez, Bill Fisher, John Shackelford, and Robert Onion.

MR. FISHER: Mr. Conine, a couple of the vendors listed as Champion Homes in Minnesota, so there may be others. And I will be the only one that will speak on the matter, unless you deem otherwise.

MR. CONINE: Okay. All right.

MR. FISHER: Good afternoon, Board Members. Bill Fisher with Odyssey Residential. Again, thank you all so much for coming to our ribbon cutting yesterday at the Candlewood Townhomes, and taking your time to tour the housing stock in the Valley with Senator Lucio.

I certainly am pleased that you all had the opportunity to come out and see what we have done to try and meet the needs for affordable housing in the Valley. But most importantly, to see what an enormous unmet need that we have in the Rio Grande Valley for affordable housing.

I passed out a list that many of you saw at the ribbon cutting yesterday. Odyssey and the folks who work with us have been involved in nearly 900 units of affordable housing in the Valley. So our commitment in the Valley is long and established, going back more than ten years.

I am just asking you to take note of all of the residents and contractors who did provide witness affirmation forms, who could not speak today, who are supporting our project. I will remind you, Senator Lucio specifically talked to you this morning about two projects in the Valley that he felt were important. The one in La Feria, and this particular development, Champion Homes at Canyon Creek, which is on Minnesota and Austin, near the Airport area of Brownsville.

Why Canyon Creek? We have done a lot of housing here in the Valley. But frankly, a lot of it has been replacement housing. We have torn down old dilapidated housing stock and replaced units. In many of these developments, we have done rehabilitations. Badly needed, and absolutely the top priority at the time.

But we really haven't done a lot of net new units. And the one thing that you get with this project, is we get net new affordable housing units in this market, which is why Senator Lucio is specifically supporting this project. Unlike many of the other developments which have been sponsored by housing agencies here, or housing authorities, we will pay full property taxes. Which again, I think is fairly unique for the valley.

This is a family oriented project. And surely, the need for family housing could never be greater than it is today, in this particular area. I hope that everybody agrees that the housing need is clear here. I think we have certainly demonstrated to you all that we have community support.

The folks that came here today told you that we need the housing, and we need the work. Should the Board choose to bless us with a forward commitment on this development, we are calling your attention again to a specific issue with our development and the cap, the \$2 million cap.

So in order to fund this project, the Board will specifically have to waive a rule that applies this development to the 2011 state ceiling, as you did last year with Galveston. So again, I just want to call your attention to that, to ensure that we comply with the rules. And we appreciate your consideration. Thank you.

MR. CONINE: Okay. John Shackelford is not going to, Robert Onion, okay. Manish Verma. That is all?

MR. VERMA: Hello. I represent the owner and development for Sedona Ranch proposed Senior Housing development, located in North Fort Worth, Region Three, TDHCA number 10-158. At the July 30th Board

meeting, we requested the TDHCA Board reconsider our application for an award.

Today, I respectfully request our consideration for a forward commitment for our Sedona Ranch application. According to the tax credit law that was published on July 26th as noted on page 2 of your handout, we are in a four way tie for the last two remaining slots to be awarded from Region Three. And based on tiebreakers, Sedona Ranch would be ranked third out of the four tied applications.

One application which is tied with us and has received an award recommendation is Evergreen at Richardson, TDHCA number 10-136. I believe that due to a staff error, Evergreen application was awarded tax credits that were supposed to have been awarded to Sedona Ranch. One of the scoring items in the application is the preapplication participation incentive points.

The facts surrounding this are very easy. In order for any application to earn the preapplication points, which is six points, the total application score cannot exceed 5 percent of the preapp score. Evergreen's preapp score was 169.

Their application score was 178, a difference of 5.3 percent. Thus, their application score, at their own election as well, was to be capped. And their final score should have been reduced by one point.

When we addressed this issue at the last Board meeting, Mr. Gouris of TDHCA responded, and agreed that Evergreen increased their score from preapp to app, and increased their score by 5.3 percent. However,

where staff erred is that they rounded the percentage down, and then said Evergreen didn't go up by more than 5 percent.

We believe that staff's interpretation and implementation of the QAP was incorrect. And the fact that they applied it across the board incorrectly does not justify the original mistake. I am going to skip a few items here, because it will be repetitive to what Cynthia is going to be addressing.

So if you can, if you can look at page 4 of your handout. You will see here, you will find an e-mail that I e-mailed to TDHCA about this very same question previously. TDHCA's response at that time, and at the application workshops over the last several years has been very clear. There is no rounding on this item.

And that to exceed 5 percent, means you either forfeit your preapp score, or cap your score. The language in the QAP has not changed since my e-mail correspondence with TDHCA. And the expectation that the staff would address this issue consistently.

Page 5 of your handout shows the score for Evergreen, shows how the score for Evergreen should have been calculated. I have submitted a Sedona Ranch application before. We submitted it last year. And we were not in line, because we did not get the full support of our community.

So since last August, we have been vigilant about working with the community and the City to garner their support for the project. We have done that. Again, full support from the two neighborhood organizations, Crossings at Fossil Creek and North Brook neighborhood group which has over 800 members. We all worked diligently in navigating through the

application process, contributing time and expenses to submit an application that is competitive, which in this case, Sedona Ranch is.

We all rely heavily on the rules and regulations that are outlined in the QAP, and policy and precedent that is dictated by staff and Board. I understand what is done is done, and we can't change what has happened. Nor are we asking that the award for Evergreen be rescinded.

But as an application that would have been in line for award and has now been adversely impacted by a scoring error by TDHCA, we respectfully request a forward commitment for Sedona Ranch. Thank you for your time.

MR. CONINE: Cynthia Bast.

MS. BAST: Cynthia Bast of Locke, Lord. Briefly again, summing things up. So what we are talking about here, isn't perhaps a little bit different than what some of the other testimony you have heard.

We are talking about what we believe was a fundamental error in the calculation of scoring that impacted this application. As a result, the competing application received an award. Sedona Ranch in Fort Worth did not. Had the scoring been done correctly, we believe Sedona Ranch would have received the award.

It has those magic 216 points that you have heard about from some of the other applicants in Region Three. But it would have been the winner, if you will, on the tie breaker criteria.

This is actually a situation where the QAP is very clear. And thus, I am not quite sure how this happened. But as Mr. Verma indicated, in

order to receive the preapplication incentive points, an applicant must submit an application whose points are no greater than 5 percent of the points on the preapplication.

In this case, the competing application had a differentiation of 5.3 percent. The directions are, that if the application exceeds that 5 percent cap, then staff is supposed to adjust the application score to fit within the cap. Here, instead of adjusting, staff rounded. Staff said 5.3 percent is equal to 5 percent for purposes of this situation.

And what is troublesome, is that if you look at the opening paragraph of Section 50.9(l) of the QAP, which deals with all selection criteria it says, unless otherwise stated, do not round calculations. Staff rounded, and it cost Sedona Ranch its deal. And this situation only came to light shortly before the Board meeting, because of the massive changes that occurred in Region Three due to some of the appeals that were granted and the scoring changes.

We did try to bring this to your attention at the July Board meeting, but perhaps did not do so as clearly or as articulately as we could have. The fact is, we believe that staff was consistent. We believe that staff was trying to do the right thing. They indicated that they did this rounding consistently. But doing it consistently doesn't make it right. It only makes it consistent.

And therefore, given the way we believe this has been done, in violation of the clear language of the QAP, the calculation should not be rounded, we respectfully request relief for Sedona Ranch in Fort Worth and

ask for a forward commitment or if you deem placement on the waiting list so that to the extent that 2010 are available. Thank you.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Thank you.

Graham Green.

(Pause.)

MR. GREENE: I am here to -- it is 10-232. I am here to answer questions. I didn't think the three minutes that we got previously really gave a complete explanation for a very complicated situation in Dallas. I am going to defer to Reverend Clifford. He is going to make a few comments, and then we will be through.

MR. CONINE: Okay.

MR. CLIFFORD: In the church, at least the Presbyterian church, after 21 minutes, people stop listening. And you guys have been at it a long time.

MR. CONINE: Yes. They are going to Luby's.

MR. CLIFFORD: The City of Dallas has over 5,000 homeless people. About a thousand of those people are chronically homeless. There are shelter beds for approximately 1,500 people. Shelters are a temporary answer. With the Bridge, we have transitional housing for 300 people.

The answer to this challenge is permanent supportive housing. In the past six years, there have been 50 units developed with tax credits at City Walk. Great units, great project. And we are praying for their success.

But there is just a desperate need for a lot more.

And MDHCA and DHA are coming up with creative ideas by moving people into apartments. But that creates other challenges for affordable housing. And there is just a desperate need for development of new permanent supportive housing.

And I think our project is a unique example of what that can look like, to help the City of Dallas deal with an amazingly difficult problem. And that is it.

MR. CONINE: Great. Thank you. Any questions? DR.

MUÑOZ: Tell me again, remind me of the name of the project.

MR. CLIFFORD: It is 3800 Willow. Thank you.

MR. CONINE: Mayor Steve Brewer.

MR. BREWER: Good afternoon, Chairman, Board Members, Mr. Gerber. I will try to be brief. Thank you for coming down to South Texas.

And welcome to the Rio Grande Valley.

MR. CONINE: Thank you.

MR. BREWER: As you know, I am in favor of the Sunflower Estates project, 10-151. You all know my story pretty well. I will be as brief as I can, because I know time is short.

When I got elected Mayor, I realized we have a big problem. And it was a desperate situation. After Hurricane Dolly came in, it expanded my problem. I have all of these families that have got displaced, that have moved in with other families.

And now I am really in a desperate situation. So we are here

to plead for a forward commitment. We have got the whole City support. The school district is behind it. And we appreciate your consideration for a forward commitment. Thank you for all your time.

MR. CONINE: Thank you for being here. We appreciate you waiting it out. Sunny Phillip.

MR. PHILIP: Chairman, Board Members, Mr. Gerber. I will make it brief also. This project is really something unique situation happening in the Valley. The generation is getting younger, they are becoming poorer. And also, the farmers keep moving back. So there is a desperate need.

And also if you look at the history from the ten years or so. Most of the work has been in the City of Brownsville itself. Rural areas does not have a real chance. Our non-profit, which is a grassroots level organization is the one proposing it. People in the desperate situation don't have no other place to go.

So what we are asking is, if you have personally seen the situation in the Valley, it is the right thing to do. And we ask for your support for a forward commitment. Thank you.

MR. CONINE: Thank you. Dr. Maria Vidaurri. I hope I didn't mispronounce that.

MS. VIDAURRI: Good afternoon, members of the Board. My name is Dr. Vidaurri. I am with the school district in La Feria ISD as the Assistant Superintendent for Curriculum and Instruction.

And as you can tell, I have probably been out of playpen -- without my realm of expertise. But what I did pick up on, was that

every decision you guys make is so important to employment, to the economy, to families and to the community. What I sat back here and reflected on, was now does this impact children, and the children that come to us? And this is my area of expertise.

And I see like in La Feria, as we walk house by house and check these kids out, and I am sure you guys have been. When you have got two and three families now living in homes, we know that that makes a difference, as educators, when they come to us every day ready to learn.

As we go by, we can look at them, and say you know what, we are not going to make excuses for our children. And nor do we let our children make excuses for themselves. What we can do as educators is sit there, and supply them with, making sure they come with their backpacks, with the stuff.

I have been a Federal Programs Director. Within the realms of what we are allowed, we can provide the supplies. I can put wi-fi in their houses. I can put computers in there. What I can't do is control where they lay their head down at the end of the day, at night.

So we are here to ask as well for your support. We know that good housing, we know that a good stable home with a good environment provides them with the readiness that they need, and with that emotional stability to be ready for academic learning at the end of the day. So I am asking the Board to consider awarding a forward commitment to Sunflower Estates project 10-151 in La Feria, Texas. Thank you.

MR. CONINE: Thank you for being here. Appreciate it.

Fernando Lopez.

MR. LOPEZ: Good afternoon, Mr. Chairman, Board Members and Mr. Gerber. On behalf of our community, we thank the Board for the work that you do for our citizens, for the entire State of Texas.

We are respectfully requesting a forward commitment for Project Number 10-223 Sunset Terrace Senior Village. This is an 80 unit development for seniors in our community.

Thanks to this Board, several years back, we completed 106 elderly unit called Mesquite Terrace. Since then, it has been 100 percent occupied, since day one. And we thank you for that.

Our Mayor, our City Council, our entire community, school board and so forth, all back this project. The entire community is in full support. Again, we thank you for visiting the Valley. And I am asking for your support in a forward commitment for Sunset Terrace Senior Village in Pharr, Texas. Thank you again for your time and consideration.

MR. CONINE: Thank you. Any questions? John Shackelford. Bobby, you are next.

MR. SHACKELFORD: I'll be very brief, Chairman Conine. I am probably on the same flight as you. I am here on behalf of Jeff Spicer. My name is John Shackelford in connection with the Villas of Giddings. And ask for a forward commitment on that project.

Mr. Spicer couldn't be here today because of weather and distance, with his disability. But he asked me to at least ask the Board for consideration in respect of his request that his application be given a forward

commitment for next year. Thank you.

MR. CONINE: Is that -- what region is Giddings in?

MR. SHACKELFORD: It is Region Seven.

MR. CONINE: Seven. Okay. Thank you very much.

Bobby, are you going to pass? Thank you. That concludes, unless I missed somebody, that concludes the witness affirmation forms that I have got.

Board Members, let's take a five minute break just to gather your thoughts and then we will come back in session.

(Whereupon, a short recess was taken.)

MR. CONINE: Ms. Ray is not here, but she will be returning shortly, I am sure. She is here. Oh, okay. Okay. What is the Board's pleasure?

MS. BINGHAM ESCAREÑO: I would like to make a motion on forward commitments.

MR. CONINE: Okay.

MS. BINGHAM ESCAREÑO: For the 2011, in no particular order, Mr. Chair. Number 10-024, Canutillo, El Paso.

MR. CONINE: What is the name? Wait a minute.

MS. BINGHAM ESCAREÑO: Canutillo, I don't know.

(Simultaneous discussion.)

MS. BINGHAM ESCAREÑO: Did I say it right? Okay.

MR. CONINE: The second squeaky wheel over there.

MS. BINGHAM ESCAREÑO: Are you ready? Number 10-117, Terrell Homes in Region Three, Irving. Number 10-114, Haven for

Hope Terrace in Region Nine, Irving. Number 10-152 Shady Oaks, Seven, Irving. Number 10-040 Ashton Senior in Nine, Irving.

Number 10-020 Hillside West, Three, Irving. Number 10-044 Windwood in Three, at-risk. Number 10-158, Sedona in Three. Number 10-232 Willow at Evergreen in Three, Irving. And Number 10-151, Sunflower in 11, Rural. That is my motion.

MS. RAY: I second the motion, Mr. Chairman.

MR. CONINE: You know, let me look at my list.

DR. MUÑOZ: Sunflower is the one in La Feria, right?

MS. RAY: Yes.

MS. BINGHAM ESCAREÑO: Yes, sir.

MR. CONINE: Let me see, here.

MS. BINGHAM ESCAREÑO: I missed one, sir. Can I amend myself?

MR. CONINE: Sure.

MS. BINGHAM ESCAREÑO: Sorry. Number 10-045, North Court Villas, in Three, Irving.

MR. CONINE: I had 10-135 Champion Homes in Region Eleven.

MS. BINGHAM ESCAREÑO: I can be amended.

MR. CONINE: Let me see here.

(Pause.)

DR. MUÑOZ: Where you are looking, did we -- on that list, was there 10-033, Sulphur Springs?

MR. CONINE: No. Is that one you would like to see, Dr. Munoz?

DR. MUÑOZ: Yes.

MS. BINGHAM ESCAREÑO: I am fine with that.

MS. RAY: Which one?

MS. BINGHAM ESCAREÑO: 10-033.

DR. MUÑOZ: Region Four.

MS. BINGHAM ESCAREÑO: Four Rural.

DR. MUÑOZ: Four Rural. And I can find --

MR. CONINE: I am just like Santa Claus, checking my list. Hang on, just a second. Find out who is naughty and nice.

(Pause.)

MR. CONINE: Do I have a second to that motion?

MS. RAY: I second that motion, Mr. Chairman.

MR. CONINE: As amended?

MS. RAY: As amended.

MR. GOURIS: Mr. Conine?

MR. CONINE: Yes.

MR. GOURIS: Oh, here. Sorry.

MR. CONINE: What do you want?

MR. GOURIS: I just need to get clarification on at least one of those transactions, we know would violate the \$2 million cap for this year.

MR. CONINE: Right.

MR. GOURIS: And to the extent that any others, we want to

double check that. But I want to make sure that we understand the Board's direction there to cap -- in a rural, so we count the cap against this allocation round, but count it against next year's allocation round.

MR. CONINE: Next year's allocation.

MR. GOURIS: Is that correct? Just for that one.

MR. CONINE: Just for that one deal.

MR. GOURIS: Or whichever one, if there are any others that do.

MR. CONINE: I think that is the only one that I am aware of.

MR. GOURIS: That is the only one I am sure of, too.

DR. MUÑOZ: Okay. One more.

MR. CONINE: Okay.

DR. MUÑOZ: 10-090, Silver Springs. And --

MR. GOURIS: I am sorry. One more clarification. These are all subject to full underwriting and the rest of the activities, since none of these have -- the majority of these have not been underwritten yet.

MR. CONINE: Mr. Keig.

MR. KEIG: 10-232, 3800 Willow.

MS. BINGHAM ESCAREÑO: It is in there.

MR. CONINE: That is in the game.

MR. KEIG: Great.

MR. CONINE: I thought it was.

(Simultaneous discussion.)

MS. RAY: What is the number you just said?

MR. KEIG: 10-232.

MS. RAY: Yes. That is it.

MR. CONINE: I had it written down here.

MS. RAY: That is it. Yes.

(Simultaneous discussion.)

MR. CONINE: Now, my understanding is that we pass a list of forward commitment, that we also more than likely will get some credits back for this year. And that has the normal waiting list priorities as the QAP states.

But if one of -- if going through the normal waiting list priorities, you hit upon one who maybe on the list of forwards, then this forward commitment reverts to a 2010 allocation. Is that correct?

MR. GOURIS: That is not how it would naturally be done, but you could direct us to do it that way. We would more typically, these forwards are locked in for next year, as we get funds back, it would fall out to the regional allocation, the way regional allocation works.

MR. CONINE: I think I would rather see it work that way, so that we can save as much for next year as possible, and still use up the 2010s. If that is okay.

MR. GOURIS: Well, to the extent that these wouldn't be the next deal on the list, it would be taking them out of order of regional allocation. So you would be harming the next transaction that would have been eligible under the regional allocation point scoring system. But --

MR. CONINE: Well, no. Because all of these are now

currently on the waiting list.

MR. GOURIS: They are. But some of them stand behind higher scoring transactions.

MR. CONINE: Right.

MR. GOURIS: And so if a deal came back. If Region Two has two deals, and you chose the lower scoring one to forward right now, and it has money come back to Region Two --

MR. CONINE: Right.

MR. GOURIS: The higher scoring one would normally get those funds.

MR. CONINE: And that is what I want to happen.

MR. GOURIS: No. You just told me you would want it to go to forward first.

MR. CONINE: No. What I was saying, and your example was this.

MR. GOURIS: Okay.

MR. CONINE: We had chosen the higher one for an '11 forward, and it comes down, then that becomes a 2010 allocation instead of a 2011 forward. It is the same waiting list. It doesn't move one iota.

MR. GOURIS: Okay. So if money comes back in that region, and you chose the lower scoring one --

MR. CONINE: Right.

MR. GOURIS: We still fund the higher score.

MR. CONINE: You still take the higher one.

MR. GOURIS: So we do both.

MR. CONINE: Correct.

MR. GOURIS: Okay. Perfect. That is it.

MR. CONINE: Have you got it?

MR. GOURIS: Yes. Thank you, sir.

MR. CONINE: Okay. Any other discussion, conversation on this particular agenda item?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries. Thank you very much, everyone. We appreciate everything you did.

(Applause.)

MR. CONINE: Thank you. We have one more agenda item. Item 6, Mike.

MR. GERBER: Item 6 is our disaster recovery items. Mr. Chairman, May I ask Sara Anderson and Mike Giroux to come forward to give a quick briefing on the state of our disaster recovery programs.

MR. CONINE: Sara Newsom?

MR. GERBER: Sara Newsom. I am sorry.

(Simultaneous discussion.)

MR. GIROUX: When I was here in June, we committed to the Board that we would have 2,000 homes --

MR. CONINE: Hang on. Please be quiet so we can finish. Thank you.

MR. GIROUX: Mike Giroux with ACS. When I was here in June, we committed to the Board that we would have 2,000 homes completed by Labor Day, the 6th of September. I am pleased to say that we completed the 2,000th home on the 3rd. It was a rehab in Port Arthur. So we are on track.

We are also on track to complete all of the closings by the end of this month, and to complete the program as designed by the 31st of December of this year. We are currently at 2,024 homes. And looking at again, a 31 percent completion rate. That is it.

MR. CONINE: Okay.

MR. GERBER: Mike, just two quick concerns. One is, I know that we have talked about the importance of monitoring for quality.

MR. GIROUX: Yes.

MR. GERBER: And I know you guys are working with us in that regard, to address audit issues and those sorts of things. And that has worked. That would be an issue I know, of interest to the Board.

Second is that we are working with you all to address the concerns raised by the HUD audit to rectify the contract that exists between the State and ACS as our general contractor. And that goes on.

But we appreciate knowing, hearing from you, just your

organizational commitment to get that straight. And you all understand the duty to be responsive to obviously, federal law and regulations, whatever the new and latest interpretation of the law is.

MR. GIROUX: As we committed when the audit report came out, we are committed to working with the Department to reach an equitable solution to that situation. In fact, sir, and I talked earlier today about taking some next steps next week on that.

VOICE: That is great.

MR. GERBER: Real quickly, to Item 6(a).

MR. CONINE: Yes.

MR. GERBER: The City of Houston is requesting an amendment to the CDBG disaster recovery contract to extend the contract to May 31, of 2011. The request to re-obligate the administration funds associated with this contract has been withdrawn, and therefore the Board request is only to approve the extension of the contract.

The City of Houston was allocated \$20 million in the Rita Round Two to utilize under their Housing Safety and Apartment Standards Program. Funds allocated under that program funded two rehabilitation projects. One is complete. The other is about 45 percent complete. Additional time is needed to complete the project, due to some construction sort of delays caused by Hurricane Ike.

At this time, again, only that extension request is being made. And the extension is until --

MS. NEWSOM: May, 2011.

MR. GERBER: And we have made it clear to all that we want to be done with Rita activities and close down that grant. We will be done with our work in rehabbing and new construction by December, January, February.

But this is work that Houston is doing. There is work that Harris County is doing. We want to finish and close out that full grant by summertime. Certainly within this fiscal year.

MS. NEWSOM: That is our goal. Yes.

MR. GERBER: I think there may be some witnesses.

MR. CONINE: John Henneberger.

MR. HENNEBERGER: Actually, I wanted to testify on Item D, I think. The Ike renewal extension.

MR. CONINE: It has got A written on here.

MR. HENNEBERGER: Sorry.

MR. CONINE: Never learned your alphabet? Okay.

MR. GERBER: So with that, I would ask for a motion to approve?

MR. CONINE: Yes.

MR. GANN: I so move.

MS. RAY: Second.

MR. CONINE: Moved by Mr. Gann, second by Ms. Ray. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion,

signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MR. GERBER: Mr. Chairman, just to quickly go back to the item on -- of course, I don't think we approved the wait list. And if we could just get clarification, get a quick motion to go back to that item and approve the wait list, which is Item 4(e).

DR. MUÑOZ: Motion to return to Item 4(e).

MS. RAY: Second.

MR. CONINE: Seeing none, all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MR. GERBER: Going back to Item 6(b) --

MR. CONINE: Wait a minute. We have returned. Now we have got to approve. Go ahead and approve it.

DR. MUÑOZ: Move to approve.

MS. RAY: Second.

MR. CONINE: Seeing none, all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: The wait list is approved. Item 6(b).

MS. NEWSOM: Item 6(b), much like 6(a) is Harris County asking for an extension of their Rita funds to complete the rehab on one of the multifamily developments that they were rehabbing under Rita Round Two.

This motion or this request is also to de-obligate a little over \$2.6 million of funds that they cannot use for a multifamily project, called Cranebrook Forest. In addition to the \$2.6 million in program funds, we are asking for a deobligation of a little over 134,000 in admin.

MR. CONINE: Okay. I am going to stop you there, in that we approved 6(b) way back when, earlier in the meeting, (b), (c), and (d). Mr. Henneberger wants to speak on D. So I would entertain a motion to reconsider Item 6(d) right quick.

(Simultaneous discussion.)

MR. CONINE: How about a motion to reconsider 6(c) for Mr. Henneberger.

MS. BINGHAM ESCAREÑO: So moved.

MR. CONINE: Is there a second?

VOICE: Second.

MR. CONINE: Seeing none, all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Okay. Moving to 6(c). Go ahead, John.

MR. HENNEBERGER: My name is John Henneberger, Texas

Low Income Housing Information Service. I can tell I am going to be particularly persuasive, given the past performance I have just demonstrated. But I have a concern about the granting of an 18 month extension to the City of Houston on this matter.

The City of Houston's allocation under the Ike funds has been highly controversial in the City. More than 70 witnesses who were low income citizens turned out at a series of public hearings held by the Houston-Galveston Area Council to protest the activities and the policies of the City of Houston regarding its disaster recovery funds under Hurricane Ike.

Specifically, people were disturbed about the fact that Houston is so much out of the norm in terms of the way that they are administering their disaster recovery funds. They have prioritized only an extremely small portion of the funds available to them for the rehabilitation of owner occupied homes and they have made as a policy decision, a decision that they will not extend benefits from Federal CDBG disaster recovery funds under your program in neighborhoods, to homes which are located in flood plains.

And by definition, CDBG disaster recovery funds are intended to address the problems of flooding. We have hired, we hired a hydrologist, civil engineers who have looked at this problem, who have identified in the public hearings the fact that many of these flooding problems can be addressed with relatively small amounts of money. There are serious civil rights and fair housing questions, because these neighborhoods which are affected, and which are effectively prohibited by City policy from receiving any disaster recovery funds, because they lie within flood plains are very heavily

African-American and Hispanic inner city neighborhoods of Houston.

And Mr. Gerber has indicated that the Department's policy will be that a blanket prohibition on the assistance of houses like this is not acceptable. And we wanted to make sure that that was on the record.

And secondly, we would urge that a six month extension be provided, instead of an 18 month extension, so that as guidance comes forward through the analysis of impediments of fair housing, the City of Houston has the opportunity to come back and reconsider the reprogramming of unobligated funds in a manner that does not have such serious negative civil rights or fair housing impact. Thank you very much.

MR. CONINE: Okay. We have moved to reconsider Item 6(c). And you have heard the testimony. Is anyone from the City of Houston that is here to respond to this? We will be sure and get you one.

MS. CHAPA-JONES: I am Veronica Chapa Jones. I am formerly TDHCA, which is why you may recognize me. But I am now the Deputy Director of Grants, Management and Compliance with the City of Houston Housing and Community Development Department.

Regarding the extension specifically, I need to talk to Sara probably about the details of the impacts that this would have on the program.

There are federal deadlines and requirements that even D.C. is concerned about, both the State of Texas and the City of Houston meeting. And I want to make sure that we have time for both staffs to get together and keep the process moving.

We know that there was limitations because some of the rules

are codified. I don't know about the impacts of that on this particular program.

But to the 18 month extension, overall, it would not impede our flexibility to retroactively make changes, as long as TDHCA staff is willing to partner with us to get those policies amended and the Board is willing to listen to those policy adjustments. But most importantly, we want to make sure that we have got the time to work together to get the funds spent right for all of the households in Houston.

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes.

MR. GERBER: With respect to this item, I think staff would ask that we delay consideration of this item until November. Give us on the staff level a chance to work with the City of Houston. Give us a chance to consult with HUD. And certainly, to work with advocates who are very concerned about the fair housing issues that are attendant with this.

Do a conciliation agreement that we have, there is a lot to be taken into account. And we want it in strict conformance with HUD's directives in that area. So I would recommend tabling this item until -- and not providing any extension. Just delay consideration of the matter until the November Board meeting.

MR. CONINE: Can I get a motion to table?

MS. RAY: Mr. Chairman, I move to table Item Number 6(c) to the November Board meeting.

MR. CONINE: Ms. Ray makes a motion. Do I hear a

second?

MR. KEIG: Second.

MR. CONINE: Second by Mr. Keig? No discussion on tabling the motion. All those in favor, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries. Any further reports, Mr. Gerber?

MR. GERBER: Yes. Mr. Chairman, there is no further reports from me. Teresa Morales is going to come forward and just read out the list of QAP changes into the record, that are going to go out for public comment.

MR. CONINE: Okay.

MR. GERBER: Teresa.

MS. MORALES: Chairman Conine, and members of the Board. Based on action earlier today, with regards to the ineligibility of a developer, or principal of an applicant that has been removed on page 19, of the draft QAP.

We will list a criteria that we identified earlier in my presentation, which goes out a little bit more. Any recommendation to debar not more than five years, but it could be less, will be presented to the Board with an analysis based on that specific criteria, and will include a recommendation.

On page 22 of the draft QAP, we will revise the sentence to say, any development which is intended to house seniors, that is not fully consistent with the definition of a qualified elderly development. On page 23 of the black line, we will revise the fire sprinklers must be included in all units, where required by local code.

We will also make the change with regards to Energy Star fixtures, to say that Energy Star lighting with compact fluorescent bulbs. On page 25, we would like to clarify the due date for the resolution of a Phase II development which will be due on April 1, instead of March 1st.

The draft QAP will be revised to allow renewable energy tax credit to be included under the 30 percent boost, with some language that adds to the current architects certification, a statement that the increased costs to the renewable energy credit, item exceeds the value of the energy tax credits to be received. We would also like to clarify that any amenities that are provided, including those that would make them eligible for the renewable energy tax credit must benefit the entire development.

On page 61 of the draft QAP, with regards to QCP, we would like to revise that to say the technical assistance will be allowed, but will be limited to the helping with administrative deficiencies in that process. However, the QCP documentation itself must be submitted independent of the application. And the response to the administrative deficiency must be submitted by the neighborhood organization.

We will also revert back to the 2010 QAP scoring breakdown. With regards to page 64 of the draft, we will reinstate the 18-point item for the

income levels of the tenants, and remove the first scoring item. On page 67, as it relates to the rent levels of the tenants, for the increased number of 30 percent units, we will reduce that from 5 percent to 2-1/2 percent.

Regarding the list of tenant services on page 68, we will include as specified in preapproved caseworkers services, a home chore services. And we will change the point scoring for ESL and GED classes to two points.

With regards to the community revitalization plan, on page 70 of the QAP, we will remove the language that states, existing housing as a requirement for new construction, and adjust points for that particular item from six points to three points. We will also change the points for rehab under this particular item from three points to six points.

On page 76, we would like to adjust the scoring for developments and census tracts with no other existing same type development from six points to four points. And last, with regards to amendments on page 99, we will change the deadline for submission from 60 days as was proposed down to 45 days. And I believe that concludes the list.

MR. CONINE: Okay. Any questions from any of the Board Members?

(No response.)

MR. CONINE: Once again, Teresa, we thank you for your excellent and hard work on the subject matter. It has been tough, and I appreciate the consolidation and simplification.

Simplification -- I am not sure it's the right word. But it went from 130 pages down to 60-something. And we are definitely appreciative of

your hard work. Thank you very much.

MS. CHAPA-JONES: My pleasure.

MR. CONINE: Great. Anything else to come before the Board?

(No response.)

MR. CONINE: I do want to again thank the City of Brownsville and Harlingen and all of the city officials, for everyone's hospitality. Thanks to TDHCA staff members, who put this meeting on, and put the tour on. We certainly appreciate that. And with that, we stand adjourned.

(Whereupon, at 3:35 p.m., the meeting was concluded.)

