

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

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

October 13, 2016
9:06 a.m.

MEMBERS:

J. PAUL OXER, Chair
JUAN MUÑOZ, Vice-Chair (Absent)
LESLIE BINGHAM ESCAREÑO, Member
T. TOLBERT CHISUM, Member (Absent)
TOM H. GANN, Member
J.B. GOODWIN, Member

TIMOTHY K. IRVINE, Executive Director

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BOND FINANCE	
b) Presentation, Discussion and Possible Action on Resolution No. 17-006 authorizing programmatic changes to the Single Family Taxable Mortgage Program FHA Streamline Refinance Program ("TMP-79 Refinance Program")	
MULTIFAMILY FINANCE	
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- h) Presentation, Discussion, and Possible
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Community Services Block Grant ("CSBG")
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Applications for Continuum of Care Lead
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Emergency Solutions Grant ("ESG") Program
Award Process

RULES

- j) Presentation, Discussion and Possible
Action on: first, amendments to 10 TAC
Chapter 1 Administration, Subchapter B,
§1.201 (concerning Purpose), §1.202
(concerning Definitions), §1.203
(concerning General Certifications and
Effect of Non Compliance), §1.204
(concerning Reasonable Accommodations),
§1.205 (concerning Compliance with the
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Applicability of the Construction
Standards for Compliance with §504 of the
Rehabilitation Act of 1978); and second,
the proposed repeal of §1.208 (concerning
Public and Common Use Areas in Multifamily
Developments), §1.211 (concerning Additions
of Units to Existing Multifamily Housing
Developments), and §1.212 (concerning
Resources) and directing that these be
published for public comment in the Texas
Register
- k) Presentation, Discussion, and Possible
Action on an order proposing the repeal
of 10 TAC Chapter 21, Minimum Energy
Efficiency Requirements for Single Family
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Proposing new 10 TAC Chapter 21 Minimum
Energy Efficiency Requirements for Single
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directing that these be published for
public comment in the Texas Register

- 1) Presentation, Discussion, and Possible Action regarding the proposed repeal of 10 TAC Chapter 12 Multifamily Housing Revenue Bond Rules, and a proposed new 10 TAC Chapter 12 Multifamily Housing Revenue Bond Rules and directing its publication for public comment in the Texas Register

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) TDHCA Outreach Activities, September 2016
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- c) Report Regarding Ranking of Applications in Region 2, Rural, from the 2016 Competitive Housing Tax Credit Application Cycle
- d) Report Regarding Amended and Restated Determination Notices for (#14225) Dwight D. Eisenhower Memorial Apartments and (#14427) Kennedy Brothers Communities in El Paso
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P R O C E E D I N G S

1
2 MR. OXER: All right. Good morning everyone.
3 I'd like to welcome you to the October 13 meeting of the
4 Texas Department of Housing and Community Affairs
5 Governing Board. We will begin with the roll call. Ms.
6 Bingham?

7 MS. BINGHAM ESCAREÑO: Here.

8 MR. OXER: Mr. Chisum is not here today and
9 we'll have some news on him here in a bit. Mr. Gann?

10 MR. GANN: Here.

11 MR. OXER: Mr. Goodwin?

12 MR. GOODWIN: Here.

13 MR. OXER: Dr. Munoz is not with us, and we
14 don't anticipate him. I'm here, and that gives us four so
15 we have a quorum. We're in business.

16 (Pause.)

17 MR. OXER: All right. Tim, lead us in the
18 pledge of the flag.

19 ALL: I pledge allegiance to the flag of the
20 United States of America, and to the republic for which it
21 stands, one nation under God, indivisible with liberty and
22 justice for all.

23 Honor the Texas flag; I pledge allegiance to
24 thee, Texas, one state under God, one and indivisible.

25 MR. OXER: Okay, I'd like to recognize a couple

1 of guests. Representative Israel's here today. We'll
2 give you an opportunity to speak here in just a moment.
3 Looks like we got standing room only.

4 And we offer the -- and I'll just some of you
5 haven't been here before, so I'll give you some
6 housekeeping rules. The front row here to our left, to
7 the room right, is for those who are speaking on a
8 specific item as it comes up. If you want to speak on
9 that item, come up here and sit and we'll take you from
10 the aisle side out. If there's an overflow when you get
11 finished speaking, move out of that row and anybody else
12 that wishes to speak will come up here and fill that
13 chair.

14 Let's see, we have some other guests, Michael?
15 We have the Mayor of Laredo?

16 MAYOR SAENZ: Yes.

17 MR. OXER: Okay.

18 MAYOR SAENZ: Thank you so much. Glad to be
19 here.

20 MR. OXER: Good morning.

21 MAYOR SAENZ: Appreciate it.

22 MR. OXER: We'll have your item here in just a
23 minute.

24 MAYOR SAENZ: Thank you.

25 MR. OXER: Anybody else we got out there? Is

1 Bobby here? Bobby? Bobby Wilkinson?

2 (No response.)

3 MR. OXER: All right. He's watching in with
4 the big eye in the sky up there, so.

5 We're going to -- as a courtesy, we're going to
6 offer Representative Israel an opportunity to speak first
7 off because since the legislature is fond of -- or we're
8 fond of the appropriations that the legislature offers us,
9 we're going to give her a shot at getting -- so she can
10 get back to work.

11 REPRESENTATIVE ISRAEL: Thank you, Mr. Chair.
12 I appreciate the courtesy. I do have a lot going on, but
13 that doesn't minimize my respect for your work.

14 I was sharing with Mr. Goodwin when I was a
15 younger, much younger woman, I worked on the
16 appropriations -- I mean appointments process for Governor
17 Richards so I know finding good Texans to do what you do
18 is not easy and your work is very important, especially
19 now, you know, what the economy is doing.

20 Every major urban area in Texas is experiencing
21 a crisis, and the crisis is affordability and moving out
22 to find a good and decent place to live and I say that
23 also as a realtor.

24 So, I'm here to speak on Item Number 1(e), and
25 this item was brought to my attention by the Austin

1 Housing Authority.

2 Mr. Irvine, you and your staff have been
3 wonderful whenever we have had to work with you guys on
4 the tax credits programs, the competitive programs.
5 You've been very responsive and very helpful, and this
6 issue is no different.

7 But I'm here to speak to you in particular
8 about the RAD Program which is a non-competitive program.

9 But I was just presented about the opportunities that
10 this program offers, and I see it as a creative way for
11 Texas and the federal government to help our low income
12 housing structures that are outdated and need updating get
13 the updating that they need.

14 Taking these structures at market value I think
15 is a smart thing to do. In Austin in particular, our
16 market is so out of whack. We've grown in crazy ways, our
17 property values, but the properties that are in East
18 Austin, for example, have suddenly become prime property,
19 and they are very high in value.

20 I would like you to consider supporting Item
21 number 1(e) because taking the value from that property
22 and using it to do good things and rehabbing those
23 facilities I think is a common sense way to use our
24 resources and our assets. Full market value is an
25 acceptable methodology that the federal government has

1 looked at, and I would welcome your favorable
2 consideration.

3 Lord knows we don't have a lot of revenue
4 either at the federal or the state level to do right by
5 the responsibility that's been given to us. So I hope
6 that you'll support this initiative not only for the
7 Austin Housing Authority but as you look at a rules change
8 in the weeks ahead, I hope you'll consider it favorably as
9 well.

10 Finding a way to say yes on this kind of an
11 opportunity is something I very much appreciate. I know
12 it's not clear-cut as I might be presenting it, but I
13 would appreciate you working with the various issues
14 around it to help us take advantage of the value that we
15 have and the value is our land.

16 So I appreciate your time again and that's
17 really all I had to say. You have a member letter from
18 some of my colleagues in the Travis County delegation, and
19 thank you for your consideration.

20 MR. OXER: We appreciate your comments and your
21 interest in what we're doing.

22 REPRESENTATIVE ISRAEL: All right.

23 MR. OXER: All right.

24 REPRESENTATIVE ISRAEL: Have a good day.

25 MR. OXER: Thank you very much.

1 REPRESENTATIVE ISRAEL: Thank you.

2 MR. OXER: Yeah, just a quick note, we'd like
3 to say welcome back to Captain Tweety since he got his
4 pump remodeled and repaired. And he was -- left us with
5 the support staff there who took good care while he was
6 gone, but we're glad to see Michael back.

7 Okay, with respect to the consent agenda, does
8 any board member wish to pull any item?

9 I have a question, Marni, on Item 1(e). I
10 assume you could do a thumb up or thumb down, does staff
11 recommendation on this comport with Representative
12 Israel's comments?

13 MS. HOLLOWAY: Good morning. Marni Holloway,
14 Director of Multifamily Finance. Staff is recommending
15 this item.

16 MR. OXER: Okay.

17 MS. HOLLOWAY: If we would like to discuss it
18 further of course, I have some notes prepared.

19 MR. OXER: Then I'll pull Item 1(e) because I'd
20 like to hear a quick note on that just for -- so I'll pull
21 1(e). Any other item to be pulled by any other board
22 member?

23 (No response.)

24 MR. OXER: Okay. Entertain a motion to
25 consider.

1 MR. GOODWIN: Motion by Mr. Goodwin to approve
2 staff recommendation on Consent Agenda Item after or with
3 the exception of 1(e).

4 MR. GANN: Second.

5 MR. OXER: And there's a second by Mr. Gann.
6 Any request for public comment?

7 (No response.)

8 MR. OXER: Those in favor?

9 (A chorus of ayes.)

10 MR. OXER: And opposed?

11 (No response.)

12 MR. OXER: Got none. Okay, let's do it quick,
13 Marni.

14 MS. HOLLOWAY: Chairman Oxer, members of the
15 Board, my name is Marni Holloway. I'm the Director of the
16 Multifamily Finance Division.

17 Item 1(e) is Presentation, Discussion, and
18 Possible Action on Determination Notices for Housing Tax
19 Credits with another Issuer for five applications. This
20 is Number 16418 Pathways at Georgian Manor, 16419 Pathways
21 at Manchaca Village, 16420 Pathways at North Loop, 16421
22 Pathways at Northgate, 16422 Pathways at Shadowbend Ridge.

23 All five applications were submitted by the
24 Austin Affordable Housing Corporation on June 1. A
25 certification of reservation from the Texas Bond Review

1 Board was issued on June 27 of 2016 and will expire on
2 November 24. The proposed issuer of the bonds is the
3 Austin Affordable Public Facilities Corporation.

4 The properties are currently occupied and
5 operating as public housing. They are owned by the
6 Housing Authority of the City of Austin and will be
7 converted through HUD's Rental Assistance Demonstration
8 Program, through RAD. The applicant is considered a
9 medium Category 1 portfolio, and the previous
10 participation was deemed acceptable by EARAC on October 3.

11 The applicant has disclosed certain undesirable
12 neighborhood characteristics. All five sites are within
13 ASTM search distance of a Resource Conservation and
14 Recovery Act generator of hazardous waste or other
15 hazards. The ESA provider did not recommend additional
16 assessment or mitigation, and staff recommends that the
17 sites be found eligible based on the environmental site
18 assessment.

19 For 16422, Pathways at Shadowbend, the
20 applicant has requested a waiver of 10 TAC 10.101(b)(8)(a)
21 relating to development accessibility requirements. The
22 distribution of accessible units across the unit types
23 does not meet the Department's accessibility requirements
24 specifically because these are townhome style, three-
25 bedroom, two-bath units that have building limitations

1 that will hinder compliance with accessible construction
2 requirements.

3 The applicant has proposed making one of the
4 four-bedroom, two-bath units accessible instead. And
5 while staff agrees that this is an acceptable solution, it
6 requires waiver of 10 TAC 10.101(b)(8)(a) and staff is in
7 support of this waiver because it was requested with the
8 application and because of the existing building
9 limitations and because the development will still meet
10 the requirements and qualified persons with disabilities
11 will still have a comparable choice of housing options.

12 The applicant has presented a sales price using
13 a market value approach. They did this with advice from
14 counsel and the use of a third-party appraiser. While
15 this would not have been the process we would have used,
16 it was the one they used so our role was to review it and
17 assess two things. One, was it a supportable approach and
18 two, did it yield a well-supported value determination?

19 On the first question regarding a supportable
20 approach, we relied heavily on representations by the
21 applicant, its counsel, and HUD staff overseeing the RAD
22 conversion, all indicating that this was a commonplace
23 approach being employed on similar RAD conversations in
24 all other jurisdictions.

25 They emphasized that the Housing Authority

1 could have pursued a market transaction. HUD assured us
2 that they could require that any excess cash that the
3 Housing Authority might derive from this transaction will
4 be restricted for use for its public housing purposes.

5 We have requested specific examples or contact
6 information for Housing Finance agency staff in other
7 states that would be familiar with this structure but as
8 of late yesterday, the applicant was still gathering that
9 information.

10 On the second question regarding the well-
11 supported value determination, we note that the rental
12 comparables used appear superficially to be in much better
13 condition than the subject properties. And therefore, we
14 would expect they would produce quite different rental-
15 based values, but the appraisals performed did not confirm
16 this to be the case.

17 We have not had an opportunity to use tools
18 such as a review appraisal to probe these value
19 determinations and felt, therefore, constrained to move
20 forward with them.

21 Staff is recommending that the sites be found
22 eligible under 10 TAC 10.101(a)(4) relating to undesirable
23 neighborhood characteristics and recommending approval of
24 the request to waive the distribution requirements of 10
25 TAC 10.101(b)(8)(a) relating to development accessibility

1 requirements.

2 Staff is recommending issuance of Determination
3 Notices of 4 percent housing tax credits. Since
4 publication of the underwriting reports, the credit
5 amounts for four of the applications have been adjusted.
6 16418 Pathways at Georgian Manor is now recommended in the
7 amount of \$484,199. 16419 Pathways at Manchaca Village is
8 recommended in the amount of \$186,288.

9 Number 16420 Pathways at North Loop is
10 recommended in the amount of \$603,990. Pathways at
11 Northgate, 16421, remains unchanged at \$300,144. And
12 Pathways at Shadowbend is recommended in the amount of
13 \$262,077. Of course, these recommendations are subject to
14 any conditions that may be applicable as noted in the
15 underwriting reports.

16 MR. OXER: Any questions?

17 (No response.)

18 MR. OXER: So essentially, we're keeping these
19 in a portfolio making them available to the Austin Housing
20 Authority --

21 MS. HOLLOWAY: Yes.

22 MR. OXER: -- moving us along sort of in the
23 direction that Representative Israel requested?

24 MS. HOLLOWAY: Yes.

25 MR. OXER: Okay. Any questions?

1 (No response.)

2 MR. OXER: Motion to consider?

3 MS. BINGHAM ESCAREÑO: So moved.

4 MR. OXER: Okay, motion by Ms. Bingham to
5 approve staff recommendation on Item 1(e).

6 MR. GOODWIN: Second.

7 MR. OXER: I hear a second from Mr. Goodwin.
8 All right. Now, Michael, I assume that you're going to be
9 here speaking for everybody since you have a, you know,
10 modest influence over the Housing Authority in the city.

11 So, this looks like it's going where you
12 probably want it. Do you really want to say anything?

13 MR. GERBER: I do.

14 MR. OXER: Okay.

15 (General laughter.)

16 MR. OXER: As you might recognize, there's a
17 few people behind you back there who's going to -- we're
18 going to have a long agenda today, so. All right. Yes,
19 sir?

20 MR. GERBER: Could we ask those who --

21 MR. OXER: You can't do it from there. You
22 know that. Sorry.

23 MR. GERBER: Mr. Chairman, I'm Mike Gerber.
24 I'm the president of the Housing Authority of the City of
25 Austin. We do have a number of our public housing

1 residents who took great time out of their schedule this
2 morning to --

3 MR. OXER: We'll be happy to -- appreciate
4 their --

5 MR. GERBER: Could we just acknowledge them?

6 MR. OXER: Yep.

7 MR. GERBER: I appreciate them being here.

8 MR. OXER: All right. Everybody here that's on
9 the Mike Gerber team here, we thank you for showing up.

10 (Applause.)

11 MR. OXER: I have to tell you, you're the first
12 one to bring a hell of a posse from the old days there in
13 the --

14 (General laughter.)

15 MR. OXER: -- Authority.

16 MR. GERBER: Well, they were all close by. And
17 I just want to say it's great to be back here. You know,
18 everyone remarkably looks younger and thinner.

19 (General laughter.)

20 MR. GERBER: But we appreciate --

21 MR. OXER: Sadly but wiser is the problem
22 through, but that's --

23 MR. GERBER: I wanted to just say thank you to
24 the staff for their hard work. This has been a tough
25 issue, and we've got lots of professionals working on it.

1 And I wanted just to express my thanks to Tim and to the
2 team.

3 MR. OXER: Good. I'm glad to see you back,
4 Mike.

5 MR. GANN: I'd like to express my thanks for
6 the work that he's done for this particular committee,
7 too.

8 MR. OXER: Absolutely, so.

9 MR. GANN: We appreciate you. Mike.

10 MR. OXER: Okay. We have -- regarding Item
11 1(e), we have a motion by Ms. Bingham. Hold on. Stand
12 by. Stand by.

13 MR. IRVINE: Can you take these two letters
14 from HUD into the record?

15 MR. OXER: Okay, do you want to read those in?

16 MR. IRVINE: Well, they've been distributed to
17 the Board, and they're available to the public I assume.

18 MR. OXER: Okay, let our public or external
19 affairs --

20 MR. IRVINE: Yeah, just for the record, these
21 are two letters from --

22 MR. OXER: It's just one. This one is on
23 another agenda.

24 MR. IRVINE: Oh, excuse me. Yes, just one
25 letter from --

1 MR. OXER: Do you want to read it in, Beau, or
2 you want to have Michael do it since he's our external
3 voice?

4 MR. LYTTLE: The Agency loudmouth. Okay, it's
5 a letter from HUD directed to Michael Gerber. Dear Mr.
6 Gerber, I understand that questions have been raised about
7 your application for the 4 percent noncompetitive low
8 income housing tax credits deals to renovate and
9 significantly improve quality of life for residents of
10 five pocket properties.

11 These properties include Pathways at Manchaca
12 Village, Pathways at Shadowbend Ridge, Pathways at North
13 Loop, Pathways at Georgian Manor, and Pathways at
14 Northgate.

15 It is my understanding that these issues have
16 been raised by the Texas Department of Housing and
17 Community Affairs concerning these five transactions and
18 the valuation method was used. I can confirm that the
19 underwriting methodology used is a standard methodology
20 that has been accepted by HUD for many Rental Assistance
21 Demonstration transactions.

22 HUD created the RAD Program to allow public
23 housing authorities to access the debt markets using any
24 number of financing mechanisms including the use of
25 private activity bonds and 4 percent tax credits. In

1 fact, HUD encourages the use of private activity bonds and
2 4 percent low income housing tax credits because
3 competition for the allocation of the 9 percent low income
4 housing tax credit is keen while private activity bonds
5 and 4 percent low income housing tax credits are readily
6 available and require no such competition.

7 We accept HAC's [phonetic] evaluation for these
8 RAD transactions. Please let us know if you need any
9 further information. Sincerely, Jeffrey Little, Deputy
10 Director, Office of Recapitalization, U.S. Department of
11 Housing and Urban Development.

12 MR. OXER: Good. All right. With that into
13 the record and added to the file, is there any
14 modifications to the motion?

15 (No response.)

16 MR. OXER: Okay, motion by Ms. Bingham, second
17 by Mr. Gann to approve staff recommendation on Item 1(e).
18 Those in favor?

19 (A chorus of ayes.)

20 MR. OXER: Those opposed?

21 (No response.)

22 MR. OXER: There are none. Congrats, Mike, and
23 thank you for all of you for coming out today.

24 (Applause.)

25 (Pause.)

1 MR. OXER: All right, folks. We're happy to
2 have you here, but we also -- if you want to talk, you
3 need to move out because we have more items on our agenda
4 today, okay? Thanks for your courtesy.

5 All right. Nichole? Do I see her?

6 MR. IRVINE: She's there.

7 VOICE: She's in the back.

8 MR. OXER: She's there. She is making her way
9 through the crowd. She's in there swimming upstream. I'm
10 going to exercise the Chair's discretion and move to Item
11 5(a) to begin. So Michael?

12 VOICE: Got to wait until she gets up here.

13 MR. DeYOUNG: Okay. Michael DeYoung, Community
14 Affairs Division Director. Mr. Chairman and members of
15 the Board, Item 5(a) relates to a subrecipient of the
16 Community Services Block Grant ("CSBG").

17 The entity is currently named Urban Community
18 Center of North Texas, but at the beginning of this
19 process a few years ago, it was called the Urban League of
20 Greater Dallas. The action before you today is the final
21 step in a deliberate process defined by federal statute
22 relating to CSBG subrecipients.

23 Two years ago in August 2014 in response to a
24 monitoring visit, it was identified by staff that Urban
25 League of Greater Dallas struggled to properly administer

1 its CSBG contract. Our monitoring team conducted a
2 monitoring and found three deficiencies requiring
3 corrective action. Those deficiencies are set forth in
4 your board book.

5 And then subsequently a year later in November
6 2015, the Department returned for an additional monitoring
7 visit and found numerous violations of the law and
8 contract provisions that are also set forth in your board
9 book.

10 By this time Urban League of Greater Dallas had
11 reconstituted itself, and they were now being called Urban
12 Community Center of North Texas and that's why you see the
13 two different names in this board item. So now they are
14 titled UCC. The Department required that Urban Community
15 Center submit a quality improvement plan which addresses
16 all the deficiencies. That quality improvement plan is a
17 step within the federal law and relates to the CSBG
18 subrecipients that offers them the opportunity to correct
19 their deficiencies.

20 In this case, the submission by UCC did not
21 correct their findings and as permitted by the CSBG Act
22 procedures, a hearing was set by the Department to seek
23 termination of their eligible entity status.

24 After proper notice, an administrative hearing
25 was held by the State Office of Administrative Hearings on

1 September 15, 2016, just last month. UCC failed to appear
2 at that hearing. The administrative law judge issued a
3 proposal for a decision, a "PFD", shown in your board book
4 on pages 566 and 567.

5 Also provided to you beginning on page 568 of
6 the board book is the final order reflecting the
7 administrative law judge's recommendations for approval.
8 Your action today will authorize the final order to
9 terminate Urban Community Center CSBG contract in eligible
10 status which will then be forwarded to the Secretary of
11 the U.S. Department of Health and Human Services.

12 They will do their review and approval process
13 and staff will release a request for applications to
14 identify a new eligible entity to receive the CSBG funds
15 in Dallas County so services can be resumed for the
16 residents, and we will wait for that opinion from the U.S.
17 Department of Health and Human Services staff before we
18 move forward.

19 MR. OXER: All right, any questions?

20 (No response.)

21 MR. OXER: All right. And I will point out
22 those of you who are out there in the audience and perhaps
23 watching in from home, we'll recognize that we've
24 exchanged our General Counsel. Tim's going to tell you
25 why.

1 MR. IRVINE: Well, because this involves a
2 contested matter. We have our different lawyers on staff
3 working in different capacities and then the Board must
4 have its own independent counsel. So Nichole Bunker-
5 Henderson from the Office of Attorney General is here to
6 provide legal advice to the Board should they require it.

7 MR. OXER: Okay. Thanks for being here for us,
8 Nichole. Okay.

9 MR. ECCLES: Why she's a great lawyer.

10 MR. OXER: All right. Any questions from
11 members of the Board?

12 (No response.)

13 MR. OXER: Barring that, we'll have a motion to
14 consider.

15 MS. BINGHAM ESCAREÑO: I'll move acceptance of
16 staff's recommendation.

17 MR. OXER: Okay.

18 MR. GANN: Second.

19 MR. OXER: Okay. So essentially just to recap
20 here, Michael, we're moving this process along. There's a
21 process that there is a lot of rope given to these folks
22 that have continuous processes. There's a lot of hearing
23 time in there. We're moving this on. We're getting to
24 the end of that with this particular unit.

25 MR. DeYOUNG: Correct.

1 MR. OXER: Okay. Any other questions?

2 (No response.)

3 MR. OXER: All right. So you have a motion by
4 Mr. -- let's see a motion by Ms. Bingham, a second by Mr.
5 Gann. Is that correct?

6 Okay. And do we have a request for public
7 comment?

8 (No response.)

9 MR. OXER: Do you wish to speak on this item,
10 sir?

11 VOICE: The second item, yes, sir.

12 MR. OXER: Okay. Well, we're on 5(a). That's
13 why I was curious, so. All right. We'll hold you for
14 number 2. Do you wish to speak on 5(a) or 5(b), which
15 one?

16 VOICE: 5(b).

17 MR. DeYOUNG: 5(b).

18 MR. OXER: 5(b), okay. We'll work on that.

19 Okay. A motion by Ms. Bingham, second by Mr.
20 Gann to approve staff's recommendation on Item 5(a).
21 Those in favor?

22 (A chorus of ayes.)

23 MR. OXER: Those opposed?

24 (No response.)

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

1 MR. DeYOUNG: Thank you.

2 MR. OXER: Okay. Thanks, Nichole. Looks like
3 we won't need an Exec Session to go into much detail on
4 this, but we appreciate you being here. It's important
5 that we have counsel.

6 MS. HENDERSON: You're welcome. I'm happy to
7 be of assistance to you all.

8 MR. OXER: Thank you. Okay. And to point out,
9 we took this item out of order because Ms. Bunker was
10 here, so we're not going to go to 5(b) right now.

11 VOICE: Okay.

12 MR. OXER: But that's all right. That's an
13 honest mistake on this. We have another item that there
14 were quite a few people that showed up. And so, to
15 exercise Chair's discretion again, we're going to go to
16 Item 7.

17 Okay, Mr. Mayor, I understand you're going to
18 be interested in this one?

19 MAYOR SAENZ: Very much so, yes, sir.

20 MR. OXER: Okay. Well, there's your row up in
21 the front, so. And I'll assume that even though there are
22 more than a few people that showed up from Laredo, that
23 you're here to speak for them. And I would remind you
24 most of the people that are regulars here recognize that
25 your argument is not made stronger by being made louder or

1 being made more times.

2 If you've got anything to say, you can
3 summarize it for everybody. We don't need to hear the
4 same thing eight times.

5 MAYOR SAENZ: Okay.

6 MR. OXER: Okay.

7 MR. ECCLES: If I could also have the record
8 reflect -- this is Beau Eccles -- that Ms. Bunker
9 Henderson is off the dais, and I have resumed my --

10 MR. OXER: Resumed --

11 MR. ECCLES: -- position up here.

12 MR. OXER: Taken his weapons on.

13 MR. ECCLES: And I'll tell the Board that y'all
14 missed out by not having an opportunity to ask her for
15 legal advice because she's an amazing lawyer.

16 (General laughter.)

17 MR. OXER: Okay. Raquel, I think you're up for
18 this one.

19 MS. MORALES: Yes, sir. And we're doing 7(b)
20 only right now or both of those entire 7 agenda items
21 then?

22 MR. OXER: Let's go to the 15251 on Item 7.

23 MS. MORALES: Okay.

24 MR. OXER: Because we'll take them one at a
25 time, okay. We'll just do the Laredo first.

1 MS. MORALES: Okay. Good morning, Chairman
2 Oxer and members of the Board. My name is Raquel Morales.
3 I'm the Director of the Asset Management Division. Item
4 7(b) is a Presentation, Discussion, and Possible Action
5 regarding the material amendment to the Housing Tax Credit
6 Application for Casa Verde, which is Application Number
7 15251.

8 This application was submitted and approved
9 during the 2015 competitive tax credit cycle and was
10 awarded Housing Tax Credits under the at-risk set-aside.
11 The applicant, the Laredo Housing Opportunities
12 Corporation, which is a public facility corporation of the
13 Laredo Housing Authority, received its award under the at-
14 risk set-aside based on its status as a development
15 proposing to demolish housing units that are owned by a
16 public housing authority and receive assistance under
17 Section 9.

18 The application for Casa Verde proposed to
19 build 152 total units of which 138 of those units would be
20 relocated public housing units that were going to be
21 demolished at the existing Russell Terrace Public Housing
22 Development and reconstructed at the new Casa Verde site.

23 Additionally, 25 percent of the units at Casa Verde or 38
24 units would come over to Casa Verde from Russell Terrace
25 with the Public Housing Operating Subsidy.

1 Russell Terrace is an existing 200-unit public
2 housing development located approximately five miles from
3 the Casa Verde development site. The original application
4 for Casa Verde clearly contemplated the demolition and
5 partial replacement of the aging Russell Terrace
6 development.

7 However, staff was notified in May of this year
8 of HUD's decision to not approve the demolition
9 application for Russell Terrace because it did not meet
10 HUD's minimum thresholds for obsolescence.

11 The applicant contends that the approval they
12 did receive from HUD was to move 38 RAD units from Russell
13 Terrace over to Casa Verde, and they did provide that
14 approval from HUD, which is included in your board book.
15 And that based on that, Casa Verde still qualifies as an
16 at-risk application.

17 The applicant also contends that since Russell
18 Terrace was originally part of the Casa Verde transaction
19 and Russell Terrace is proposed to apply and go through a
20 demolition according to HUD's definition of demolition,
21 but a rehabilitation by our definition and because Russell
22 Terrace is proposed to be disposed of again according to
23 HUD's definition because they're going to sell it out of
24 public housing, that it should still qualify Casa Verde as
25 at-risk.

1 The problem, however, is that Russell Terrace
2 is no longer part of the Casa Verde transaction as we
3 understand it today. In fact, the applicant has stated
4 that they may seek at a later date to rehab Russell
5 Terrace using a different financing structure, likely
6 private activity bonds with a 4 percent housing tax credit
7 application which has not yet been submitted, but clearly
8 a separate transaction from Casa Verde.

9 While RAD units can be considered eligible for
10 tax credits under the at-risk set-aside, the Department
11 has never considered the use of RAD funding or subsidy
12 alone to be enough justification to qualify under at-risk
13 without reconstruction or rehabilitation of units as part
14 of the development plan.

15 Housing units at Russell Terrace are not at
16 risk of coming out of the housing inventory and the
17 legislative intent for expanding the at-risk
18 qualifications to include public housing in the definition
19 of at-risk specifically stated that the eligible housing
20 was at risk of no longer being in the housing inventory.

21 In fact, because HUD has not approved the
22 demolition of Russell Terrace and seeks to preserve those
23 units in the affordable housing pool, the Casa Verde
24 transaction would result in additional affordable housing
25 units for the Laredo area and not a loss. This is not to

1 say that the additional affordable units are not needed in
2 the Laredo area, but staff is responsible and has a duty
3 to ensure that credits designated to replace units that
4 are at-risk of being removed from the housing pool go
5 towards serving that legislative purpose. That risk
6 simply no longer exists as we understand the plan today.

7 Therefore, staff recommends denial of the
8 waiver amendment or any reinterpretation to consider Casa
9 Verde eligible as at-risk and further recommends that the
10 credits be rescinded and reallocated to other 2016
11 applicants on the waiting list under the at-risk set-
12 aside.

13 MR. OXER: So we found another quirk in here,
14 huh? Okay, any questions from the Board?

15 (No response.)

16 MR. OXER: Okay. Also, yeah, I'm about to add
17 that Beau. Let the record reflect -- do we have to put
18 that into the record? We should put that into the record.

19 Okay, Michael, you've got a copy of that thing, don't
20 you? Give it to him.

21 At any rate, with respect to the Board
22 materials that were made available, there is a letter that
23 apparently was received by the City of Laredo yesterday.
24 They've been provided. There are copies outside at the
25 sign-in table for those of you here joining us today that

1 wish to have a copy of it.

2 Michael's going to read it into the record.
3 I've chose as Chairman to allow it to be added to the
4 record for consideration on this meeting. So Michael,
5 read this into the record, please.

6 MR. LYTTLE: A letter is addressed to Melissa
7 Ortiz from the Housing Authority of the City of Laredo.
8 It's from HUD, reads as follows, "The Rental Assistance
9 Demonstration, i.e., RAD Program, provides tools housing
10 authorities may use to address the significant nationwide
11 capital needs backlog which has put many public housing
12 units across the country at risk.

13 "In seeking to reposition or preserve their
14 portfolios, housing authorities can apply to participate
15 in RAD or can use tools within the parameters of the
16 public housing program itself including the application
17 for demolition or disposition of units. A housing
18 authority's decision as to which of the various tools best
19 fit the local conditions is discretionary.

20 "The RAD Program is administered by the Office
21 of Recapitalization. The Laredo Housing Authority has
22 applied to participate in RAD with respect to all 200
23 units at the Russell Terrace property. HUD has issued two
24 commitments to enter into housing assistance payment
25 contracts to LHA, 38-unit CHAP, associated with the

1 Transfer of Assistance to the Casa Verde site and a 162-
2 unit CHAP associated with the remaining Russell Terrace
3 units, the Onsite Redevelopment.

4 "All 200 units of the original Russell Terrace
5 Public Housing Project will be disposed of by the LHA at
6 the time of the RAD conversions. With respect to the
7 Onsite Redevelopment, 162 units in Russell Terrace will be
8 disposed of by LHA and acquired by a public/private
9 partnership meeting the RAD requirements.

10 "This transaction is anticipated to be a 4
11 percent tax credit transaction. And while we understand
12 that the scope of the work continues to be subject to
13 adjustment until final financing approvals are provided at
14 the transaction closing, we understand it is anticipated
15 to be a substantial rehabilitation impacting many building
16 systems.

17 "With respect to the Transfer of Assistance
18 transaction, LHA will convert the assistance through RAD
19 of 38 public housing units that are currently part of the
20 Russell Terrace property and will transfer that assistance
21 to the Casa Verde site. Upon the conversation and
22 Transfer of Assistance, the 38 units are no longer public
23 housing and LHA will have the authority to demolish the
24 structures.

25 "Depending on LHA's plans, authority to sell or

1 repurpose the underlying land may be subject to additional
2 HUD procedures under either the RAD Program or the rules
3 applicable to the public housing authorities generally.

4 "HUD has been processing the Casa Verde
5 Transfer of Assistance transaction approvals and supports
6 both the Casa Verde Transfer of Assistance transaction and
7 the Russell Terrace Onsite Redevelopment Substantial
8 Rehabilitation transaction. We look forward to the
9 successful completion of these RAD conversions.
10 Sincerely, Thomas R. Davis, Director, Office of
11 Recapitalization."

12 MR. OXER: Okay. So apparently the question
13 seems to be, Raquel, that while HUD supports this, the
14 question is does this meet our legislative definition of
15 at-risk. Is that --

16 MS. MORALES: Right.

17 MR. OXER: -- generally a summary of this?

18 MS. MORALES: Yes.

19 MR. OXER: Okay. Do we -- so I'm asking a
20 question I think I know the answer of, but counsel, do we
21 even have a mechanism for addressing this?

22 MR. ECCLES: Well --

23 MR. OXER: Ron White is --

24 MR. ECCLES: That --

25 MR. OXER: Go ahead.

1 MR. ECCLES: We would and that would be the
2 application amendment process and are these facts in this
3 letter that Michael Lyttle just read of the undated letter
4 that purports to be from Thomas Davis of HUD to Melissa
5 Ortiz, are those facts contained in the application
6 amendment that's being sought before the Board today.

7 MS. MORALES: No, it's not something that -- I
8 just got this letter this morning, and it's not something
9 that's been shared with staff until recently, so we
10 haven't had a chance to evaluate what this letter is
11 saying. We've evaluated what their ask was, what's posted
12 in your board book.

13 MR. OXER: Did they make a formal application
14 for amendment to their application?

15 MS. MORALES: Yes, that's the item before you
16 today.

17 MR. OXER: So what we're saying -- I'm going to
18 give the Mayor a chance to speak here, but your
19 interpretation is they have new information that HUD is
20 supporting, but the question is whether or not what
21 they've offered in here supports their position that it
22 continues to be an at-risk property and there are --

23 MS. MORALES: That's correct. We have not had
24 a chance to evaluate that and I don't want to rush to a
25 conclusion that it does or it doesn't without having the

1 opportunity to know what the development plan is now.

2 MR. OXER: Believe me, there's nobody up here
3 on this dioce [phonetic] that wants you to rush to any
4 judgment on any of this.

5 So essentially the recommendation or the
6 request from staff on this is to give -- from the Board --
7 is to give staff the authorization to pursue this, to do
8 the diligence, to make that determination, and to come
9 back with the application amendment for consideration to
10 the Board for the next meeting?

11 MS. MORALES: No, the action that's before you
12 is staff is recommending to deny the amendment that was
13 presented to us and is in your board book now.

14 MR. OXER: Okay.

15 MS. MORALES: And staff is recommending denial
16 of that amendment and waiver and is further recommending
17 rescission of the credits based on what we understand the
18 plan is now and what HUD has approved or hasn't approved
19 with respected to Russell Terrace again, not having --

20 MR. OXER: Right.

21 MS. MORALES: -- had this information that was
22 just read into the record.

23 MR. OXER: Does the --

24 MS. MORALES: -- prior to this morning.

25 MR. OXER: Does the applicant have the option

1 to return with new information to modify the amended
2 application? Can they amend the amendment basically?

3 MS. MORALES: I suppose if there's no action
4 taken by the Board on this. I'm not sure legally how that
5 would play out, but if you guys decided to not take action
6 on the --

7 MR. IRVINE: I think a very simplistic overview
8 is that the requirement for a RAD transaction to be an at-
9 risk transaction is basically that specific properties be
10 identified and that the plan be, you know, RAD-type
11 transaction either to rehabilitate them or to demolish and
12 reconstruct them. And that way those units which because
13 of their RAD conversion are presumptively, you know, in
14 need of this type of assistance can also line up with the
15 fact that it will preserve the same number of units in the
16 affordable housing pool.

17 The original application contemplated that
18 specific units would be subjected to either rehab or
19 reconstruction in accordance with the at-risk definition.

20 What is now going on is because HUD has apparently made
21 some additional decisions regarding what can be done with
22 those units, that the housing authority is confronted with
23 a need to evolve and amend its application to meet HUD's
24 requirements and yet reconcile them to the at-risk
25 definition.

1 It I think is the fundamental position of staff
2 that if you are going to amend it, it still needs to
3 relate back to that original application and preserve the
4 at-risk characteristics. If you lose those fundamental
5 at-risk characteristics of either rehabbing or
6 reconstructing those specific units, then it is a
7 completely appropriate and laudable housing authority
8 purpose but it no longer qualifies for the at-risk set-
9 aside.

10 At-risk set-aside, it's very clear both in the
11 law itself and in the legislative intent, it's to prevent
12 the possibility that these units would fall out of the
13 affordable housing pool.

14 MR. OXER: Now as part of the mandate for this
15 Board is to preserve the portfolio in terms of number and
16 quality of those housing units, that's why we actually
17 have that at-risk set-aside.

18 MR. IRVINE: Correct.

19 MR. OXER: Okay. So to restate --

20 MS. BINGHAM ESCAREÑO: Mr. Chair?

21 MR. OXER: Ms. Bingham?

22 MS. BINGHAM ESCAREÑO: Accept that so the
23 dilemma in this is it's actually -- this would net out --

24 MR. OXER: It's been a --

25 MS. BINGHAM ESCAREÑO: This would net out

1 additional units but then it defeats the purposes under
2 which they originally applied. And then so the board book
3 also talked about you're getting super tight with your
4 place and service date too, right?

5 MS. MORALES: Correct, that's always a concern.

6 MS. BINGHAM ESCAREÑO: So I think the other
7 dilemma is even if we thought something good could come
8 out of that in the HUD letter, that they're in their 14
9 months to their place and service date. So that's kind of
10 a hard stop.

11 MS. MORALES: Right. And still not knowing
12 what additional approvals might be required from HUD and
13 how that impacts that schedule. Yeah, that's definitely a
14 concern.

15 MS. BINGHAM ESCAREÑO: I mean they're ready.
16 Obviously I'm sure the Mayor's going to tell us the City's
17 ready to roll, but they're getting super tight with the
18 place and service date, too.

19 MR. IRVINE: Right. And as with all the
20 competitive credits, there are wait list transactions that
21 meet the specific requirements and attributes of the at-
22 risk set-aside.

23 MR. OXER: Okay. So we approve staff
24 recommendation on this one, their application is over on
25 this? They lose the credit?

1 MS. MORALES: The amendments, right. There's
2 two different actions that are recommended. One is to
3 deny the amendment request --

4 MR. OXER: Right.

5 MS. MORALES: -- knowing that they can't, you
6 know -- and then the second action is to take back the
7 credits and reallocate them to the next person in line on
8 the at-risk --

9 MR. OXER: So if we deny the amendment -- if we
10 take this in two stages -- if we deny the amendment,
11 they'd still retain the credits, but they'd have to do the
12 deal as it was originally --

13 MS. MORALES: That's correct.

14 MR. OXER: -- presented.

15 MS. MORALES: That's correct.

16 MR. OXER: Okay. And so not being able to do
17 that -- in the event they were unable to do that, those
18 credits would roll back anyway?

19 MS. MORALES: Yes. Yeah, if they weren't able
20 to move forward as originally planned to, you know, the
21 original development plan for Casa Verde, then they would
22 hopefully return the credits so that we can --

23 MR. OXER: Just like anybody else that couldn't
24 do the deal --

25 MS. MORALES: Right.

1 MR. OXER: -- their credits would --

2 MS. MORALES: Right.

3 MR. OXER: Okay, is that clear to the Board?

4 MS. BINGHAM ESCAREÑO: Mr. Chair, is there an
5 option to break up the motions and hear the comment of the
6 first recommendation and then --

7 MR. OXER: Absolutely. We can make this in two
8 parts, so would you like to --

9 MS. BINGHAM ESCAREÑO: So I'd like to move
10 staff's recommendation on denying -- on the first part.
11 Let's see, should there be some appropriate wording here.

12 (Pause.)

13 MS. BINGHAM ESCAREÑO: Counsel, can -- I have
14 to go back to the original --

15 (Pause.)

16 MS. BINGHAM ESCAREÑO: Okay. Move to approve
17 staff's recommendation to deny the nonmaterial amendment
18 to the application for Casa Verde.

19 MS. MORALES: Yeah, it was a request for a
20 waiver and amendment to the application.

21 MS. BINGHAM ESCAREÑO: And waiver request.

22 MR. OXER: So this is simply for the waiver
23 request and the amendment.

24 MS. BINGHAM ESCAREÑO: Not to rescind --

25 MR. OXER: Not to rescind. And essentially

1 even if we don't -- the tax credits while they've been
2 awarded, if they don't meet the time schedule on the deal
3 that they presented, then they automatically have to
4 return those. Is that correct?

5 MS. MORALES: Yeah, I'll add that they did
6 come -- when we were notified in May about HUD's
7 nonapproval to demolish Russell Terrace, it was in
8 conjunction with their request to extend their 10 percent
9 test deadline, which was July 1 of this year.

10 All 2015 competitive tax credit transactions
11 had to turn in documentation to evidence that 10 percent
12 test expenditure. They were unable to due to the decision
13 by HUD and we're still trying to work through. And so
14 they requested and did receive approval to extend. Their
15 date now is October 31 to submit that 10 percent test.

16 MR. OXER: So we could actually deny the waiver
17 and the appeal or the waiver --

18 MS. MORALES: The amendment.

19 MR. OXER: -- and the amendment and then give
20 them until the next meeting to figure out whether or not
21 they could meet the 10 percent test. Or do we have to do
22 that today?

23 MS. MORALES: Well, yeah, if you're going to
24 take these separately and you're not going to take back
25 the credits, you're not going to approve their amendment,

1 then again, they have to proceed as originally proposed.

2

3 MR. OXER: Right.

4 MS. MORALES: And whether they can do that and
5 meet the October 31 deadline, I don't know that they can,
6 given that they don't have approval from HUD, or at least
7 the last time, you know, that we knew they didn't have
8 approval from HUD to move forward with demolishing the
9 units at Russell Terrace.

10 MR. IRVINE: Yeah. Essentially they'd need
11 either to convince HUD to relent and let them proceed as
12 originally proposed in their application or devise some
13 other sort of amendment that would reconfigure the
14 development in a manner that preserved its character as an
15 at-risk development and enabled them to move forward under
16 a different structure.

17 MR. ECCLES: Which is immaterial now

18 MR. IRVINE: Which would be immaterial and it
19 would come back.

20 MS. MORALES: Right, it would be immaterial
21 that would have to come back. And then again, just taking
22 into consideration the time crunch that we're under now,
23 you know, moving along that timeline.

24 MR. OXER: Yeah, I know we're on a time crunch
25 because Halloween's right around the corner here so

1 basically two weeks, two and a half weeks.

2 So the question is if we deny the -- my
3 question is if we deny the waiver and the amendment, do we
4 give them one more chance to get this fixed by October 31?

5 MR. IRVINE: The next board meeting --

6 MS. MORALES: Is November 10.

7 MR. OXER: Is November 10.

8 MR. IRVINE: November 10, so if there is a
9 proposed material amendment, that would have to be posted
10 by --

11 MS. MORALES: October 25.

12 MR. IRVINE: October 25.

13 MS. MORALES: Which would be this -- but yeah.

14 MR. IRVINE: And that would mean that it would
15 need to be submitted to us, evaluated. We would have to
16 have time to develop our analysis and post for the public
17 to review the form of the amendment structure and the
18 resolution.

19 MR. OXER: Okay. We're going to take this in
20 two parts. We're going to do the first one on the waiver
21 and the amendment, okay. Pending the outcome of that, the
22 discussion and decision, that'll have an influence on how
23 we'll respond to the first one, so.

24 Is that clear to you, Ms. Bingham? Okay. Do
25 you care to move to that effect?

1 MS. BINGHAM ESCAREÑO: I think I -- did I? I
2 think I did.

3 MR. OXER: Okay, so your motion is to approve
4 staff recommendation on what we'll call 7(a) now is the
5 half, the part of it to deny the waiver and the amendment.
6 Okay, and then we'll consider the tax credits on Part 2.
7 All right.

8 MR. GANN: I'll second.

9 MR. OXER: All right, second by Mr. Gann.

10 All right, Mr. Mayor, you can see where this is
11 going, but I'll assume that you're going to be able to
12 speak for the rest of your crowd there. And if there's
13 any --

14 MAYOR SAENZ: Well, as a matter of fact we have
15 a specialist here who knows and I was going to ask --

16 MR. OXER: And that's fine. You know, we'll
17 give you three minutes on each of it, but I assume that,
18 you know, if you have a specialist in this, he can add
19 something to the conversation as opposed to recounting
20 what you're going to offer.

21 MAYOR SAENZ: Well, thank you very much, Mr.
22 Chair, and of course, the board members as well. Thank
23 you for the time. Of course, the Housing Authority --

24 MR. OXER: And I have to ask you to do this.
25 You know, we'll make sure -- everybody that comes up

1 today, make sure you sign in and --

2 MAYOR SAENZ: Okay.

3 MR. OXER: -- as soon as you come to the
4 microphone, you have to identify yourself and who you're
5 with.

6 MAYOR SAENZ: Okay, I'm so sorry. Pete --

7 MR. OXER: So that's Nancy can tell who you are
8 when she's transcribing the notes. That's all right.

9 MAYOR SAENZ: Yeah, it's no problem at all.
10 Thank you again. Pete Saenz, Mayor of Laredo, Texas. We
11 appreciate the fact that you are allowing us some time
12 here.

13 Of course, we're asking, the Housing Authority
14 is asking for the Board's favorable disposition of the
15 application that they submitted sometime back. Then, of
16 course, as we've been going against, but I know you all
17 have currently ruled on not accepting the waiver and the
18 amendment I guess. But be that as it may --

19 MR. OXER: We haven't yet. You're actually --
20 we've made a motion that's not been voted on yet. You're
21 making comment to that.

22 MAYOR SAENZ: Okay, wonderful. Thank you.
23 Yeah, you know, obviously we've expended a lot of time.
24 The City of Laredo's prepared to go forward on this. The
25 need is there without doubt. You know, we have a list of

1 waiting people.

2 A primary example, the Laredo Housing
3 Authority, you know, asked for a list of people that would
4 be interested. Within a week's window, you know, we got
5 1400 applicants. We have other municipal housing
6 authority list as well that extend 240, and I know I can
7 go on and on.

8 I know my time is limited, so the key here is
9 time. You know, we've been expended a lot of time and
10 effort and, of course, resources, you know, to get this
11 thing done. These credits are extremely valuable without
12 question to any community. Laredo's no exception. We
13 have the need, so, you know, we'll do the best we can to
14 overcome some of these hurdles that we have.

15 Granted, HUD did, you know, issue an order not
16 to demolish, but we feel very certain that the definition
17 of at-risk has been met and I think you have that
18 definition in your packet there. But I need to stress
19 this, under B, it says a development that proposed to
20 rehabilitate or reconstruct housing units, a.) either
21 received assistance -- that received assistance under
22 Section 9, United States Act of 1937 and are proposed to
23 be disposed of or demolished by a public housing authority
24 or received assistance through RAD.

25 Personally we feel -- at least that's our

1 position -- that we have complied with that, that that is
2 within your purview, you know, to consider that and that
3 the units should be allowed at Casa Verde.

4 Keep in mind the spirit and I think HUD's
5 letter provides a spirit of what we want to do, and it's
6 to overcome that zero gain. And I realize that's an
7 important parameter within your definition. But if the
8 need is there, why not exceed that -- you know, those
9 units, the Russell Terrace units, have value. You know,
10 we can use it for some other means.

11 And disposition also is that, you know, the
12 transfer of that, you know, if you consider the definition
13 of at-risk, and then, of course, the Casa Verde units
14 would also be, you know, well utilized in our community.

15 So anyway, I understand you have, you know,
16 certain constraints, but we're saying that maybe, you
17 know, just allow good conscience and the spirit of housing
18 and communities to prevail.

19 Thank you so much, and we ask for your
20 favorable disposition.

21 MR. OXER: Any questions of the Mayor?

22 (No response.)

23 MR. OXER: Okay, thanks. Tim, would you like
24 to speak up? We appreciate you coming from the Senator's
25 office.

1 MAYOR SAENZ: Thank you so much.

2 MR. OXER: Yes, sir.

3 MR. STOSTAD: Mr. Chairman, members, thank you.

4 My name is Timothy Stostad. I'm a staff attorney with
5 the Office of Senator Judith Zaffirini. Senator Zaffirini
6 expresses her regret that she couldn't be here. She had a
7 prior commitment in the district.

8 She's asked me to put into the record the
9 substance of a letter that was addressed to the
10 Department's staff earlier, also signed by Representatives
11 Raymond and King. So I'm substantially just going to go
12 over the substance of that letter, some of which may have
13 been superseded by the motion that's before you now and by
14 subsequent developments including the HUD letter from Ms.
15 Ortiz.

16 Nevertheless, I'll begin by saying the Senator
17 wants to thank you for your commitment to providing
18 critical affordable housing in our community. This is to
19 urge the Department to continue to support the 2015 Low
20 Income Housing Tax Credits awarded to LHA for their Casa
21 Verde Apartments project.

22 Although the Casa Verde Project in conjunction
23 with the demolition and reconstruction of Russell Terrace
24 we believe meets the statutory requirements for an at-risk
25 set-aside, Department staff contends that the project does

1 not because Russell Terrace would no longer be demolished
2 as originally proposed.

3 Essentially, our position -- we think the Ortiz
4 letter from HUD backs us up -- is that the requirement for
5 disposition is met, specifically as Ms. Ortiz writes, the
6 Russell Terrace Public Housing Project will be disposed by
7 the LHA at the time of the RAD conversions.

8 We'd note that Texas Government Code
9 2306.6702(5) defines an at-risk development to include
10 that which proposes to rehabilitate or reconstruct and
11 that meets one of three subsequent criteria. There is no
12 statutory definition of the requirement that
13 rehabilitation or reconstruction requires demolition of
14 the property.

15 What's more, even if demolition is required,
16 neither the applicable Texas statute nor the QAP defined
17 definition as it relates to reconstruction and therefore,
18 the HUD definition as expressed in the Ortiz letter should
19 prevail. A project that proposes to rehabilitate or
20 reconstruct housing almost must meet one of the three
21 additional criteria to satisfy at-risk set-aside.

22 It has to be owned by a public housing
23 authority receiving Section 9 assistance. It has to
24 receive federal -- pardon -- it has to be, yeah, owned by
25 a public housing authority, has to receive Section 9

1 assistance, and be proposed to be disposed of or
2 demolished. And it has to receive assistance through the
3 Rental Assistance Demonstration, the RAD Program.

4 Essentially our position is that the proposed
5 Casa Verde Development meets all three of these, but in
6 particular, again, as of the addition of the HUD letter,
7 we think most importantly is the disposition as opposed to
8 demolition. So accepting that definition of disposition,
9 we do think that this is consistent with the
10 characteristics of an at-risk insofar as HUD would view
11 the disposition as taking this out of the affordable
12 housing stock.

13 I'm happy to field any questions, but I would
14 note that I would defer to subject matters experts that
15 may be present on technical questions. Thank you.

16 MR. OXER: That's fair. All right. Any
17 questions for Timothy?

18 (No response.)

19 MR. OXER: Okay, thank you.

20 MR. STOSTAD: Thank you very much.

21 MR. OXER: Give the Senator our best regards
22 and thanks.

23 (Pause.)

24 MR. SOLOMON: Mr. Chairman and Board members,
25 thank you so much for hearing us. My name is Rod Solomon.

1 I'm with Hawkins Delafield and Wood, and I was a former
2 HUD deputy assistant secretary and worked some in this
3 area on getting RAD going to begin with.

4 We do think that we meet the at-risk
5 characteristics, but I want to point out that this going
6 to RAD really didn't come from nowhere. When HUD informed
7 the Housing Authority that the demolition application
8 would not be approved, our consultants, National
9 Development Council, consulted with the staff, with the
10 TDHCA staff, and said, Okay, well, what we can do here.
11 Under the at-risk statute, it looks like RAD is an
12 alternative or disposition is an alternative. Would those
13 work?

14 And came away with the understanding that those
15 would work. Staff senses they have more facts now, and,
16 you know, no point in getting into that. But based on
17 that, the Housing Authority applied for RAD, promptly
18 received RAD, has been processing through RAD. And in
19 fact on the Casa Verde site, HUD has gone from awarding
20 the RAD in August to going all the way through its
21 processing to authorizing the Housing Authority to proceed
22 with closing for Casa Verde, record time in my decades of
23 experience with HUD to try to make this work.

24 And I think on the Russell Terrace site itself,
25 that HUD's letter actually does a little bit more than was

1 being portrayed by the staff comments. HUD's letter makes
2 it clear that all these units are being taken out of the
3 public housing inventory, that HUD clearly sees this as a
4 disposition, which is one of the categories under the at-
5 risk statute.

6 HUD also has authorized this to go forward,
7 clearly expects it to be substantial rehabilitation, and
8 expects that a number of systems are going to have to be
9 redone at Russell Terrace which as HUD's definition you
10 have to do basically four or five of demolitions. So
11 under HUD's definition, not defined in state law, there
12 will be demolition at Russell Terrace.

13 So then you get to the question, so under state
14 law, basically we think although we've tried hard with the
15 staff, the staff has tried to hard, but they can be more
16 flexible than is -- and I'm very reluctant to have to try
17 to argue not to go with the staff recommendation, but we
18 just think you can be more flexible.

19 The statute itself only says for public
20 housing. It basically is a recognition that all public
21 housing is at-risk, and it doesn't have language about
22 imminent danger of removal.

23 The statute itself only says a development that
24 proposes to rehabilitate or reconstruct and is either
25 owned by the Housing Authority and receives operating

1 assistance, which this is, or proposed to be disposed of,
2 which this is, or demolished, which this is, or received
3 RAD, which this is.

4 So then we get to the question I think of,
5 well, is there anything we can do about this given the
6 concern that, well, Russell Terrace was going to be
7 completely leveled. Now there's going to be some
8 reconstruction on Russell Terrace.

9 Casa Verde is not changed, and so that's why
10 what we submitted was a request for a nonmaterial
11 amendment only to substitute RAD for public housing for
12 the 38 units of low income subsidy. Casa Verde is not
13 changed. So we're only talking about what's going on at
14 Russell Terrace.

15 And what the staff basically has concluded is
16 that because the Housing Authority has found an innovative
17 way to both meet the statutory definitions here, and by
18 the way, the definition of reconstruct, which is the most
19 troubling here is not a statutory -- it's not in the state
20 statute.

21 They met the statutory definitions for at-risk.
22 They found an innovative way to bring back some units at
23 Russell Terrace. They are demolishing those units under
24 HUD's definition of demolishing whether they're
25 disqualified because now they've found a way that they can

1 bring them back.

2 And we would argue that the statute doesn't go
3 that far. It gives -- you have a lot of discretion under
4 attorney general opinions and would otherwise about how to
5 interpret your own at-risk statute, of course, and what is
6 at-risk. And you don't have to reach out so far as to say
7 here that because we're going to save some affordable
8 housing in Laredo, you have to throw out the tax credits.

9 It's an ironic position for the State to take,
10 and the staff has told us we hope you can find a way with
11 the Board sort of not to make us do this, and I guess --
12 at least that's what they said in the last conversation.
13 And I think what we're saying is, well, we think you don't
14 have to do this.

15 We think as to the reconstruction onsite, that
16 first of all, disposition as opposed to demolition and I'm
17 glad that Tim, you know, emphasized that. There's nothing
18 in the QAP about disposition. There's nothing in the
19 QAP -- other than referencing the law, the QAP perhaps
20 hasn't caught up to disposition. There's nothing about
21 how many units you have to replace it with or how -- where
22 or how many have to go where. It's totally silent.

23 So we think either by way of -- or by just
24 recognizing that the QAP hasn't gotten that far, this
25 could be authorized under disposition. And again, as it's

1 been stated as to rehabilitation and demolition, it meets
2 the HUD standard for demolition. There's no defined state
3 standard for demolition, so we think it meets it.

4 So then you get back again to the only other
5 question which is, well, yeah, but even if you're
6 demolishing, you're reconstructing on the site. Is that a
7 disqualification? And we would say no, that one, the
8 statute doesn't go that far. And in fact, even under the
9 original proposal where Russell Terrace was going to be
10 leveled no more, nothing there, a vacant site, the Housing
11 Authority a year later could have come back or two months
12 later and put public housing money there and basically
13 rebuilt everything. And you wouldn't have even questioned
14 it. It wouldn't have come up.

15 So we think that although granted there's some
16 ambiguities here, it may be that the Board would see
17 better fit to do a waiver and perhaps, define the QAP
18 further in future rounds. But we think there's enough
19 room here that you can help Laredo make this happen, be
20 consistent with the HUD letter, support the enormous work
21 that the staffs at LHA, HUD, and your own staff have
22 already done and make this work for everybody. So that's
23 what we hope you'll do.

24 MR. OXER: Okay. We appreciate your comments,
25 Mr. Solomon. Any questions?

1 (No response.)

2 MR. OXER: Counsel?

3 MR. ECCLES: I just have a point of
4 clarification because there's been talk of certain things
5 not being defined by statute. You would agree that the
6 terms "rehabilitation" and "reconstruction" are defined in
7 our rules.

8 MR. SOLOMON: I certainly would agree that
9 those terms are defined in the rules, but as to
10 reconstruction, I would say that it's consistent with the
11 QAP not addressing disposition whatsoever. It's really
12 not been -- that definition in the rules, not in the law,
13 has really never been carefully -- it doesn't appear to
14 mesh up with disposition.

15 I mean if you were going to reconstruct in
16 total, I mean how does that mesh up with selling the
17 property and it being gone? The reconstruction
18 definition, I'd certainly agree, so I'm sorry to belabor
19 it, but the reconstruction definition, it's been the same
20 since before even this public housing at-risk category was
21 in the statute.

22 It perhaps needs to be looked at again in
23 reference to disposition, but we also think we meet it
24 because of the demolition at Russell Terrace.

25 MR. OXER: All right. Any other questions from

1 the Board?

2 (No response.)

3 MR. SOLOMON: Thank you for hearing me.

4 MR. OXER: Okay, you're very welcome, Mr.
5 Solomon. Thank you for your comments and your insight on
6 it.

7 (Pause.)

8 MR. BROWN: Good morning. Doak Brown. I'm
9 with Brownstone. We are the developers and general
10 contractors on this particular development. I just wanted
11 to address the timing question. I know y'all were
12 discussing that earlier.

13 We still believe that we can meet the specific
14 timing. The 10 percent test can essentially be met
15 between the capitalized ground lease cost and developer
16 fees and maybe a small material purchase that may not even
17 be necessary. So we still have the opportunity to meet
18 that October 31 deadline.

19 And in terms of the place and service date, we
20 are able to meet that at this point. We can get a site
21 work permit if necessary to at least get that portion of
22 the work going in order to get our loan closed down the
23 road.

24 So I just wanted to address that from a timing
25 perspective our investor and lender are still comfortable

1 with the time that we have to get this project done.

2 MR. OXER: So they think you can meet the clock
3 on this one?

4 MR. BROWN: Yes, they do.

5 MR. OXER: Okay. And that's on the completion
6 of the project as it was originally presented just for the
7 record.

8 MR. BROWN: Well --

9 MR. OXER: And I understand that you're
10 presenting it as you could meet all those with the current
11 configuration that you're supporting and presenting, but
12 we're -- you know, we have -- tragically at times we have
13 some of these rules that we have to -- we're very careful
14 about that. We work very hard to try to preserve the
15 integrity of the rule that we've put together, make sure
16 that we have to play by them, and that everybody else does
17 too.

18 So the question is does, as is the point that
19 we brought out in the motion, do we appeal or approve the
20 staff recommendation on the appeal on the waiver and the
21 amendment.

22 MR. BROWN: The intent all along was to build
23 the new construction to begin with. That's still going to
24 be done, so there won't be any tenant displacement. So
25 whatever happens at the Russell Terrace site, it's going

1 to be subsequent to the Casa Verde site.

2 And let me just add to what Rod is saying,
3 really the issue here is one of timing. It is with the
4 transaction that's currently being proposed in the
5 amendment, everything's kind of wrapped up into one larger
6 transaction. Yes, there's a net gain, but it's a net gain
7 that could have occurred if they didn't wrap it up into
8 one transaction to begin with.

9 For example, if the Housing Authority just
10 essentially decommissioned, you know, 138 units at Russell
11 Terrace, sold it to somebody else, somebody else can bring
12 back that housing and do a 4 percent transaction on it.
13 So it's really just a question of timing, and they've
14 wrapped it up and improved the situation from an
15 affordable housing perspective.

16 So I think the Board could consider that as
17 well. And it is a separate transaction, but that housing
18 is going to be developed years down the road. You have to
19 get Casa Verde built first and then you have to go through
20 the rehab. You're probably talking about a two and a half
21 year process there.

22 So I think that's worth the Board considering
23 as well. Thank you.

24 MR. OXER: All right. Thanks for your comments
25 there, Mr. Brown.

1 (Pause.)

2 MR. OXER: Now we'll assume that everybody else
3 who wishes to speak has something new to add to the
4 argument, right? Okay.

5 Good morning.

6 MS. FREEMAN: Good morning. I thank you for
7 allowing me the opportunity to speak before y'all. My
8 name is Gloria Ann Freeman. I live in Russell Terrace
9 Housing Project under the management of the Laredo Housing
10 Authority in Laredo, Texas.

11 Since returning to Laredo in 1991, I personally
12 have experienced homelessness four times. It shames you;
13 it demoralizes you. It degrades, especially when you have
14 a full-time job, but I am not here to talk about my
15 personal story. I'm here to speak to you about my
16 community, its needs, its special requirements which must
17 be addressed by this Board.

18 Laredo Russell Terrace is a unique situation.
19 We sit on the border between Latin America and the rest of
20 the United States of America. The Laredo Housing
21 Authority not only has the responsibility to provide
22 adequate affordable housing for low income families,
23 single-parent families, the disabled, the elderly, the
24 disabled veterans, which all have special needs. They
25 also are burdened with an influx of illegal mothers with

1 children that must be prioritized for their housing needs.

2 Russell Terrace is a subcommunity of 200 units.

3 That means 200 families occupy these homes. The
4 demolition of Russell Terrace would not only negatively
5 impact these families, which most have a special needs
6 person in the household, but it would also affect Laredo
7 Independent School District by denying them the funds that
8 the State would allocate for a student that would be
9 removed from the district.

10 Furthermore, all the small businesses
11 surrounding the housing project would also suffer because
12 their financial stability is generated by Russell Terrace
13 tenants utilizing their neighborhood businesses. Most of
14 these tenants are on low fixed incomes and which they
15 struggle month to month and would not have a home if they
16 did not have to live in public housing because they could
17 not afford to live anywhere else.

18 Moving them from their centralized location
19 would greatly affect their access to our metro public
20 transportation system. I am asking the Board to please
21 release the tax credits discussing this project that would
22 bring more affordable housing into Laredo or allow the
23 Laredo Housing Authority to propose a viable alternative
24 plan to allow the building of Casa Verde and still keep
25 Russell Terrace standing to help ease the burden that our

1 unique situation causes.

2 I ask, reject staff recommendation and to
3 approve the low income tax credits. I urge the Board to
4 vote not only the monetary value of this project but your
5 moral judgment to please put these people's minds at ease
6 because uncertainty of what the future holds in regard to
7 our housing is placing a heavy hand over my heart fearing
8 that I might be homeless again.

9 Thank you.

10 MR. OXER: Thank you, Ms. Freeman. We
11 appreciate your comments.

12 (Pause.)

13 MR. OXER: That's all right. No points off for
14 that one, but don't anybody else do it, okay.

15 (General laughter.)

16 MR. GARCIA: Good morning, Mr. Chairman and
17 fellow Board members. For the record my name is Arturo
18 Garcia. I am the acting director for the Department of
19 Community Development for the City of Laredo. Also the
20 primary staff liaison for the Laredo Housing Finance
21 Corporation.

22 First of all, the City's committed to providing
23 a better quality of life for its citizens and in
24 particular persons of very low income and moderate
25 incomes. By creating, providing, and promoting affordable

1 housing opportunities.

2 In this case, the City of Laredo passed the
3 resolution supporting the Casa Verde Project. In
4 addition, the Laredo Housing Finance Corporation Board is
5 very supportive of the project and have committed to
6 provide \$2,070,000 in the form of a construction loan for
7 the affordable housing project.

8 This project that is before you is vital to our
9 community, and in order to provide affordable and safe
10 living conditions to our citizens who are tremendous need
11 as you just heard from one of the residents. I'd like to
12 provide you some facts.

13 As per the 2015 U.S. Census, the City of Laredo
14 currently has a population estimated of over 255,000
15 individuals, with 31 percent of residents living in
16 poverty, as compared to statewide at 15.9 percent. Our
17 community's current housing conditions affecting the City
18 of Laredo is a lack of safe, decent, available, affordable
19 rental housing.

20 The City has measured this growing need by the
21 increase of families requesting in the waiting dwellings
22 and several, as the Mayor mentioned earlier, waiting list.

23 The City of Laredo through its Home Investment
24 Partnerships Program, as an example, currently has a
25 waiting list of over 160 elderly waiting for assistance

1 for tenant-based rental assistance.

2 And the City's Municipal Housing Division,
3 which is not associated with the Housing Authority, has
4 approximately over 250 itself persons waiting an
5 opportunity to rent an affordable unit. We have other
6 neighborhood nonprofit organizations such as NeighborWorks
7 and, of course, the Laredo Housing Authority and other
8 entities that are committed to increasing affordable
9 rental housing in our community. They have seen this
10 demand by our citizens.

11 The market conditions that are referenced in
12 the U.S. Department of Housing Comprehensive Marketing
13 Analysis conducted in 2015 show a shortfall of over 1,300
14 affordable rental units with a vacancy rate of 6.4 percent
15 vacancy rate.

16 The shortfall demonstrates the need for our
17 community to act quickly and increase our rental housing
18 stock to avoid a more devastating housing crisis such as
19 an increase of homeless families or individuals.

20 Through the U.S. Department of Housing and
21 Urban Development Five Year Con Plan that the City
22 provides and addresses multiple needs in our community by
23 leveraging local funds with federal funds such as HOME
24 funds focusing on affordable housing opportunities, this
25 plan has identified the critical need to support low

1 income housing tax credit projects in our community to
2 increase the availability of affordable housing rentals.

3 Lastly, I would like to emphasize the increase
4 of the housing units in our community is desperately
5 needed and is vital in order to help accommodate families
6 in need that are requesting affordable, safe, and clean
7 rental housing.

8 The City requests that Texas Housing Community
9 Development Board's consideration in maintaining the low
10 income housing tax credit projects for the Casa Verde
11 Project. I'd like to thank you for your time and
12 consideration on this matter.

13 MR. OXER: Okay, thank you, Arturo. Any
14 questions from the Board?

15 (No response.)

16 MR. OXER: I would offer just an observation.
17 Be coming up and signing in and be prepared to speak.

18 An observation, what we've found is, at least
19 in the time of my tenure here on the Board, we haven't
20 found anybody yet that makes a low income housing tax
21 application that doesn't need the housing.

22 So, you know, everybody, that argument that we
23 desperately need this housing, there's 30 more behind you,
24 okay. So we recognize that. Part of the problem is we
25 have a limited resource, a huge demand for it. And the

1 question we have to do is sort out the ones that get it
2 and prioritize those.

3 If somebody's willing to give us an unlimited
4 amount of money, I'll make sure that everybody in this
5 room gets a house. Okay.

6 You, sir.

7 MR. LOPEZ: Good morning. For the record my
8 name is Gabriel Lopez. I'm a veteran's advocate. I'm a
9 veteran, and I represent the Laredo-Webb County Veterans
10 Organization which there all were 13 veterans
11 organizations.

12 But I also work for a nonprofit organization,
13 which is called the Laredo Veterans Transitional Center,
14 which is a homeless shelter for veterans in Laredo. At
15 one time we housed up to 96 veterans. Due to the lack of
16 funding, we now can only house nine, including two
17 families.

18 We have been working to end homelessness in
19 veterans in Laredo and Webb County for many, many years.
20 Unfortunately, we still have a lot of work to do. It is
21 estimated that there are between 100 and 120 homeless
22 veterans in Webb County and some of them across our border
23 in Nuevo Laredo, Mexico, or in other areas. And they do
24 that because they cannot afford to live in the United
25 States.

1 We are against the staff recommendations as
2 they will limit our chances to end homeless veterans in
3 our community as more than likely the resources will
4 decrease with the staff recommendations.

5 Currently we have veterans, elderly veterans,
6 that are living on Russell Terrace, and I just want to
7 point out to you that the population of our veterans in
8 Laredo is roughly about 10,000. The majority of our
9 veterans in Laredo are Vietnam veterans, those veterans
10 that are coming of age and their needs are rapidly
11 increasing.

12 Yes, we do have a surge of younger veterans
13 come into our community and our county, but the most
14 needed assistance are Vietnam veterans. We cannot afford
15 more homeless veterans in our community, and we cannot
16 afford to make them at-risk.

17 So on behalf of all Laredo Webb County
18 veterans, we respectfully ask that you go against staff
19 recommendations and move forward with the Casa Verde
20 Project to help us end homeless veterans in our community.

21 Thank you very much.

22 MR. OXER: Thank you, Mr. Lopez. Any
23 questions?

24 (No response.)

25 MR. OXER: Okay.

1 MR. ECCLES: Actually --

2 MR. OXER: You want me to do that? Go ahead.

3 MR. ECCLES: I was going to ask a question.

4 Mr. Solomon, are you acting as counsel for the applicant?

5 MR. SOLOMON: Yes, for the Laredo Housing
6 Authority.

7 MR. ECCLES: That would be fine.

8 MR. SOLOMON: Thank you.

9 MR. ECCLES: If I could just ask one question
10 about what is before the Board just as a procedural point.

11 MR. OXER: Come to the mike, Mr. Solomon, we'll
12 get to you in just a minute.

13 MR. ECCLES: I'll make it quick, ma'am. I'm
14 sorry. The application as it was filed stated -- I think
15 it was a narrative and staff can correct me if I'm wrong
16 on this -- that Russell Terrace was going to be razed,
17 like completely demolished.

18 MR. SOLOMON: Because it was filed in 2015.

19 MR. ECCLES: Yes.

20 MR. SOLOMON: Yes.

21 MR. OXER: The original application.

22 MR. SOLOMON: Yes.

23 MR. ECCLES: So all of those units were going
24 to be lost. And I'll ask this, and you can say whatever
25 you want in response. It was then that the Board

1 afterward was after commitment was told that HUD had said
2 No, Russell Terrace is an obsolete, so you can't raze it.

3 And then what is before the Board was developed that
4 Russell Terrace was going to be at some point rehabbed and
5 Casa Verde was going to be made. And the RAD transaction
6 was in there and trying to make it meet the original
7 application.

8 And this is all just bringing us to the point
9 that with this HUD letter that we just got today that says
10 that 38 of the units in Russell Terrace will no longer be
11 public housing and the Laredo Housing Authority would have
12 the authority to demolish the structures, I'm just
13 wondering is the amendment that you want to put in front
14 of the Board actually in front of the Board.

15 MR. SOLOMON: I'm sorry, but could you please
16 -- what do you think we should be saying, you know, to be
17 blunt?

18 MR. ECCLES: Well, and that's fair. I'm just
19 wondering if what is before the Board is what you're
20 actually seeking to do because -- and here's the
21 clarification on this. When an application changes, there
22 needs to be an amendment.

23 And it seems like the situation on the ground
24 has changed twice now when I'm looking at this letter, and
25 I'm just wondering if you are asking the Board to consider

1 an application amendment for a situation that it hasn't
2 been fully fleshed out.

3 MR. OXER: Essentially --

4 MR. ECCLES: -- for your application amendment.

5 MR. OXER: -- what my interpretation of that is
6 the amendment that you filed is a half a step behind where
7 this letter purports to move you to in the application
8 process.

9 MR. ECCLES: Don't get me wrong. I'm not
10 giving you legal advice. If you want to stand on it --

11 MR. OXER: You're asking a question on it.

12 MR. ECCLES: -- you're within your rights to do
13 it. I'm just wondering if what you are asking to amend
14 your application to read is actually what your contract or
15 what your application amendment is the one that you want.

16 MR. IRVINE: And let me amplify that by
17 pointing out that while it might make sense within the way
18 that different people are discussing this for the Board
19 fashion some sort of resolution on the fly, procedurally,
20 legally it cannot do that. It can only take action on a
21 specific amendment that has been properly requested and
22 has gone through that 14-day public posting process.

23 MR. SOLOMON: Please let me know if you don't
24 think this is responsive, but the amendment which was
25 filed in July, we proposed a nonmaterial amendment to

1 substitute RAD for a Public Housing Operating Subsidy at
2 Casa Verde.

3 It was our understanding that that's really all
4 at the time -- that that's really all we needed to do
5 because in part based on the staff's advice. Maybe they
6 didn't have enough information, but based on that, we
7 didn't really expect an issue with what was going on at
8 Russell Terrace as still qualifying. And we thought all
9 we had to do was correct what's actually being done where
10 the tax credits are being used at Casa Verde.

11 Now, as to the 38 units, I mean I think the HUD
12 letter says many things, but as to the 38 units, HUD is
13 making clear that those 38 units now would be no longer
14 subsidized at Russell Terrace as public housing or RAD.
15 And HUD is saying, Well, you could demolish those. You
16 would have authority to demolish those.

17 And we said to the staff in one of our recent
18 correspondences that yes, if that will make a difference,
19 we'll consider, that we have HUD authority to demolish
20 those under the RAD Program and we could do that. Our
21 proposal for the Russell Terrace site for the other 162
22 units still is to meet HUD's definition of demolition.
23 But then to reconstruct them and for the reasons we've
24 already talked about, we think that does qualify.

25 Can I also just if you'll indulge me for a

1 minute on the motion that you were trying to make, we
2 appreciate your trying to help us and that you're trying
3 to kind of find a way to keep it alive and we're grateful
4 for that.

5 I'm not sure that emotion which denies the
6 ability to make the waiver and use RAD Casa Verde is --
7 even if you take the other part off the table, that's
8 going to make it very hard because what we can do at Casa
9 Verde is RAD for the 38 units. And you've approved that
10 kind of amendment in other cases for the 2015 round.

11 So I appreciate the attempted help, and we want
12 to try to work with you. And therefore, we were saying,
13 you know, well, maybe you can consider a waiver where the
14 disposition part of the QAP really hasn't been fully
15 developed so that you don't have to feel like you're
16 setting a precedent for all time. But we do need to work
17 with you to find something that'll work here, and I know
18 your questions are in that spirit and that is appreciated.

19 Let's figure it out.

20 MR. IRVINE: Well, I think "let's figure it
21 out" is the perfect segue in many respects. You know, you
22 have an award, and it's to do something very specific.
23 And you now need to react to circumstances and do
24 something different.

25 Have you articulated in your current amendment

1 request which is before the Board exactly what it is you
2 want to do?

3 MR. SOLOMON: If you're saying have we -- what
4 we want to do at Russell Terrace with RAD, we didn't think
5 we had the need to do that originally. Given how the
6 discussion has gone, perhaps we do, and if that's what we
7 need to do -- if we need to make that amendment to make
8 clear that the 162 units would be disposed of, 4 percent
9 credits, reconstructed under RAD meeting HUD's definition
10 of demolition, we could make that amendment.

11 And the HUD's letter I think does -- I mean HUD
12 has approved this. I'm not saying there's no more for
13 them to approve, but HUD has approved this. We could do
14 that.

15 MR. OXER: But that's not your amendment.

16 MR. SOLOMON: We could amend to that -- we
17 could amend if that's what it takes to finish this action.

18 MR. OXER: Okay, thank you, Mr. Solomon. And
19 we'll -- all right, thank you. And we'll have another
20 opportunity. You'll have another shot at this, okay, but
21 thank you for your comments.

22 MR. SOLOMON: All right.

23 MR. OXER: Did you get what you wanted on that
24 part?

25 MR. ECCLES: I'd actually like staff's thoughts

1 on what is before the Board and just how this conversation
2 is going and what staff sees as what is before the Board
3 and what is not before the Board and what is being
4 presented by this letter and whether it would change it.

5 MR. SOLOMON: And we also could amend with
6 regard to the 38 units of course, everything on the
7 Russell Terrace site if that's needed. Thank you.

8 MR. OXER: Irrespective of the changes that
9 might occur, I get the sense that part of the two tracks
10 on this is if you decide to rescind this and amend it,
11 there's an opportunity to fix this. If we take what we
12 have now, it doesn't meet our rule, and we vote it, you're
13 done. Understand what I mean?

14 Okay, Raquel, you want to answer Beau's
15 question?

16 MS. MORALES: Yeah. And just a couple of
17 points that I want to address that have been brought up,
18 one in particular, the way this amendment was presented to
19 the Department, as Mr. Solomon just stated, was a
20 nonmaterial amendment to switch the 25 percent public
21 housing subsidy to RAD.

22 And he indicated that this Board has approved
23 that type of amendment with other 2015 housing tax -- and
24 one in particular, the El Paso deals that asked to do the
25 same thing. They were fully conversing to RAD. That is

1 --

2 MR. OXER: Aren't you proud that we did this?

3 MS. MORALES: That is the case. However, the
4 characteristics for that one application and another one
5 that's going to be before you today have not changed, that
6 would no longer disqualify -- or that would make it not
7 qualify under the at-risk set-aside.

8 And that's really the crux here is that that in
9 and of itself just having RAD subsidy at Casa Verde,
10 which, Mr. Brown, it is a new construction. It was
11 proposed to be that way in 2015, but with the added
12 characteristic that it was proposing to reconstruct
13 housing that was going to be lost at Russell Terrace and
14 relocated newly constructed at Casa Verde.

15 That's what qualified it under at-risk.

16 MR. OXER: Right.

17 MS. MORALES: One of the things that qualified
18 it under at-risk.

19 MR. OXER: Right.

20 MS. MORALES: As it stands now, it is a new
21 construction deal and had this application come in as a
22 new construction application, not under the at-risk set-
23 aside, the changes that they're proposing likely would
24 come before the Board as an amendment, but, you know, may
25 not have been such a struggle for staff to get to but for

1 the fact that it's at-risk and the characteristics that
2 make it at-risk just no longer exist.

3 So, you know, I appreciate that, Mr. Brown --

4 MR. OXER: what you're saying is they're at-
5 risk and this is at-risk?

6 MS. MORALES: They were at-risk before.

7 MR. OXER: It'll make it easier for us to do
8 this. Okay?

9 MS. MORALES: Right. Beau's question about the
10 letter that was received today with respect to the
11 statement that's in here that says that 38 units are no
12 longer public housing and LHA will have the authority to
13 demolish the structures, does that change? I don't know.

14 We have had several conversations trying to
15 figure out how to make this still meet the at-risk
16 qualification, trying to get to the same place. And
17 unfortunately, we just agree to disagree, and that's why
18 we're here before you.

19 MR. OXER: So Mr. Solomon --

20 MS. MORALES: I know that we've had this --

21 MR. OXER: Mr. Solomon's comment to the effect
22 that we're making every effort to accommodate what they're
23 trying to do also reflects the staff's efforts in the past
24 I guess and you've had conversations with them, Mr.
25 Solomon?

1 MR. SOLOMON: We have had.

2 MR. OXER: Okay, so.

3 MR. MORALES: Yeah.

4 MR. OXER: And I think there have been made
5 every effort to see if we can work this out too.

6 MS. MORALES: Right. I guess just to answer
7 Beau's question, I don't know that this would change
8 things. As I said before, I'd like to have the
9 opportunity to evaluate that. That's not the request that
10 was presented that's before you today.

11 But I know that we've had discussions over
12 several conference calls and correspondence with the
13 applicant and their consultants and their counsel
14 regarding definitions of demolition according to HUD and
15 our definitions.

16 And so, while, you know, one of the questions
17 that comes to mind having had the conversations that we've
18 had with this applicant that the Laredo Housing Authority
19 will have authority to demolish the structures, well,
20 HUD's definition of demolish is different and is more akin
21 to our definition of rehabilitation.

22 And so that in and of itself raises questions
23 for me because ultimately, does that mean -- does this
24 statement in this letter mean that the units will
25 physically be gone or are they still going to be there?

1 And therefore, was that housing lost?

2 That's, you know, one of the questions that
3 comes to mind with this letter that was just presented
4 this morning. Again, needing -- if the Board chooses, we
5 need that time to ask those questions and understand to
6 make sure that if there's a change in the plan at this
7 point, we need an opportunity to review that plan to see
8 if it qualifies under at-risk.

9 But based on what we understand today, staff
10 does not believe it does meet the at-risk qualifications.

11 MR. OXER: Okay. All right. Thanks, Raquel.
12 All right. Any further comment, Beau?

13 MR. ECCLES: Nothing.

14 MR. OXER: Okay. All right. Let me ask a
15 question here. We had someone in front of you who --

16 MR. CEBALLOS: I wanted to jump in if you don't
17 mind.

18 MR. OXER: It doesn't bother me. Does it
19 bother her is the question. She was there first, so.

20 MR. CEBALLOS: She'll be okay with that. Thank
21 you. Good morning, Chairman. Thank you for allowing us
22 to speak. I'm Jose L. Ceballos. For the record, I'm
23 chair of the Laredo Housing Authority.

24 On that last comment, and I wanted to make sure
25 I jumped in and at least provided that insight. In

1 working with the residents, I think if it's a good point
2 for us to come to in terms of how do we reconstruct those
3 38 units, I think the residents are okay with us finding a
4 way to do that in trying to, say, preserve these tax
5 credits and preserve the housing that's in place as well.

6
7 So I just wanted to make sure that if that's a
8 good point for us to talk about and to work with staff
9 with, we definitely want to consider that. I think Mr.
10 Solomon's made that clear. Within RAD we can do that, so
11 it's important. I just wanted to provide you that
12 insight.

13 And for me, you know, this process started for
14 me in January, but in April after we got that HUD letter,
15 it became extremely important to put things in place to
16 try to do both things as I've been in housing. I chaired
17 the local homeless coalition. I've been in housing a long
18 time. I know what it means to not have affordable
19 housing.

20 But in particular, if that's what we need to
21 talk about, I think the residents will continue to be
22 happy. As a housing authority, we can find solutions for
23 those 38 tenants that may end up -- I think ideally, we'd
24 want them to go to Casa Verde. But if they choose not to,
25 we will find a plan to address those.

1 If we decide that the 38 units -- demolishing
2 completely 38 units is necessary, I think the residents
3 would be agreeable to that, the community there, and we
4 would find a way to make it work. If that's where this
5 amendment needs to take us, we can do that.

6 I think Rod and everybody else has explained
7 quite well the technicalities with both what's in the law
8 and the QAP. At this point we really need the housing.
9 Obviously that's been restated, so you're going to hear it
10 some more, but it's finding a way --

11 MR. OXER: We've been hearing that for a while.

12 MR. CEBALLOS: Yeah, I know, so --

13 MR. OXER: We get that regularly.

14 MR. CEBALLOS: So I just want to make that
15 point on behalf of the Board of Commissioners. I think we
16 would entertain that very -- it's very feasible for us to
17 come to a working plan if we need to address -- if you'd
18 like to see us as you consider a waiver seeing some
19 demolition. That's certainly something we will work with.

20 MR. OXER: Okay, thank you for your comments,
21 Mr. Ceballos.

22 MR. CEBALLOS: Thank you.

23 MR. OXER: All right. Do you have something to
24 add to the discussion?

25 MS. VILLARREAL: Okay. Thank you so much, Mr.

1 Chairman and Board members here. Very short really, my
2 name is Elizabeth Alonzo Villarreal. I'm the CEO for
3 NeighborWorks Laredo and a partner with the local housing
4 agencies. Laredo cannot afford to lose more of its
5 housing stocks, specifically the units at Russell Terrace.

6 There's two elementary schools right across the
7 street, within walking distance, where parents walk their
8 kids to school. NeighborWorks Laredo is only one partner
9 of many affordable housing agencies whose waiting list as
10 mentioned before by Mr. Saenz and Mr. Garcia. And we
11 continue to see that at NeighborWorks Laredo also.

12 The recent decline what we're seeing in the oil
13 and gas industry is putting a strain in affordable
14 housing. We try to help them with foreclosure prevention,
15 but sometimes they come too late to where they're losing
16 their home so, you know, we try to accommodate them with
17 our rental properties.

18 But really we respectfully, you know, again ask
19 that you vote against staff recommendation. And we are
20 for the Casa Verde moving forward. Thank you.

21 MR. OXER: Okay. Thank you for your comments,
22 Elizabeth. All right. Is there anybody else that wants
23 to speak on this item?

24 MR. LYTTLE: Mr. Chairman, I do have a letter
25 we just need to register that Cynthia Riley submitted a

1 letter. She's a Russell Terrace resident submitted a
2 letter to the Department in support of the Casa Verde
3 Development receiving the tax credits and in opposition to
4 the staff recommendation.

5 MR. OXER: Okay, thanks, Michael.

6 MS. GALINDO: Good morning, Mr. Chairman and
7 members of the Board. Mary Galindo, Executive Director of
8 Bethany House of Laredo on behalf of Casa Verde. My
9 position is against staff's recommendation.

10 And I would like to take this opportunity to
11 strongly urge the Board to preserve the vital award of tax
12 credits for the Casa Verde Project because reallocating
13 these credits would be devastating to affordable housing
14 in our area.

15 Based on the 2016 Point-In-Time Count conducted
16 by the Laredo Homeless Coalition, the City of Laredo has
17 an estimated 1,400 homeless individuals. Bethany House
18 operates the only emergency shelter in Laredo along with
19 the only 17 transitional housing units.

20 Our shelter is at capacity on a daily basis and
21 when 20 percent of our clients receive SSI benefits in the
22 amount of \$733 monthly without the addition of these
23 affordable units, my clients will continue to remain
24 homeless because they will never be able to afford an
25 average market rent of \$672.

1 I strongly believe that the absence of
2 affordable housing in our community has an extremely
3 impact on homelessness in Laredo, and I would like to
4 thank you for your consideration.

5 MR. OXER: Okay. Thank you, Mary.

6 MS. GALINDO: Thank you.

7 MR. OXER: I appreciate your comments. Any
8 questions from the Board?

9 (No response.)

10 MR. OXER: Okay. You're going to --

11 MS. JACKSON: You're looking at me --

12 MR. OXER: No, no. I mean do you need to say
13 anything on this one?

14 MS. JACKSON: I was if it was okay and I will
15 be quick.

16 MR. OXER: I know better than that.

17 MS. JACKSON: Good morning still --

18 MR. OXER: Still.

19 MS. JACKSON: -- Mr. Chair and Board members.
20 I just want to speak on support of and appreciation of the
21 staff's recommendation. The development community
22 recognizes that this is a very -- oh, I'm sorry. I didn't
23 say my name.

24 MR. OXER: Right.

25 MS. JACKSON: Toni Jackson, hi. Thank you too.

1 The development community recognizes that this is a very
2 competitive process and that all of us standing before you
3 and every application before you has a need in those
4 communities in which we serve.

5 However, it is also important for us to be able
6 to rely on consistency of interpretation of decisions that
7 come before you. Earlier this year in the 2016 round,
8 there was another application that had a very similar
9 amendment to it, and it was the at-risk category. And
10 because of that amendment and the interpretation as has
11 been set out by staff today, it was removed from the at-
12 risk category.

13 So again, we appreciate when there is
14 consistency in the interpretation and decisions made by
15 you. And again, since that particular application was
16 removed from the at-risk category, I stand in support of
17 staff's decision today.

18 MR. OXER: Okay.

19 MS. JACKSON: Thank you.

20 MR. OXER: Thanks, Toni. All right. Anybody
21 else care to speak on this one?

22 (No response.)

23 MR. OXER: All right. I'm going to give
24 everybody what they're not looking for, and that's an
25 indecision because I want to -- we're going to take a --

1 we have some more to speak. Okay, get up there and tell
2 them who it is. Hello, Mr. Solomon.

3 MR. SOLOMON: Hello. Well, at least I don't
4 have to repeat who I am.

5 MR. OXER: No, yes, you do every time you come
6 to the mike.

7 MR. SOLOMON: Okay, I'm Rod Solomon with
8 Hawkins Delafield and Wood. Just a few very quick
9 comments. If the application that was just referenced is
10 what I'm thinking it is, it really wasn't the same
11 situation at all. This is a situation where 200 public
12 housing units are being eliminated and 200 units are being
13 either done with RAD or well, done with RAD at different
14 sites.

15 That application that was referenced as I
16 understand it, actually really did add units in a way that
17 this one doesn't. The other thing, just a quick further
18 clarification about what our Board Chair from Laredo said.

19 The 38 units could be razed -- to use Ms. Morales' word
20 that she used -- and I just wanted to be clear in case it
21 wasn't that that's what was being said.

22 And I thank you for taking me in one extra
23 time.

24 MR. OXER: Sure. And just to confirm that,
25 that's what we're talking about, right, Raquel, what he

1 just said?

2 MS. MORALES: That the 38 units could be
3 demolished, raised down? Yeah, again --

4 MR. OXER: I'm just making sure that both of
5 you were saying the same --

6 MS. MORALES: Not having evaluated that plan --

7 MR. OXER: Got it. Okay. I got it. I got it.
8 Terri?

9 MS. ROEBER: Hi, Terri Roeber of Department of
10 Housing. I have 17 registered opinions that are against
11 staff recommendation. Did you want me -- or 12, five
12 spoke. Did you want me to read the names?

13 MR. OXER: You can add those to the record.
14 We'll have them written in. She'll put them in. Nancy,
15 can you put those into the record?

16 THE REPORTER: Yes.

17 MR. OXER: Okay. Good.

18 MS. ROEBER: Thank you.

19 (The following individuals registered in
20 writing their opposition to the staff recommendation and
21 did not wish to speak: José D'Jesus Collazo, Bulmaro
22 Cruz, Anita C. Garcia, Gabriel Lopez, G. Gina Magallanes,
23 Edna Morales, Maria Morales, Julia Orduña, Cynthia V.
24 Riley, Sara Rodriguez, Mario Sauzo, and Gisele Uribe.)

25 MR. OXER: Thank you. All right. Here's what

1 we're going to do. This is a complex issue. We need to
2 take a little time to think about it. I don't want
3 anybody's head to explode on this one.

4 So it is now 10:47. We're going to take about
5 a 15-minute break. Let's be back in our chairs at eleven
6 o'clock.

7 (Whereupon, a brief recess was taken.)

8 MR. OXER: Okay, we'll be back in session back
9 in order. Okay, with respect to this item, Mr. Ceballos,
10 do you have a --

11 MR. CEBALLOS: Hello. Jose Ceballos --

12 MR. OXER: You're all right. Nancy's taking
13 care of that one.

14 MR. CEBALLOS: Great, thank you. We just
15 wanted to say and make a request to you that obviously
16 you've received a lot of information today and we've
17 shared a lot of information today.

18 If we can have some time to work with staff
19 before you make your decision to be able to see if we can
20 reach a point that's amenable to everyone involved and in
21 the interest of everybody meeting -- you know, meeting
22 your interest in terms of the QAP and the law and as well
23 as taking care of our affordable housing needs and
24 reaching a possibility of addressing some demolition if
25 that's required to the level of razing.

1 We would consider that, and I'd like to work
2 with staff. And given that she's just received the HUD
3 letter too today, it may be wise for all of us to sit down
4 and --

5 MR. OXER: Take a deep breath and look at this
6 again.

7 MR. CEBALLOS: Yeah, and come back to you at
8 the next opportunity with this.

9 MR. OXER: So with respect to this item --
10 please stay at the mike for a moment -- with respect to
11 this item, there's a motion by Ms. Bingham, second by Mr.
12 Gann if I recall correctly. Okay, would the two of you be
13 willing to --

14 MR. GANN: Rescind it?

15 MR. OXER: -- rescind your motion and second?

16 MR. GANN: I do.

17 MR. OXER: Okay, Ms. Bingham?

18 MS. BINGHAM ESCAREÑO: I'll withdraw, yeah.

19 MR. OXER: Okay. Now with that, you're in a
20 position to pull this item from the agenda for
21 consideration for the next meeting. Your request, you
22 have to say yes.

23 MR. CEBALLOS: Yes, sir.

24 MR. OXER: Okay, that's good.

25 (General laughter.)

1 MR. OXER: I suspect that that's going to work
2 out better for the project for the --

3 MR. CEBALLOS: Well, we appreciate that.

4 MR. OXER: Okay.

5 MR. IRVINE: If I might provide just two pieces
6 of procedural clarity. One, this is on a very tight
7 timeline because of the 14-day posting requirement for any
8 material amendments. And second, you already have an
9 award to develop 200 new units that replace 200 units that
10 are being lost to the affordable housing pool.

11 And I think that that is the critical essential
12 attribute of an at-risk deal. It's a zero sum, you know,
13 200 out, 200 in.

14 MR. CEBALLOS: Great.

15 MR. OXER: You know, maybe the sum and
16 substance of this would be you're on a really tight
17 schedule.

18 MR. CEBALLOS: We know that.

19 MR. OXER: We're still alive, okay.

20 MR. CEBALLOS: That's why we appreciate that.

21 MR. OXER: The project is still alive, so. All
22 right. With respect to that, is there any other questions
23 or anything else on this item?

24 (No response.)

25 MR. OXER: Okay. So, thank you, Mr. Ceballos.

1 ME. CEBALLOS: Thank you very much.

2 MR. OXER: Okay, Raquel, then that takes care
3 of 15251 under Item 7. Is that correct?

4 MS. MORALES: Yes.

5 MR. OXER: Okay, do you want to go ahead.

6 MS. MORALES: Yeah.

7 MR. OXER: Let's just since we're there --

8 MR. ECCLES: And if I could just chime in.

9 Under --

10 MR. OXER: Go ahead, counsel.

11 MR. ECCLES: Under the Amendment Rule, folks
12 from the --

13 MR. OXER: You're going to want to hear this,
14 Laredo folks, so.

15 MR. ECCLES: The Department shall require the
16 applicant to file a formal written request for amendment
17 to the application because you are changing your
18 application. I mean even down to the narrative, you're
19 making a change to the application what the Board got and
20 awarded.

21 So the Department, if it hasn't already, is
22 requesting that you file a formal written request for
23 amendment to the application and include a detailed
24 explanation of the amendment request and all other
25 information as determined to be necessary by the

1 Department. So within that context, please go forth and
2 work with staff. Thank you.

3 MR. OXER: Okay. We appreciate your efforts at
4 making this work out, and we appreciate that you recognize
5 that we're trying to do the same.

6 (Pause.)

7 MR. OXER: Since we're on this item, let's go
8 ahead and knock this other one out if we can.

9 MS. MORALES: Okay. The next one is
10 Presentation, Discussion, and Possible Action regarding
11 material amendment to the application for 15119, Liberty
12 Square and Liberty Village. This is another 2015 at-risk
13 9 percent deal that was awarded tax credits.

14 The Groesbeck Housing Authority owns 80 units
15 which are located on two scattered sites originally built
16 in 1964 and 1973. The applicant received its award under
17 the at-risk set-aside based on its status as a development
18 proposing to rehabilitate housing units on a one-for-one
19 basis and are owned by a public housing authority that
20 receives assistance under Section 9.

21 The application for Liberty Square and Liberty
22 Village proposed a rehab of all 80 units, again, a one-
23 for-one replacement. It also proposed that 75 percent of
24 the units would be financed with housing tax credit and
25 RAD Program funds. And then the remaining 25 percent

1 would be supported by a Public Housing Operating Subsidy
2 as required by the 2015 QAP.

3 The applicant has submitted a request for
4 approval to change the application such that it would be
5 able to fully convert 100 percent of the units, all 80
6 units, to RAD. This change would mean that the applicant
7 would not be able to maintain 25 percent of the units as
8 public housing as originally proposed and required. And
9 so the applicant is seeking approval for this change.

10 It's worth noting that with respect to the
11 original development plan or with the characteristics
12 which qualify this application under the at-risk set-
13 aside, those characteristics have not changed. They are
14 still doing what they said they were doing. They are
15 going to replace one-for-one 80 units by rehabbing.

16 So it continues to maintain the characteristics
17 to qualify under at-risk and continues to meet the
18 Department's QAP rules related to at-risk as well except
19 for the change to fully finance the deal from the Public
20 Housing Operating Subsidy to RAD.

21 There were some additional changes that were
22 reflected in the letter and are included in detail in the
23 Board action write-up with respect to changes to the rent
24 and income levels that were -- that scored points in 2015.

25 However, at this time the applicant has asked to table

1 that decision and recommendation on that -- or
2 recommendation and decision by the Board on that. They
3 may come at a later time to address that particular
4 amendment to the application.

5 Other changes included a change to the
6 ownership structure and a clarification to the development
7 site acreage, which those two are not considered to be
8 material for purposes of requiring your approval but are
9 included in this action item to document and recognize the
10 changes noted.

11 Staff is recommending approval to request
12 Liberty Square and Liberty Village to convert 100 percent
13 of the development to RAD and to no longer be required to
14 maintain 25 percent of the units as public housing.

15 MR. OXER: Okay, any questions from the Board?

16 MR. GOODWIN: Move for approval.

17 MR. OXER: Okay, motion by Mr. Goodwin.

18 MS. BINGHAM ESCAREÑO: Second.

19 MR. OXER: All right, second by Ms. Bingham to
20 approve staff recommendation on Part 2 of Item 7 with
21 respect to Application 15119. Tammy, do you want to speak
22 on this?

23 VOICE: Only if there are questions.

24 MR. OXER: Any questions?

25 MS. BINGHAM ESCAREÑO: No.

1 MR. OXER: Okay. All right. This is headed
2 probably in the direction you wanted, so. All right. A
3 motion by Mr. Goodwin and second by Ms. Bingham to approve
4 staff recommendation on Item 15 -- let me get the number
5 right -- 15119. Those in favor?

6 (A chorus of ayes.)

7 MR. OXER: And opposed?

8 (No response.)

9 MR. OXER: There are none. It's unanimous.
10 Okay, good, thanks.

11 All right. Let's get back in the calendar
12 here, back in the sequence. Mark, why don't come and take
13 care of this one.

14 MR. SCOTT: Good morning.

15 MR. OXER: Yeah, it's been a great morning so
16 far.

17 MR. SCOTT: I'm Mark Scott, the Director of
18 Internal Audit. And we had an Audit Committee this
19 morning, and we went over the Internal Audit Plan for
20 2017. We went over the new audits that are proposed for
21 2017, which include Information Services, Bond Finance,
22 the contract for Deed Conversion Program.

23 From the 2016 Audit Plan, we carried over the
24 Housing Tax Credit and Multifamily audits and we combined
25 them as one project. We are finalizing an audit of the

1 Compliance Division from 2016, and we should have that
2 completed by the end of the month.

3 And the Audit Committee recommended approval of
4 the 2017 Audit Plan, and so I am requesting the full Board
5 approve it as well.

6 MR. OXER: Okay, any questions? Ms. Bingham,
7 as Chair of the Audit committee, would you care to
8 comment?

9 MS. BINGHAM ESCAREÑO: Mr. Chair, and thanks
10 Mark, I think there was nothing unusual that came out of
11 the Audit Committee this morning. We're on track to --
12 the Department's on track to complete what it planned to
13 for 2016 with the exception of the two carryovers that
14 Mark mentioned and I think the Committee was comfortable
15 with that.

16 MR. OXER: Okay. Everybody's comfortable.
17 We're heading in the right direction.

18 MR. SCOTT: Yes, sir.

19 MR. OXER: Half speed, full turns, right?

20 MR. SCOTT: Yes, sir.

21 MR. OXER: Good.

22 MR. SCOTT: Okay. The next thing on the
23 agenda is the Fair Housing Audit. I talked about that
24 this morning. It covered the areas of compliance and
25 affirmatively furthering Fair Housing. We found that the

1 program was well managed. We had a recommendation to
2 continue in their provision of training to staff on the
3 Fair Housing requirements.

4 So are there any questions about the Fair
5 Housing Audit that was -- the Fair Housing Audit was in
6 your packet.

7 MR. OXER: Right. And just as a point of
8 procedure here, I think we have to make a --

9 MR. SCOTT: Oh, I'm sorry. Yes, I forgot to --

10 MR. OXER: We have to make a full accept or
11 full approval of the Fiscal Plan.

12 MR. SCOTT: Yes, sir, I'm sorry. I forgot to
13 ask y'all to vote on the Audit Plan.

14 MR. OXER: I'm the one that actually that
15 technically has to do that. But you presented and you're
16 comfortable with it? Everything's good?

17 MS. BINGHAM ESCAREÑO: Yes.

18 MR. OXER: Okay. And would you offer a motion
19 to --

20 MS. BINGHAM ESCAREÑO: Mr. Chair, I move --

21 MR. OXER: -- to approve that plan?

22 MS. BINGHAM ESCAREÑO: -- move approval of the
23 2017 Audit Plan.

24 MR. GANN: And I'll second.

25 MR. OXER: Okay. That's good. And Mr. Gann is

1 the -- motion by Ms. Bingham, second by Mr. Gann as two
2 members of the Audit Committee to approve the Internal
3 Audit Work Plan for 2017.

4 There's no request for public comment. Those
5 in favor?

6 (A chorus of ayes.)

7 MR. OXER: And opposed?

8 (No response.)

9 MR. OXER: There are none. It's unanimous.
10 Okay, Mark.

11 MR. SCOTT: Thank you very much. And then the
12 other item on the Plan or on the schedule for today was
13 the audits. And the current audit and consulting
14 activities, I discussed that this morning in detail.

15 As I said, we're almost finished with the audit
16 of the Compliance Division. We talked about the
17 scheduling of the peer review, and I recently hired Ms.
18 Neda Sanjar. She's a certified internal auditor, and she
19 has extensive experience in banking.

20 So that concludes my presentation.

21 MR. OXER: Good. Any comments from anyone?

22 MS. BINGHAM ESCAREÑO: No.

23 MR. OXER: Okay, we accept this as a report
24 time?

25 MR. SCOTT: Yes, sir.

1 MR. OXER: Okay. Good.

2 MR. SCOTT: Thank you very much.

3 MR. OXER: Thank you, Mark.

4 Okay, Brent?

5 MR. STEWART: Good morning. Brent Stewart,
6 Real Estate Analysis. This item is an appeal for a
7 property in Dripping Springs called Merritt Hill Country.

8 It's a new construction transaction that was approved in
9 2015. They received an allocation of tax credits as well
10 as a home loan in the amount of \$1,550,000.

11 The original report was produced with certain
12 conditions, one of which is a standard condition placed on
13 all of our underwriting reports that basically says if
14 there are changes to this, you got to bring it back for us
15 to look at.

16 So prior to the home loan closing they
17 submitted a package to close the home loan, and there had
18 been some pretty significant changes to the cost and the
19 financing structure that triggered then a reevaluation of
20 the application. Through that evaluation, we identified
21 \$3-1/2 million of additional debt that was ahead of our
22 loan. And the amount of the debt service on that debt
23 ahead of our loan was right at \$56,000 annually.

24 So when we underwrote that -- well, there was
25 an addendum that occurred where we said, okay, you can go

1 do that, but we're going to keep -- the deal hadn't been
2 priced yet -- we're going to keep the fixed payment amount
3 ahead of us the same. Interest rates can change.
4 Anything else can change except for that annual payment.

5 And this request in addition to wanting us to
6 allow the new debt service, they were also wanting us to
7 extend the amortization period on our loan from 30 years
8 to 40 years. When it was submitted for these revisions,
9 it was submitted with a D-4 loan. The interest rate was
10 reduced from 6 percent based on what we underwrote before
11 to 3.3 percent. Again, debt increased.

12 So the issue here -- you know, there's a bunch
13 of detail in your write-up, but the issue here is as we've
14 talked before, risk profiles to the Department when debt
15 and debt service ahead of our loans increase. And we've
16 taken the position that we will allow for the debt amount
17 to change, the principal amount of the debt that's senior
18 to us to change, based on the interest rate change, but
19 the debt payment ahead of our loan needs to remain
20 constant.

21 That is the piece that tells us what our risk
22 profile is in the transaction.

23 MR. OXER: So the risk of payment remains
24 essentially the same. Even though the debt increases, the
25 rate goes down so it --

1 MR. STEWART: That's right.

2 MR. OXER: -- balances.

3 MR. STEWART: Now, what you're likely to hear
4 is that in the appeal what they have said is, Look, our
5 pro forma NOI has gone up so your actual debt coverage
6 ratio is improving. On numbers, that would be true. We
7 accepted the rents that they proposed in their amendment
8 because we knew that our debt service was not changing,
9 and therefore, from an underwriting standpoint, our
10 original assumptions were still valid.

11 In other words, if they can get more rent,
12 great. Our position was the same. We underwrote it and
13 are keeping to that underwriting. You know, who knows
14 what the rents are going to be, but you have to pick a
15 point in time that the deal was underwritten. And based
16 on what we now do, that point in time was chosen and that
17 was the debt service amount that was chosen.

18 With regard to the other issue about the 30-
19 year to 40-year amortization, they're claiming that HUD
20 will require a 40-year amortization. We've closed a
21 number of transactions with HUD where we have kept to our
22 30-year amortization, extended the term to 40 years. They
23 did not want our term to be shorten than theirs.

24 But to them, it was strictly a payment.
25 Whether it was based on 30 years, 25 years, 40 years, they

1 didn't care. It was an underwritten payment to them. And
2 so in our subordination kind of discussions with them,
3 we've been through that process with them, and they do
4 accept a 30-year amortization.

5 So, again, it's sticking with what we
6 originally underwrote, sticking with what the original
7 NOFA said how we were going to underwrite them. And so
8 staff is recommending that we keep our loan terms as they
9 were originally proposed and approved, and that's staff
10 recommendation.

11 MR. OXER: So okay, you've underwritten how
12 many deals?

13 MR. STEWART: A lot.

14 MR. OXER: Okay, a lot meaning a big number
15 with a lot of zeros behind it.

16 MR. STEWART: Yes, sir.

17 MR. OXER: Right? So I'm sure Mr. Goodwin's
18 underwritten a few deals himself.

19 MR. GOODWIN: Or two.

20 MR. OXER: A couple. Okay, I personally have
21 not, okay, other than that, other than buying some
22 utilities. So overwriting this would constitute the Board
23 saying we have more experience than you do in
24 underwriting?

25 MR. IRVINE: I would actually characterize that

1 a little differently. I would say that staff --

2 MR. OXER: That's what I was looking for.

3 MR. IRVINE: Staff has limited latitude to
4 function outside of the clear parameters of the rules.
5 And, you know, I think I made it pretty clear in my denial
6 of the appeal that the denial of my appeal was predicated
7 on the fact that I just did not think I had the authority
8 to go where they were requesting us to go.

9 I think it's certainly within the Board's
10 appropriate latitude to consider all the factors, and it
11 does have more latitude to grant these kinds of changes.

12 MR. OXER: Okay, so we are constrained by our
13 constraints on the prospect of us breaking the fence --

14 MR. IRVINE: I believe --

15 MR. OXER: -- and letting the herd out.

16 MR. IRVINE: -- our Federal Compliance Council
17 may also want to chime in about specifically how this may
18 intersect with provisions in the NOFA distribution
19 process.

20 MR. OXER: Megan, come on up. We'd love to
21 hear from you this morning.

22 MS. SYLVESTER: Good morning. It's still
23 morning; isn't it?

24 MR. OXER: So far.

25 MS. SYLVESTER: Megan Sylvester, Legal

1 Division. So this is -- I'm only speaking on the 40-year
2 amortization part. That was a --

3 VOICE: [Inaudible].

4 MS. SYLVESTER: Well, then I guess I'm not
5 needed. That's okay.

6 MR. OXER: Nice job, Megan. You got that
7 cleared off really quickly, so.

8 Okay, so with respect to this, here's what
9 we're going to do. We have a motion to consider, and then
10 we're going to have public comment. And so if you guys
11 can talk us into this, we'll look at it in a different way
12 maybe, so hold still.

13 MS. BINGHAM ESCAREÑO: I'll move staff's
14 recommendation.

15 MR. OXER: Okay, motion by Ms. Bingham to
16 approve staff recommendation on Item 4. Do I hear a
17 second?

18 MR. GANN: Second.

19 MR. GOODWIN: Second.

20 MS. BINGHAM ESCAREÑO: Twins.

21 MR. OXER: Okay, Mr. Gann gets that one. All
22 right. Mahesh, what you got?

23 MR. AIYER: Good morning. My name is Mahesh
24 Aiyer with Citi Community Capital. Thank you members of
25 the Board. I think going to Mr. Irvine's point of clarity

1 of the rules, we're not disputing I think the policy
2 procedure of what Brent outlined in terms of if in fact
3 the Board and staff have got a new policy of maintaining
4 that service amount, not that service coverage, but that
5 service amount.

6 The issue comes down to transparency and when
7 that's communicated. So historically for as long as I've
8 been working on tax credit transactions in the state, well
9 over 500 for 20 years, everything has been related to debt
10 service coverage, right? Because going to Brent's point
11 on rents, expenses, movement, and rates, debt service
12 coverage was the clarity on which you could have a
13 barometer when you put in an application at a certain date
14 and when you went in for your final review, last bite of
15 the apple before you closed.

16 In this case we understand the standard of
17 what -- if some things have changed, they got to get
18 reviewed again, but that's within the context of what the
19 rules are and what the parameters are. They're usually
20 well communicated, transparent, and everyone knows what
21 they are because by the time you come in for that final
22 review, the last bite of the apple, you're ready to close.

23 Right?

24 This is not a front-end process we're talking
25 about. We're talking about the process just prior to

1 closing. When Merritt Hill Country came in just prior for
2 closing -- we were slated for October 31 -- in September,
3 beginning part of September or I think end of August,
4 beginning of September, that's the first time we were
5 communicated to that, hey, in fact, wait a minute, the
6 home loan amount has changed enough that the debt service
7 amount has changed. And we are now requiring it constant.

8 When we asked when was this rule promulgated,
9 we were referred to a transcript on a page in the April
10 board meeting. You know, historically when something --
11 this is a material departure on underwriting standard.
12 When you're going historically on a home loan saying that,
13 hey, we'd like to be at 120 debt service coverage, then
14 all of a sudden you're moving to a hard absolute number on
15 debt service amount, that's usually something that's been
16 discussed, communicated, broadened in terms of how it's to
17 applicants.

18 In this case, one would have thought out of the
19 April board meeting and I read through the transcript and
20 I see it was a brief discussion related to one particular
21 transaction. We subsequently spoke with staff. I spoke
22 with Mr. Irvine separately to kind of figure out what was
23 the interpretation here. And that was the basis for the
24 policy change.

25 My next question was, well, if that were the

1 case, wouldn't you when you went back to the office since
2 we're talking about people who have already applied for a
3 home loan, that you would have communicated to every home
4 loan applicant that hadn't closed their home loan, Hey, we
5 have a new policy change that we are now looking at debt
6 service amount as opposed to debt service coverage and
7 here are the reasons why.

8 Usually, you know, historically when you look
9 at home loans, you will find in underwriting that the
10 amount of the first loan when you put in your application
11 at the end of February or March at the application time,
12 and when you actually go to close, it's different. It's
13 never a constant amount. The equity amounts change. The
14 permanent loan amounts change. The rental expenses
15 change. They're dynamic; they're not static, hence, debt
16 service coverage.

17 So when you have something of this kind of
18 material nature and it was more of a reactive process,
19 right, where, okay, let's wait until they come in for
20 their final review. But at that point, you're kind of
21 baked.

22 We rate-locked on the HUD 221(d)(4). We didn't
23 have any notion that that policy change had occurred.
24 There wasn't any communication. There wasn't -- you
25 know, there's nothing in the rules that said that. We

1 were only referred to a Board transcript and don't feel
2 like that's necessarily deep communication on something of
3 this sort.

4 I'll give you an example. Back in 2009, there
5 was a healthy discussion on TDHCA permanent loans, right,
6 as to whether TDHCA should have a first lien or a second
7 lien. That was a broad open discussion where TDHCA staff
8 and the Board felt, hey, if the TDHCA home loan amount was
9 greater than the first lien, it should get a first lien.

10 I remember at the time we had several
11 discussions in front of the Board. And then it was well
12 communicated, and that was before applications were filed.

13 In this case it kind of came late in the day. The deal's
14 fairly infeasible if we adhere to the policy in the way it
15 was communicated to us.

16 What we're just saying is it wasn't
17 communicated in a timely way sufficient enough to make us
18 aware. We wouldn't have rate-locked. We wouldn't have
19 outlaid significant funds. We could have restructured the
20 deal five, six months ago had we been aware. And of it's
21 that material a policy change and how you're going to
22 underwrite from the way it's always been done, that's
23 something we felt should have been well communicated out
24 to everyone.

25 MR. OXER: So it should have been communicated

1 to everyone, not just to you?

2 MR. AIYER: Yes.

3 MR. OXER: And even then it wasn't communicated
4 to you?

5 MR. AIYER: That's right.

6 MR. OXER: Okay.

7 (Pause.)

8 MR. GOODWIN: I've got a question for Brent.
9 What was the DCR original underwriting?

10 MR. STEWART: At 115.

11 MR. GOODWIN: And what is it now with the
12 modifications?

13 MR. STEWART: Due to the higher rents, it
14 changed loan amounts. It's at 133.

15 MR. GOODWIN: 133, okay.

16 MR. OXER: So it's going in the right
17 direction?

18 MR. STEWART: Yes, sir.

19 MR. OXER: So am I interpreting this correctly
20 that this is just a rule constraint that we got balled up
21 in our rules and this is something we could actually say
22 this sounds good, it looks good. We would approve this?

23 MR. STEWART: I think that --

24 MR. OXER: Tim, do you have any -- go ahead.
25 Go ahead, Brent.

1 MR. STEWART: I think that this has been a
2 topic of discussion amongst staff for some period of time,
3 and there's a lot of issues that come into play including
4 how big the deals are when they come in, right, how much
5 changes between then and closing of the home loan, how
6 much back and forth work there is, as a participant, as a
7 lender in the transaction to kind of work through those
8 issues without deals -- and I'm not saying that's what
9 happened on this one, Mahesh.

10 But we typically get transactions that come in
11 and it's baked and it's just assumed that the Department
12 is going to not want to change its position because of our
13 risk profile when we're having to pay HUD back quite a bit
14 of money on transactions that go into default. We've done
15 that.

16 MR. OXER: All right.

17 MR. STEWART: So there's been all of that.
18 Then at the April meeting, staff through Tim kind of said,
19 Hey, we had just gotten done with an item, a board item,
20 and Tim kind of brought up. He said, you know, let's talk
21 about some policy stuff.

22 And we know that the Board in this environment
23 cannot set policy. You cannot set rules, but we had a
24 discussion about some of our concerns. So we kind of felt
25 like based on that, we couldn't bring to you a

1 recommendation that said, you know, yeah, let's go ahead
2 and do this. Let's go ahead and allow this change to
3 occur.

4 MR. OXER: So what we're essentially saying is
5 we for something if there's an obvious net benefit or
6 positive that accrues to the State, to the TDHCA and to
7 the State, we could then overturn -- we have to have a
8 reason. We have to have quantifiable reason not to go
9 with staff recommendation. That's our requirement, okay.

10 So it occurs to me that Mahesh might have just
11 offered that up, a 133 DCR over a 115 seemed like a pretty
12 positive influence.

13 MR. STEWART: Using higher rents, that's where
14 you get to a 133. If we stuck with the original
15 underwritten rents, it wouldn't get to a 115. We assumed
16 because our risk profile wasn't changing, we just went
17 ahead and assumed that those rents were achievable.

18 MR. OXER: The new rents?

19 MR. STEWART: The new rents. And, you know,
20 cursory -- a brief look at it would suggest they are
21 achievable, but we didn't get a market study. We didn't
22 have a formal review of those rents.

23 MR. AIYER: I might could add, we've got --

24 MR. OXER: Mahesh, you have to say who you are.

25 MR. AIYER: I'm sorry. Mahesh Aiyer, Citi

1 Community Capital. We have an updated appraisal and two
2 market studies that were done, specifically one for HUD
3 and one for the equity investor that we could provide to
4 staff that substantiates the rent.

5 We've scrubbed them. I've had seven people
6 from different departments go out to the site on a number
7 of occasions. Again, it's a dynamic process because when
8 you put in your application in February and you're coming
9 in, you know, with this point later. But I think we can
10 feel comfortable in substantiating those rents to staff.

11 MR. OXER: Okay. Then let's take a quick time
12 out here then. So, on this item, Brent, you know, you
13 want to give some thought to pulling this as an item,
14 getting that information back to them to reconsider, so we
15 can bring it to the next meeting?

16 MR. AIYER: We have an October 31 rate lock
17 deadline for closing with HUD. And the problem is if we
18 have to renegotiate the rate lock, rates have gone up 35
19 to 40 basis points since that time, and it's a material
20 sizing hit at that point on the rate structure.

21 MR. IRVINE: May I?

22 MR. OXER: Sure.

23 MR. IRVINE: Yeah, I think really the staff
24 concern here is basically Board input. I think Mahesh has
25 basically said in a real polite way that the Department

1 communicates its requirements through specific media. One
2 medium is a regulation or a rule, and the other medium is
3 a NOFA. And that this is consistent with those things.

4 However, it has undergone a change that does
5 involve a change in the amount of senior debt. And I
6 think staff would really welcome -- and perhaps this is
7 not the appropriate setting; perhaps it is. Staff would
8 really welcome guidance on setting future criteria under
9 rules and NOFAs as to whether those kinds of changes are
10 things that we should address and constrain in rules or
11 NOFAs or whether the Board is comfortable continuing to
12 focus on characteristics such as DCRs and the ability to
13 service the change in debt.

14 I mean real estate's a world of variables.
15 Everybody knows that costs change on deals. Everybody
16 knows that financing structures are very timing sensitive.

17 If there's one thing on this Earth I've learned never bet
18 on it, it's interest rates and certainty on interest rates
19 is an incredibly valuable thing, so, you know --

20 MR. OXER: it's also an oxymoron.

21 MR. IRVINE: Well, if you can lock them with a
22 party that's got the capacity to deliver, that's --

23 MR. OXER: That's probably some of it.

24 MR. IRVINE: -- as close as you can get to
25 taking it out of oxymoron.

1 MR. OXER: You have a thought, Mr. Goodwin?
2 You spend a lot more time doing this than any of the rest
3 of us.

4 MR. GOODWIN: I surely don't want to see the
5 project have a 35 basis point increase in its rate after
6 October 31. And if you're comfortable that the rents that
7 are projected with a BCR of 133, that's better than 115.

8 MR. STEWART: Again, as y'all know, we do a lot
9 of independent research on rents. We call properties.
10 We, you know, I mean -- and we found nothing that would
11 suggest that the proposed rents aren't achievable.
12 Without an official market study, we said, Look, as long
13 as the debt service isn't changing, our risk profile's the
14 same as it originally was. Therefore, the rents were
15 irrelevant, right?

16 So that's where we were coming from on that
17 issue. You still have the issue about the amortization,
18 which is a NOFA issue. It's an issue that you have dealt
19 with before, and you've actually dealt with it with this
20 applicant on the deal in Midland.

21 MR. IRVINE: But that issue's off the table?

22 MR. GOODWIN: Yeah, I think Cynthia just said
23 that's gone.

24 MR. OXER: We just cleared that.

25 MR. ECCLES: We got the third base kind of

1 signal I think.

2 MR. STEWART: Okay. There's a lot today that I
3 was unaware of.

4 (General laughter.)

5 MR. OXER: So essentially you haven't had --
6 this is a little stream of consciousness here. You're
7 comfortable that those, the rate and the new rent rates
8 are achievable essentially?

9 MS. STEWART: Yes, sir.

10 MR. OXER: Okay. There is no -- you've
11 received -- not that they don't have one, Mahesh -- but
12 you've received no formal market study that would suggest
13 that apart from feeling comfortable in your anecdotal
14 conversations with respect to the rents?

15 MR. STEWART: Okay.

16 MR. OXER: So essentially what we're saying
17 that it comes down to it, the Board would have to
18 intercede to say we accept Mahesh's assessment of his
19 underwriting in terms of the rent capability for getting
20 this and stand in your stead for your underwriting?

21 I'm trying to give you an out.

22 MR. STEWART: No, I think the out is is we
23 believe if you believe those rents, which we are
24 comfortable with and the DCR is what it is based on those
25 rents, that debt, et cetera. The question of how much

1 debt is ahead of us is still there, and so that -- yeah,
2 so 133 DCR is what would show based on the underwriting
3 with those higher rents.

4 MR. OXER: Okay. So then it's a question of
5 the debt that's ahead of ours?

6 MR. STEWART: The debt service amount is what
7 we have -- what we have said over recent experience has
8 been holding the debt service fixed. What changes in
9 interest rates you can go get however much principal
10 amount of debt ahead of us, right.

11 We don't really have a collateral issue. We've
12 got a debt service issue. And so, again, it gets back
13 into if you're going to accept those higher rents, then
14 the DCR is going to be higher. Then from a DCR
15 standpoint, you know --

16 MR. OXER: It's a wash.

17 MR. STEWART: Yeah.

18 MR. OXER: Is that right?

19 MR. IRVINE: Yeah, and I really think that if
20 you're inclined to go the other direction against staff's
21 recommendation, the rationale is essentially that with the
22 40-year amortization issue off the table, the financial
23 benefits in the transaction shift and conform to the rule.

24 MR. OXER: Say that again. So if the 40-year
25 amortization is off the table, then it does conform to the

1 rule?

2 MR. IRVINE: If you assume that the rents that
3 are achievable and that it produces a compliant DCR, yeah.

4 MR. OXER: I have every confidence --

5 MR. IRVINE: Which we have no reason to believe
6 it would not.

7 MR. OXER: Okay. Is everybody clear? Have any
8 questions?

9 (No response.)

10 MR. OXER: All right. So there's been a motion
11 by Ms. Bingham, a second by Mr. Gann to approve staff
12 recommendation. Do you wish to rescind that so that we
13 overturn staff recommendation to allow this project?

14 MS. BINGHAM ESCAREÑO: Is there -- and may I
15 ask is there any other public comment on the item that
16 would be different --

17 MR. OXER: Germaine to the conversation.
18 Anybody here want to add to this? Anybody here got
19 anything to add that's going to add to this as opposed to
20 confirm it or re-confirm or -- Cynthia, you got anything
21 you want to say? Come on. You wrote -- get out there you
22 say it. You wrote it down.

23 MS. BAST: I'd just like to give a couple of
24 pieces of information. This is Cynthia Bast. I am with
25 Locke Lord, and I am representing the applicant in the

1 appeal.

2 Hopefully you did have a chance to look at the
3 appeal that I filed. And I wanted to just put on a record
4 a couple of pieces of background information that when the
5 costs went up, this applicant did what they had done with
6 this Agency two times before, which is to look at adjusted
7 rents, get some more equity, which is being provided by
8 RBC, and to also adjust the debt and in this case based on
9 lower interest rates, longer amortization period.

10 That was done in the Merritt Lakeside
11 transaction where the total debt coverage, the annual debt
12 service went up \$44,000 a year on a \$2 million home loan.

13 By contrast, here we are with a \$1.55 million home loan,
14 and the annual debt going up \$56,000.

15 So to Mr. Aiyer's point, the applicant followed
16 the rules that we have with regard to underwriting
17 feasibility conclusions. They took these new numbers.
18 They've put them into TDHCA's worksheets to see if we
19 would meet all of the continued underwriting feasibility
20 conclusions in those rules.

21 And, Mr. Goodwin, in my appeal on Exhibit B,
22 you'll find the 40-year projections of debt service
23 coverage ratio that they derived from that. So, I just
24 wanted to make that point that this isn't something that
25 people just grabbed out of the air. This was not

1 something that was done in bad faith.

2 This was something that was done consistently
3 with past practice going in with revised numbers at the
4 time you're getting ready to close your home loan. And I
5 appreciate the consideration. Thank you.

6 MR. OXER: And to address your point, too,
7 Cynthia, we'll assume that nobody does anything in bad
8 faith in here. We're just trying to figure this out and
9 everybody be clear about what's on -- you have a comment
10 or thought, sir?

11 MR. DENNISON: I'm Colby Dennison. I'm the
12 applicant. I just wanted to quickly say this is in
13 Dripping Springs which is 20 miles west of Austin. We've
14 been trying to do affordable housing in Dripping for a
15 long time. It is a high income, beautiful area and --

16 MR. OXER: It makes good vodka out there too
17 from what I understand.

18 MR. DENNISON: Yes. And the reason for these
19 changes is this is the first multifamily project in
20 Dripping Springs. They care about their city. The reason
21 this deal was so expensive is because they care about
22 their city and costs in Austin as you heard on your first
23 agenda item are just skyrocketing. And we've bid this
24 thing out like crazy.

25 It's a related party transaction so our

1 construction costs are audited with HUD. It is what it
2 is. I mean thank God interest rates were low. So I just
3 wanted to tell y'all this is an amazing deal and an
4 amazing place, so thank y'all.

5 MR. OXER: Okay, thank you. Now, let me make
6 sure I'm clear on this, Counselor, because -- hold on,
7 Terry -- staff recommendation has been to deny the appeal.

8 MR. ECCLES: Correct.

9 MR. OXER: Correct, okay. Terry, did you have
10 something you want to say?

11 MS. ANDERSON: Yes, sir.

12 MR. IRVINE: And staff recommendation also
13 encompassed the request for the 40-year amo which is --

14 MR. OXER: Which is now off the table, so we
15 don't have to worry.

16 MR. IRVINE: That was key I think.

17 MR. OXER: Okay.

18 MS. ANDERSON: Good morning. Terry Anderson,
19 Anderson Development and Construction. As an interested
20 party in the Direct Loan Program as well as other programs
21 in the state, I think it's important that we do ensure
22 that we have consistency with the rules.

23 And having been a Direct Loan applicant and
24 recipient, which I'm grateful for, we did experience the
25 exact same issue. And I believe it would be important for

1 staff to receive some type of instruction from the Board
2 that interest rate changes and increases on loan amounts
3 don't necessarily reflect a material change that needs to
4 be brought to the Board because our rules don't
5 specifically require it.

6 Underwriting guidelines are provided. They're
7 followed, and I believe it would be critically important
8 if we could receive expeditious review when we're trying
9 to close on a transaction and have the debt service
10 coverage rules followed. So thank you.

11 MR. OXER: Okay. Thanks, Terry.

12 And recognizing that, you know, as everybody
13 recognizes, that this is a fluid business write-up until
14 you have to lock that down, put a stake in the ground, you
15 go from that, so. Okay.

16 MS. BINGHAM ESCAREÑO: Mr. Chair, I withdraw my
17 motion.

18 MR. OXER: Okay.

19 MR. GANN: Second.

20 MR. OXER: All right. Ms. Bingham and -- Mr.
21 Gann's withdrawn his second. Ms. Bingham has withdrawn
22 her motion.

23 MR. STEWART: I need to make one clarification.

24 MR. OXER: Certainly.

25 MR. STEWART: The 133 DCR is based on the new

1 rents but the fixed home loan payment which then reduces
2 the senior debt that they're at basically on their FHA
3 loan. The DCR drops to 116 if you use the full debt,
4 which again still falls within the debt coverage
5 parameters of a 115 to a 135. It doesn't change the
6 outcome here. It's just I needed to make that
7 clarification.

8 The other thing is, you know, yeah, we want to
9 follow the rules, you know. But at the same time, in
10 underwriting, when you're underwriting --

11 MR. OXER: Most of it's judgment.

12 MR. STEWART: There's a lot of that there. And
13 so, you know, we could say let's follow the rules and get
14 a new market study, you know. But we did our own due
15 diligence. We came up with an answer. If we had done our
16 own due diligence and come up with a different answer,
17 then we would have -- I don't know where does that put us,
18 right?

19 So I hear this about following the rules. I
20 agree that we need to follow the rules. I'm not
21 suggesting we don't. But there's a lot of stuff in
22 underwriting that you just cannot put in a rule, you know.

23 I don't think so anyway. It's just commentary.

24 MR. OXER: And I think everybody up here
25 recognizes that underwriting is mostly a judgment factor,

1 so while we want to follow the rules, the -- and I think
2 we're on the record -- every one of us, me particularly
3 since I'm the usual voice up here, the latitude that's
4 exercised this Board is best exercised lightly and rarely,
5 but when we need to, we can exercise it and have done so
6 in the past.

7 So we were just trying because of our
8 requirement to have a quantifiable reason as a benefit to
9 the State that we overturn staff recommendation. I wanted
10 to get that one the record.

11 MR. STEWART: And Mr. Colby has a ton of money
12 in this transaction. It is a great project. It is
13 locked. FHA loans are not easy to deal with. Not that
14 that's a reason to do what we're doing here, but it is
15 true that's where we're at on this transaction and they do
16 need to close.

17 MR. OXER: Okay. Mr. Colby, you sit tight.

18 MR. IRVINE: Colby Dennison.

19 MR. OXER: Mr. Dennison, sorry, Colby. You can
20 make this work, right?

21 MR. DENNISON: Please.

22 MR. OXER: Good.

23 MS. BINGHAM ESCAREÑO: Mr. Chair, I'd like to
24 make a new motion.

25 MR. ECCLES: Before you do --

1 MS. BINGHAM ESCAREÑO: Yes, sir.

2 MR. ECCLES: Since we've only gotten third base
3 signals, if you could formally withdraw the 40-year
4 amortization piece of the appeal.

5 MS. BAST: Yes, sir. Cynthia Bast of Locke
6 Lord on behalf of the applicant. We withdraw the portion
7 of our appeal as to the 40-year amortization and only
8 request that the underwriting condition limiting the
9 debt -- annual debt service be eliminated. Thank you.

10 MR. OXER: Properly stated, counselor?

11 MR. ECCLES: Yes, thank you.

12 MR. OXER: Good. Okay, Ms. Bingham?

13 MS. BINGHAM ESCAREÑO: Mr. Chair, in light of
14 the withdrawal of the 40-year amortization part of the
15 appeal, I would move that the Board accept the
16 underwriting appeal for Merritt Hill Country.

17 MR. OXER: All right. And essentially to
18 quantify that, to deny the staff recommendation and accept
19 the appeal?

20 MS. BINGHAM ESCAREÑO: Yes.

21 MR. GOODWIN: Second.

22 MR. OXER: Okay, motion by Ms. Bingham, second
23 by Mr. Goodwin to allow the appeal or accept the appeal
24 and deny staff recommendation on Item 4 --

25 MR. ECCLES: As modified.

1 MR. OXER: -- as modified with taking out the
2 40-year amortization. Is that clear? Get it right?

3 MS. BINGHAM ESCAREÑO: Yes, sir.

4 MR. OXER: Okay. Those in favor:

5 (A chorus of ayes.)

6 MR. OXER: And those opposed?

7 (No response.)

8 MR. OXER: None. It's unanimous. Congrats.

9 And we'll use this -- I hope we'll take this as
10 a perhaps guidance from the Board and how we pursue this,
11 recognize that these things are fluid. But it sounds like
12 the direction -- it was heading in the right direction in
13 terms of providing a benefit to the State.

14 Okay, geez, where are we? 5(b) I believe.
15 Michael, are you on this one?

16 MR. DeYOUNG: Michael DeYoung, Community
17 Affairs Division. Mr. Chairman and members of the Board,
18 Item 5(b), relates to the Presentation, Discussion, and
19 Possible Action regarding the termination of the Program
20 Year ("PY") 2016 LIHEAP/CEAP contract with Community
21 Services Agency of South Texas, also called CSA. You will
22 recall that CEAP is our program that helps low income
23 Texans pay utility bills.

24 In accordance with Texas Government Code
25 Chapter 2105, staff is first recommending that 24.99

1 percent of the CEAP contract be immediately provided to an
2 alternative community action agency so that services can
3 be more timely and appropriately provided to clients. And
4 this Agency serves the counties of Dimmit, La Salle, and
5 Maverick County. If you know your map, Carrizo Springs,
6 Crystal City, Eagle Pass.

7 Secondly, we are requesting that the Board
8 authorize staff to provide notice to CSA that will
9 commence a 30-day notification period required by Texas
10 Government Code offering them the opportunity to request a
11 hearing.

12 And then third, staff is requesting
13 authorization to release a Request For Applications, what
14 we would call an RFA, and subsequently award through the
15 RFA or direct designation an alternate provider to
16 temporarily and then permanently administer the CEAP in
17 Dimmit, La Salle, and Maverick Counties.

18 For some background, the CEAP Program runs from
19 January to December. CSA's contract was effective January
20 2016 and totaled \$730,000 approximately. To date, CSA has
21 only drawn \$116,000 of the available funds. Staff has
22 received numerous complaints from clients that were
23 promised assistance and did not receive the assistance and
24 are experiencing disconnections or a threat of
25 disconnection due to the late or nonexistent payments.

1 The most recent monitoring review of CSA
2 identified repeat findings and deficiencies, and staff
3 identified LIHEAP-disallowed costs that required repayment
4 to the Department which have not been repaid. The
5 Department has provided significant training to CSA staff
6 and management, and no significant adjustments have been
7 made responsive to that training.

8 Staff has determined that no further training
9 and technical assistance will help to remedy the continued
10 procurement, case management, and inadequate financial
11 management deficiencies identified and that remain
12 uncorrected. And staff has notified the U.S. Department
13 of Health and Human Services of that determination.

14 Additionally, TDHCA notified CSA on September
15 16 of this year that the required single audit has not
16 been received by TDHCA which could result in the
17 suspension and/or termination of the 2016 CEAP contract.
18 The audit was due August 31, 2016, and as of today, that
19 audit has not been received.

20 Staff believes that at this point the
21 appropriate action of the Department is to identify
22 another provider to deliver utility assistance to the
23 residents of the three counties.

24 The steps you are approving will allow us to do
25 so in the short term right away by providing a portion of

1 the CEAP contract to another provider. And in the long
2 term through the 30-day notification and subsequent
3 release of the RFA under the Texas Government Code, up to
4 24.99 percent of the 2016 CEAP contract can be awarded to
5 alternative providers.

6 There is an adjacent agency named Community
7 Council of South Central Texas located in Seguin that has
8 indicated a willingness to provide those temporary
9 services to the residents of the county.

10 So I'd be happy to answer any questions that
11 you have. I do believe Mr. David Ojeda is the Executive
12 Director of the Agency and he is here also, and I think he
13 wants to speak.

14 MR. OXER: Any questions from the Board?

15 (No response.)

16 MR. OXER: So we're saying that they need to
17 get their money out and they haven't been doing that?

18 MR. DeYOUNG: Correct.

19 MR. OXER: Okay. We're removing that so that
20 it moves out to somebody else to get that money, get the
21 grants in process, and the money into the programs where
22 it needs to be.

23 MR. DeYOUNG: Yes, this is covered up under
24 Section 2105 of the Texas Government Code. We, as an
25 Agency, have the option of providing up to 24.99 percent

1 of that award to another agency to immediately provide
2 services, and that's what we're recommending.

3 MR. IRVINE: And it's not as simple as just
4 getting the money out. It's also compounded with numerous
5 ongoing significant monitoring findings and deficiencies
6 that have not been satisfactorily addressed.

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

8

9 (No response.)

10 MR. OXER: A motion to consider?

11 MR. GANN: I move for staff recommendation.

12 MS. BINGHAM ESCAREÑO: I'll second.

13 MR. OXER: Motion by Mr. Gann, second by Ms.
14 Bingham to approve staff recommendation on Item 5(b). Mr.
15 Ojeda, would you like to speak?

16 MR. OJEDA: Mr. Chairman and respectful members
17 of the Board of Directors, my name is David Ojeda, Jr. I
18 am the Executive Director of the Community Services
19 Agency. I'm here to speak on the termination of our CEAP
20 contract.

21 First, let me say that the information you were
22 provided with states that our agency is not providing
23 utility assistance is not an accurate statement. We have
24 been working with the 2015 contract that we have and to
25 date, we have provided over \$200,000 worth of assistance

1 to the residents of our service area.

2 I do acknowledge we have had some problems in
3 implementing the program. And due to some of these
4 problems, we found it necessary to terminate some key
5 staff members in order that we might correct some of the
6 problem areas.

7 You have been informed that the proper training
8 has been provided to our agency staff. And while this
9 statement is correct, all of the staff that received this
10 training is no longer a part of our agency. We have had
11 to recruit new staff, and at the present time most of the
12 staff members working with the CEAP Program have been with
13 the agency about five months.

14 The first task of the new staff members was to
15 work with TDHCA staff to clean up all of the mess which
16 had been made by the previous staff members. The clean-up
17 has taken more time than we had anticipated because in
18 making corrections to reports and policies, we were also
19 taking advantage of training needed by our new staff.

20 In order that we might build a new foundation
21 for our CEAP Program, we had to stop the application
22 process in order that we correct all of the deficiencies
23 which we had. We do acknowledge that the valuable
24 technical assistance provided to us by TDHCA staff and
25 while on the surface, there's an appearance that we were

1 not implementing the program, we needed to stop so that
2 our new staff could receive training and at the same time
3 bring up to date all of our reporting and documentation.

4 Currently we have \$200,000 in payments to our
5 clients which we will bring up to date as of September of
6 2016. We have another \$200,000 in commitments which we
7 will honor for October, November, and December. We
8 anticipate another \$200,000 will be committed in new
9 applications which we will take for October, November, and
10 December.

11 These are conservative figures, and we
12 anticipate that we will spend at least 80 percent of the
13 contract by the end of December. All of the applications
14 which we did up to September of 2016 were done manually.
15 We have not purchased the client intake software which
16 will make the intake process much easier and more
17 efficient.

18 For the record, the purchase of the software
19 was procured in accordance with all of the requirements of
20 TDHCA, and we have written authorization to purchase the
21 software. Through our CSBG discretionary grant, we have
22 hired a private consultant to develop an internal
23 monitoring plan which will greatly improve our
24 performance. This consultant was also procured and we
25 have written authorization for these contracts.

1 We do have problems which we need to resolve,
2 and we are working toward resolving those issues. We are
3 not being uncooperative with TDHCA staff as we work to
4 resolve these outstanding issues. Eventually all of the
5 problem areas will be resolved, but working through the
6 bureaucracy obviously will take time.

7 What we are asking, Mr. Chairman, is that we be
8 allowed to finish the CEAP contract without any outside
9 interference. The CEAP contract will end in December, and
10 that's just two months away. With the short time left, if
11 we are serious about providing services to the low income
12 community, the best thing is not to interfere with the
13 course which we are pursuing in conjunction with the
14 support of TDHCA staff.

15 We have made much progress with all of the
16 technical assistance we have received, and all of the
17 improvements are just beginning to take place. We
18 understand the desire to bring another agency to run our
19 CEAP Program, but with the short time left in this Program
20 Year, the transition from one agency to another will take
21 more than two months and that will stop the services which
22 are needed.

23 Again, we would ask the Board to allow our
24 agency to complete the two months left in the contract.
25 At the end of December the situation can be evaluated

1 again. If there is no improvement, that will be the right
2 time to make the change. Thank you for the opportunity to
3 address you.

4 MR. OXER: Thank you, Mr. Ojedo. Any questions
5 from the Board?

6 (No response.)

7 MR. OXER: Okay, thank you.

8 MR. GOODWIN: I do have one question. How big
9 is your staff?

10 MR. OJEDA: Right now the CEAP staff we have
11 one person working in Eagle Pass, a person working in
12 Cotulla and one person working in Carrizo. And we have
13 one person that oversees the program.

14 MR. GOODWIN: Is that the total staff of your
15 agency?

16 MR. OJEDA: No. No, that's just the CSBG and
17 CEAP staff.

18 MR. GOODWIN: On this contract?

19 MR. OJEDA: Yes, sir.

20 MR. GOODWIN: How big is the total staff of
21 your agency?

22 MR. OJEDA: Right now we have about 20 staff
23 members. there.

24 MR. GOODWIN: Twenty staff members?

25 MR. OJEDA: Yes, sir.

1 MR. GOODWIN: Okay.

2 MR. OXER: I have a question.

3 MR. OJEDA: Yes, sir.

4 MR. OXER: Where's your A144 audit that was due
5 August 31?

6 MR. OJEDA: What happened, let me just state
7 that, you know, I've been working there for 35 years and
8 we have never had any problems with submitting an audit on
9 time. We were involved with one of our fiscal staff
10 members that basically stole some money from the agency.

11 And when we uncovered the situation, we
12 reported it to the authorities. And the local sheriff's
13 department and the Texas Rangers in the area got involved.

14 And we had to do all of the internal investigation and we
15 had to -- at first we didn't know who had committed the
16 theft. And the audit at that time was in process, so it
17 was recommended that we stop until we find out, you know,
18 really what had happened.

19 That took some time, and finally one of our
20 staff members came up and declared themselves that they
21 were the ones that have committed that. And that member
22 was a very important member of our fiscal staff that was
23 our payroll officer. And that also delayed, you know, the
24 audit because, you know, the work that she had been doing,
25 there was some doubt whether it was accurate or not.

1 And the auditors moved their resources to other
2 contracts that they had. And when we were able to resolve
3 the situation with the local authorities, they told us
4 that they could not come back and finish it.

5 We did notify THCA of the situation. We did it
6 in writing, and we have informed them that the audit will
7 be provided to TDHCA in November.

8 MR. OXER: Okay, thank you, Mr. Ojeda.

9 Michael, I think you're being --

10 MR. DeYOUNG: No problem.

11 MR. OXER: Good. Hi, Patricia.

12 MS. MURPHY: Good morning. Good afternoon.

13 MR. OXER: It's not afternoon.

14 MS. MURPHY: Patricia Murphy, Chief of
15 Compliance. It is wonderful to hear that Mr. Ojeda and
16 CSA are making progress in resolving their issues. The
17 action before you to, you know, move this money to an
18 agency that can spend the funds is, you know, that's the
19 goal of our agency is to serve those low income Texans.

20 So approval of staff recommendation will get
21 the funds moving where they need to be going. And part of
22 what you're approving is that staff be allowed to release
23 an RFA, and there's nothing stopping Mr. Ojeda from
24 applying for that.

25 So, you know, he may be successful in getting

1 his A133 audit together and done and resolving the
2 compliance issues that he has. And while he's working on
3 those things, the program can be administered by an
4 alternate provider. He has the opportunity to apply for
5 that RFA, and he resolves his problems. He very well may
6 could be successful in getting that CEAP Program.

7 So, again, I appreciate his acknowledgment of
8 his issues, and staff recommends approval of the motion.

9 MR. OXER: So would the RFA to go out and Mr.
10 Ojeda would have an opportunity to respond to that --

11 MS. MURPHY: Sure.

12 MR. OXER: -- but the response to that would
13 include demonstrating that he's essentially solved these
14 problems and has enough capacity in his system to be able
15 to manage this?

16 MS. MURPHY: Yes. Yes, it would.

17 MR. OXER: Tom's over there just pushing me to
18 make the tractor analogy I know.

19 MS. MURPHY: The other thing is that what this
20 motion does is it approves staff providing CSA with a
21 notice of an opportunity for a hearing. So he would have
22 the opportunity to say I would like a hearing in front of
23 the S --

24 MS. IRVINE: State Office of Administrative
25 Hearings.

1 MS. MURPHY: There it is.

2 MR. OXER: SOAH.

3 MS. MURPHY: SOAH, okay. So that he would have
4 the opportunity to -- you know, there's nothing saying
5 that Mr. Ojeda should stop working on resolving these
6 compliance problems. They need to be resolved. In the
7 meantime, the funds need to be administered by another
8 agency. And if he's not able to resolve his problem, then
9 we need, you know, to move --

10 MR. OXER: Then if he hasn't solved the
11 problem, then we haven't lost that -- if he's not able to
12 solve -- or not able to work through this and solve the
13 constraints on his management, then we haven't lost the
14 time and making the funds available to the community.

15 MS. MURPHY: That's right. And it will not
16 take two months to enter into a contract with another
17 provider too --

18 MR. OXER: Okay.

19 MS. MURPHY: -- for the 24,99 percent.

20 MR. OXER: Okay.

21 MS. MURPHY: Do you have any questions?

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

24 (No response.)

25 MR. OXER: Okay. Regarding Item 5(b), there's

1 been a motion --

2 MR. OJEDA: I --

3 MR. OXER: Mr. Ojeda, one minute, please.

4 MR. OJEDA: Yes. Again, and our situation is
5 that we have started the process of making all those
6 payments, you know, that had been delayed. We are working
7 with TDHCA, under the guidance of TDHCA staff. They're
8 helping us very much, and we acknowledge that.

9 We would like to finish the contract. We would
10 like to -- you know, there's two months in the contract.
11 If there is interference, if all these things are going on
12 and we request funding to pay the utility vendors and
13 then, you know, it is not approved, you know, we're just
14 concerned about all of this interference with the
15 contract.

16 If TDHCA wants to put it up for bids, that's
17 okay. We're recommending that all this action be taken
18 after December so that we can continue, you know,
19 providing the services that we're providing. If we have
20 to compete, that's part of the process. I don't have any
21 problem with that.

22 We're just concerned that we be allowed to
23 continue with this contract. It's only two months left in
24 the contract, and, you know, we would like to finish it
25 out and make sure that the services are provided.

1 MR. OXER: Okay. Thank you for the commends,
2 Mr. Ojeda. Michael.

3 MR. IRVINE: May I ask one question before Mr.
4 Ojeda leaves?

5 MR. OXER: Sure.

6 MR. IRVINE: One of the things that you've
7 indicated has been a problem was that there was an
8 employee theft and that caused a variety of issues. What
9 was the magnitude of that situation?

10 MR. OJEDA: The magnitude was \$7,500. I sent a
11 letter to TDHCA informing them of the situation, the
12 amount, and I also informed them that, again, it was an
13 employee that worked with the agency and had several years
14 working with the agency. There were no federal or state
15 funds involved. The employee knew what she was doing, and
16 the funds that were in question were from our general fund
17 or our non-federal fund.

18 MR. OXER: With respect to you continuing the
19 program -- Michael, you'll confirm this for me if you'll
20 come up -- that we'll point out that it's just a fraction,
21 just under 25 percent of those funds would be -- so the
22 other 75 percent of those funds would still be available
23 to you to continue your management of that component. Is
24 that correct?

25 MR. DeYOUNG: Correct.

1 MR. OXER: Okay, so.

2 MR. DeYOUNG: This is just taking 24.99 and
3 moving it to an adjacent provider.

4 MR. OXER: Separate entity, so while this
5 process undergoes. So you gave a list of some funding
6 that was being -- that you're in the process, you know.

7 I suggest you work it out with Michael to make
8 sure that you're looking at 75 percent of the total
9 because assuming this goes in the direction it's headed,
10 then we expect you to continue with the program, expect
11 you to continue with the process, and expect you to
12 continue sorting out the problems within the management of
13 the financial management of your agency. Okay.

14 All right. You confirmed what I think.
15 Thanks, Michael.

16 MR. DeYOUNG: Welcome.

17 MR. OXER: All right. Any other questions of
18 the Board?

19 (No response.)

20 MR. OXER: Counsel? ED?

21 (No response.)

22 MR. OXER: Okay. With respect to Item 5(b),
23 there's been a motion by Mr. Gann and second by Ms.
24 Bingham to approve staff recommendation. Those in favor?

25 (A chorus of ayes.)

1 MR. OXER: And opposed?

2 (No response.)

3 MR. OXER: There are none. It's unanimous.
4 Okay. And you're up next again, Michael.

5 MR. DeYOUNG: Michael DeYoung, Community
6 Affairs Division. Mr. Chairman and members of the Board,
7 Item 5(c) relates to a staff recommendation to begin the
8 process to terminate the eligible entity status and the
9 contract for CSBG contract funds with Community Service
10 Agency of South Texas.

11 So to be clear, this is the same organization
12 we just discussed under Item 5(b) and in that case, we
13 were talking about utility assistance. Now we are
14 discussing a different program that they also received
15 called the Community Services Block Grant. You've heard
16 it as CSBG.

17 Department staff monitored CSA in February 2016
18 and detailed 10 deficiencies and two concerns. The review
19 also resulted in about \$86,500, give or take a little bit,
20 in disallowed costs. CSA has indicated that they do not
21 have the non-federal resources to repay the Department and
22 offers no suggested solution.

23 Additionally, the response to the monitoring
24 that CSA provided the Department indicates a very basic
25 lack of understanding of program requirements and

1 disregard for federal OMB requirements.

2 The deficiencies included such things as the
3 lack of a legally sufficient cost allocation plan, lacking
4 support for reported expenditures, lacking support for
5 salaries and wages, lacking procurement procedures,
6 failing to obtain prior approval for expenditure of funds,
7 insufficient case management processes, noncompliance with
8 CSBG Board requirements, unallowable expenditures,
9 noncompliance with denial procedures as detailed in
10 federal laws, and unsupported claimed expenditures.

11 Staff also noted concerns with program
12 implementation, inappropriate prioritization of clients,
13 noncompliance with Limited English Proficiency
14 requirements, limitations in fully implementing the CEAP
15 Program, incorrect income calculations, lack of
16 documentation for weatherization referrals to outside
17 agencies, and failure to document federal debarment
18 verifications.

19 Department staff has provided ongoing training
20 to CSA, and no significant adjustments have been made by
21 CSA. Additionally as mentioned in the previous Board
22 item, CSA has not submitted their A133 audit, which was
23 due to the Department on August 31, 2016.

24 Staff must follow both the CSBG Act and the
25 Texas Government Code, Section 2105.302. Staff has

1 already sent notice to CSA and the U.S. Department of
2 Health and Human Services regarding staff recommendation
3 to proceed with termination proceedings.

4 I'd be happy to answer any questions.

5 MR. OXER: I have a procedural question on the
6 audit. On the A133 audit, which basically covers a
7 multitude of programs, in the event that there is a
8 condition or circumstance, context where there has been
9 some issue and they're unable to generate the data to
10 complete the audit, is a report from the auditor to that
11 extent acceptable in terms of that with the expectation
12 that they'd be working through that? Basically it's a
13 request for a delay on the audit with the auditor saying
14 that they don't have the data.

15 MR. DeYOUNG: I've got two people ready to
16 answer that question.

17 MS. MURPHY: The Texas Department of Housing
18 and Community Affairs does not have the authority to grant
19 an extension to submit a federal A133 audit.

20 MR. OXER: That's the answer.

21 MS. MURPHY: Yeah. So they could ask the U.S.
22 Health and Human Services, and it is unlikely that HHS
23 would say yes, but we have no authority to grant an
24 extension.

25 (Pause.)

1 MR. ECCLES: For the record, that answer was
2 from Patricia Murphy.

3 MS. SYLVESTER: Megan Sylvester of Legal, just
4 exactly I totally agree with what Patricia said, but they
5 could actually ask whoever their fiscal agent for audit
6 is. They receive a fairly large funding from another
7 federal agency, and it very well could be that's the
8 entity they would have to request the extension from, not
9 HHS.

10 MR. OXER: Okay.

11 MS. SYLVESTER: But in either case, we don't
12 have the authority.

13 MR. OXER: Right. Okay. So the fact that they
14 have not provided us their A133 audit constitutes a
15 default essentially?

16 MR. DEYOUNG: Correct.

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

18 (No response.)

19 MR. OXER: Anything to add?

20 (Pause.)

21 MR. OXER: You're right. Counsel corrects me
22 that that's a deficiency, not a default.

23 MR. ECCLES: Exactly. There's still a very
24 long process in statute and regulation for how the
25 eligible entity status for CSBG funds can be reduced or

1 terminated, and that's what Mr. DeYoung is proposing
2 through the sanction.

3 MR. OXER: So we're essentially embarking upon
4 this pathway down this with expectations that they fix
5 this or we'll give the money to somebody else?

6 MR. DEYOUNG: Yes.

7 MR. OXER: Good answer. Okay, any questions
8 from the Board?

9 (No response.)

10 MR. OXER: Motion to consider?

11 MR. GOODWIN: So moved.

12 MR. OXER: Okay, motion by Mr. Goodwin to
13 approve staff recommendation on Item 5(c).

14 MR. GANN: Second.

15 MR. OXER: And a second by Mr. Gann. We've had
16 public comments. Any other request for public comment?

17 (No response.)

18 MR. OXER: There being none, motion by Mr.
19 Goodwin, second by Mr. Gann to approve staff
20 recommendation on Item 5(c). Those in favor?

21 (A chorus of ayes.)

22 MR. OXER: And opposed?

23 (No response.)

24 MR. OXER: There are none. It's unanimous.
25 Okay. One more, Michael, 5(d).

1 (Pause.)

2 MR. OXER: Yeah, but Patricia gets number (e).
3 Maybe Patricia will do this one for you. She's been up
4 here --

5 MR. DEYOUNG: Give me a second. I've got so
6 many items today, it's --

7 MR. OXER: You're popular today.

8 MR. DEYOUNG: 5(d).

9 MR. OXER: Want a breather? We'll let Patricia
10 do 5(e) if you want.

11 MR. DEYOUNG: Yeah, she's got that one. Okay,
12 Michael DeYoung, Community Affairs Division. Mr. Chairman
13 and members of the Board, Item 5(d) relates to action
14 being requested regarding the termination regarding the
15 termination of the Program Year 2016 LIHEAP/CEAP contract
16 to Community Services Incorporated located in Corsicana,
17 Texas, called CSI. To be clear, the last agency was CSA.
18 This one is now CSI.

19 MR. OXER: Any in another place?

20 MR. DEYOUNG: Yes, Corsicana, Texas. Just now
21 again for clarification, now we're going back to the
22 utility assistance program, the CEAP Program. In this
23 case because of a variety of issues that you will hear
24 about, we are recommending that the Board take several
25 simultaneous actions because we do not feel CSI is able to

1 perform under their contract.

2 First, staff is recommending that a portion,
3 24.99 percent again, of the CEAP contract actually be
4 provided to an alternate provider so that services can be
5 more timely and appropriately provided to clients.

6 Secondly, we are requesting that the Board
7 authorize us to provide notice to CSI that will commence a
8 30-day notification period required by Texas Government
9 Code which formalizes our reduction and ending of funding.

10 And third, staff is requesting authorization to
11 identify a provider through the release and subsequent
12 award of an RFI or through a direct designation to
13 temporarily and permanently administer the CEAP in a ten-
14 county area.

15 Just for you edification, we are talking about
16 an area that begins to the north of Forth Worth and goes
17 to the east, around the east side of Dallas and back
18 across underneath the Metroplex to the middle or Arlington
19 area. This is a huge ten-county area that they provide
20 services in.

21 MR. OXER: It's got about a third of the
22 population of Texas in it, right?

23 MR. DEYOUNG: It's a very large, high
24 population area with a lot of suburban communities
25 involved.

1 MR. OXER: All right.

2 MR. DEYOUNG: So for some background again, the
3 CEAP Program runs from January to December. CSI's
4 contract was effective January 2016 and totaled \$3.8
5 million and some change. To date, CSI has only drawn
6 \$605,471, approximately 16 percent of the available funds.

7 Staff has received numerous complaints from
8 clients that were promised assistance and did not receive
9 assistance and are experiencing disconnections or a threat
10 of disconnection due to late or nonexistent payments by
11 CSI.

12 Additionally, staff has learned that two
13 utility companies have requested their funding be
14 returned, and one utility company has refused to accepted
15 the pledges from CSI due to multiple instances of
16 nonpayment.

17 This is problematic because clients served by
18 those utility companies are de facto unable to receive
19 assistance from federal funds in spite of their being
20 eligible otherwise. This dynamic limits the ability of
21 CSI to truly offer the program across its full service
22 area.

23 The most recent monitoring review identified
24 ongoing noncompliance with disallowed ineligible costs,
25 unsupported administrative costs, and overall fiscal

1 capacity issues. At this time, CSI does not have a
2 current audit on file.

3 And with that, we late yesterday did receive a
4 copy of their audit. I apologize my notes were not
5 updated. We received a copy of their audit. We checked
6 the federal clearinghouse last night to see if it had been
7 filed at the federal clearinghouse which is a federal
8 requirement based on 2 CFR 200. The search results did
9 not show that they have filed that audit with the federal
10 clearinghouse.

11 So, this --

12 MR. OXER: The date on that audit would have
13 been August 31 also?

14 MR. DEYOUNG: No, that was a July 31, 2016 --

15 MR. OXER: Okay.

16 MR. DEYOUNG: -- date that it was due.

17 MR. IRVINE: Was the previous audit filed with
18 the clearinghouse?

19 (Pause.)

20 MS. MURPHY: Patricia Murphy, Chief of
21 Compliance. I was unable to find any of their A133 audits
22 filed with the clearinghouse.

23 MR. OXER: Any back -- I mean like ever?

24 MS. MURPHY: Ever. I was unable to find any of
25 them.

1 MR. OXER: Okay.

2 MR. DEYOUNG: So this organization has had
3 significant organizational challenges and voluntarily
4 relinquished the WAP Program. You all took action on that
5 a few months back where we identified some new providers
6 for the weatherization program.

7 Department staff receives multiple calls daily
8 from clients who are refused services and are unable to
9 contact anyone at CSI, or they have not been provided with
10 the services that CSI promised them when they actually do
11 get through and go through the eligibility process.

12 Additionally, training staff have fielded
13 questions from CSI, staff, and management on a daily basis
14 for many months now. In spite of such training being
15 provided, no improvement has been noted.

16 TDHCA notified CSI on September 16 that the
17 required single audit has not been received by TDHCA and
18 that that could result in suspension and/or termination of
19 the 2016 CEAP contract.

20 As I said, late yesterday TDHCA did receive a
21 copy of the audit. It appears that many of the issues
22 identified in the previous audit have not been corrected.

23 It is unclear if CSI's Board has received or reviewed
24 that audit.

25 Staff believes that at this point in time, the

1 appropriate action of the Department is to identify
2 another provider to deliver utility assistance. The steps
3 you are approving will allow us to do so in the short term
4 right away by providing a portion of the contract, again
5 24.99 percent, to other providers in the long term through
6 the 30-day notification and release of the RFA.

7 Under the Texas Government Code, the 24.99
8 percent of the CEAP contract can be awarded to alternate
9 providers. We've contacted three alternate providers.
10 The Greater East Texas Community Action Program, Economic
11 Opportunities -- EOAC of Planning Region 11, and Texoma
12 Council of Governments have indicated a willingness to
13 provide the temporary services.

14 So what we would do just for your information
15 is to assign certain counties to each of those three
16 entities. There would not be overlap. The problem here
17 again it starts to the north of the Metroplex. It goes
18 all the way to the east and down to the south. And so we
19 would --

20 MR. OXER: A pretty big territory.

21 MR. DEYOUNG: It's a big territory. There's a
22 lot of big populations in each of those areas, especially
23 on that north side of Dallas. That's a huge service area,
24 so we would divvy up a solution and find three -- the
25 three agencies each would have very distinct counties to

1 operate this program in.

2 So I'd be happy to answer any of your
3 questions.

4 MR. OXER: Okay. So this Community Action
5 Agency is not strong enough to deliver the goods, and
6 you're asking there's a path to go down to help remedy
7 this problem for the State. And you're asking for up to
8 three steps along that path right now in sequence. So
9 basically we would give you the authority to move at least
10 three steps down the board here.

11 MR. DEYOUNG: Yes, sir.

12 MR. OXER: Okay.

13 MR. GOODWIN: Move approval.

14 MR. OXER: Okay, a motion by Mr. Goodwin --

15 MS. BINGHAM ESCAREÑO: Second.

16 MR. OXER: -- to approve staff recommendation
17 on Item 5(d). Second by Ms. Bingham. There's no request
18 for public comment. A motion by Mr. Goodwin, second by
19 Ms. Bingham to approve staff recommendation on Item 5(d).

20 Those in favor?

21 (A chorus of ayes.)

22 MR. OXER: And opposed?

23 (No response.)

24 MR. OXER: There are none. It's unanimous. Go
25 get them. Patricia?

1 MS. MURPHY: Patricia Murphy, Chief of
2 Compliance. Item 5(e) is also about Community Services,
3 Inc., but it's about their 2017 contract. So you just
4 took action on a 2016 contract.

5 When they were considered for their 2017
6 contract, it went through the Executive Award Review
7 Advisory Committee, EARAC. And so EARAC heard all of
8 these issues about CSI and did not recommend an award.
9 CSI was notified of that, and they were given the
10 opportunity to propose terms and conditions. They didn't
11 do that. And then not within the deadlines of the rules,
12 they requested to appeal.

13 So this item is granting a waiver of the
14 deadline to appeal so that the issue could be heard, but
15 they didn't show up to discuss it. But it is denying
16 their request to -- it's denying their request by EARAC's
17 recommendation.

18 MR. OXER: So the fact that they haven't showed
19 up should give us some idea of their confidence in their
20 argument?

21 MS. MURPHY: No comment.

22 MR. OXER: Any questions from the Board?

23 MR. GOODWIN: So is it your recommendation to
24 grant them the waiver against the deadline? I want to
25 make sure I understand.

1 MS. MURPHY: Yes, to grant the waiver of the
2 deadline to appeal.

3 MR. ECCLES: Which then places the appeal
4 before the Board.

5 MS. MURPHY: Places the appeal before you.

6 MR. ECCLES: But the recommendation for EARAC
7 to deny them in 2017 contract still stands.

8 MS. MURPHY: Yes. We think you should allow
9 them to appeal, but support EARAC's recommendation to not
10 award them.

11 MR. GOODWIN: So if we --

12 MR. OXER: So they get to come make their
13 argument to counter your position.

14 MS. MURPHY: And they did not.

15 MR. IRVINE: We had contemplated I believe that
16 they would have shown up today.

17 MS. MURPHY: Yes.

18 MR. IRVINE: And the granting of the waiver
19 would have been a necessary predicate procedurally to
20 hearing their appeal. As they have not shown up, they do
21 not appear -- I mean we are not in any way, shape, or form
22 recommending that they be given yet additional time to
23 appeal and that it comes back at a later time.

24 We need to move forward with this now. Does
25 staff disagree with that in any way?

1 MS. MURPHY: No.

2 MR. IRVINE: I mean this is an agency that's
3 had a lot of problems. It's not just a --

4 MR. OXER: For a long time apparently.

5 MR. IRVINE: It's not just a failure to submit
6 audits. It's a failure to address the material
7 deficiencies and weaknesses identified in those audits, to
8 address the material deficiencies and weaknesses
9 identified in monitorings, to repay us significant
10 disallowed costs. There's a lot of stuff.

11 I mean, you know, it was interesting to hear
12 about complaints from individual households that aren't
13 being served and from utility providers that are
14 distancing themselves from the relationship.

15 I got a rather extraordinary call from a county
16 judge in one of the impacted areas, and I was fully
17 anticipating it would be, you know, some local official
18 imploring me to, you know, cut the local agency some slack
19 and work with them and in fact, you know, he said quite
20 the opposite. He said, I really want you to work as fast
21 and hard as you can to find a way to ensure that these
22 services are being provided to my constituents.

23 MR. OXER: Okay. So EARAC has said they don't
24 get it. They're going to appeal that or if they would
25 have been here to appeal, they're not here to make their

1 appeal, so we're essentially -- our vote today would be to
2 support EARAC's position? Am I clear?

3 (No response.)

4 MR. OXER: Okay. The fact that they're not
5 here, does that change anything in the resolution within
6 the item?

7 MS. MURPHY: No.

8 MR. OXER: Okay. All right. Then let's have a
9 motion to consider, please.

10 MR. GOODWIN: So moved.

11 MS. HOLLOWAY: All right. A motion by Mr.
12 Goodwin.

13 MR. GANN: Second.

14 MR. OXER: And a second by Mr. Gann. Nice how
15 that worked out. With respect to Item 5(e), no request
16 for public comments. Motion by Mr. Goodwin, second by Mr.
17 Gann to Item 5 to support staff recommendation to Item
18 5(e). Those in favor?

19 (A chorus of ayes.)

20 MR. OXER: And opposed?

21 (No response.)

22 MR. OXER: There are none. Okay, everybody sit
23 still. We're going to go into an Executive Session here,
24 folks, and take a break for lunch.

25 The Governing Board of the Texas Department of

1 Housing and Community Affairs will go into closed or
2 executive session at this time. The Board may go into
3 executive session pursuant to Texas Government Code
4 551.074 for the purposes of discussing personnel matters
5 pursuant to Texas Government Code 551.071 to seek and
6 receive the legal advice of its attorney, pursuant to
7 Texas Government Code 551.072 to deliberate the possible
8 purchase, sale, exchange, release of real estate and/or
9 pursuant to Texas Government Code 2306.039 parentheses,
10 closed parentheses, to discuss issues related to fraud,
11 waste or abuse of the Department's internal auditor, fraud
12 prevention coordinator, or ethics advisor.

13 This closed session will be held in the Andy
14 Room of this room, which is John H. Reagan Building 140.
15 Tate is October 13, 2016. The time is officially 12:28.
16 12:28, we're going to have -- there are a couple of items
17 to take on Executive Session for legal. I know this, so
18 let's be back in our chairs at 1:30.

19 (Whereupon, at 12:28 p.m., the meeting was
20 recessed, to reconvene this same day, Thursday, October
21 13, 2016, following conclusion of the executive session.)

22 MR. OXER: All right. The Board's now
23 reconvened in open session at 1:33. During the Executive
24 Session, the Board did not adopt any policy position,
25 resolution, rule, regulation, or take any formal action or

1 vote on any item.

2 Let's see. We have no pending items for the
3 closed session. But we're back on to the formal agenda
4 for Item 6, No. 6(a). Marni?

5 You're in luck. You don't seem to be
6 attracting as much attention as you first were.

7 MS. HOLLOWAY: I know. I lost my touch. Marni
8 Holloway, Director of Multifamily Finance. Item 6(a) is
9 Presentation, Discussion, and Possible Action on the
10 proposed 10 TAC Chapter 13 concerning multifamily Direct
11 Loan Rule, and directing its publication for comment in
12 the Texas Register.

13 In 2017, the Department will administer HOME
14 funds from both the annual allocation and program income,
15 National Housing Trust Fund, which is our new fund source,
16 and TCAP repayment funds.

17 Because of all of these funds carry similar
18 requirements, staff believes that it will be useful to
19 align state requirements and create efficiencies to
20 administer the Multifamily Direct Loan Program through a
21 rule rather than through a Notice of Funding Availability.

22 Staff saw a need to dedicate an entire rule to
23 Multifamily Direct Loan funds rather than have sections of
24 the rule scattered through 10 TAC Chapter 10 as they have
25 been in previous years and then on top of that we've been

1 administering the program largely with NOFAs. So this
2 brings all of that together into one rule.

3 MR. OXER: So we're essentially consolidating,
4 just get it all in one spot?

5 MS. HOLLOWAY: All in one spot. So like the
6 conversation earlier today about the loan and the
7 underwriting and when it needs to come back, that's
8 addressed in this rule. So it's, you know, exactly what
9 stakeholders were asking for.

10 Upon Board approval, the proposed rule will be
11 posted to the Department's website and subsequently
12 published in the Texas Register. Public comment will be
13 accepted between October 28 and November 28. The rule
14 will be brought back before the Board in December for
15 final approval. Note that this is December. Your Board
16 book says November, but with the public comment period, it
17 would have to be December.

18 Staff recommends that the proposed 10 TAC
19 Chapter 13 concerning the Multifamily Direct Loan Rule
20 presented at this meeting are approved for publication in
21 the Texas Register for public comment.

22 MR. OXER: So this is basically procedural, put
23 it out there. We're giving them something everybody's
24 asked for.

25 MS. HOLLOWAY: Right.

1 MR. OXER: This is just getting it down the
2 road.

3 MS. HOLLOWAY: This is -- yeah, publishing it
4 for comment. We've already gathered some input. We've
5 held a roundtable and then, of course, our efforts working
6 through the Trust Fund Allocation Plan, you know, also
7 gathered some input that's been incorporated into this
8 rule.

9 MR. OXER: Okay, any questions?

10 MR. GOODWIN: Make a motion for approval.

11 MR. OXER: Okay, a motion by Mr. Goodwin to
12 approve staff recommendation to Item 6(a). Do I hear a
13 second?

14 MR. GANN: Second.

15 MR. OXER: And second by Mr. Gann. Is anybody
16 here? Oh, we're attracting a little more. We've tripled
17 our public interest here so far.

18 Okay, a motion by Mr. Goodwin and second by Mr.
19 Gann to approve staff recommendation on Item 6(a). Those
20 in favor?

21 (A chorus of ayes.)

22 MR. OXER: And opposed?

23 (No response.)

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

25 Okay, Raquel, you've got the last one for the

1 formal agenda.

2 MS. MORALES: All right. Item 6(b) is
3 Presentation, Discussion, and Possible Action on the
4 proposed repeal of 10 TAC Chapter 10 Subchapter E related
5 to the Asset Management Rules and a proposed new 10 TAC
6 Chapter 10 Subchapter E and directing its publication for
7 public comment in the Texas Register.

8 This item is staff's recommendation for changes
9 to our Asset Management Rules. The bar goes into detail
10 about what we're doing, but I'll talk briefly about the
11 more substantive changes that we're proposing in
12 particular to our amendment section.

13 You guys get to hear about amendments to
14 applications at every board meeting, and we are trying to
15 create a process, a little bit more efficiency where we
16 can, with changes that we still want to be made aware of,
17 but maybe doesn't have to rise to the level of a formal
18 approval, either administratively or for the Board.

19 The items that are considered material changes
20 that are identified in 10.405 and in statute still remain
21 the same. We're simply trying to identify some of the
22 changes that we see that are nonmaterial and can maybe go
23 to the staff as notification of the change. Staff gets
24 the chance to review it and then acknowledge that change.

25 So again, hoping to create some more efficiency there.

1 We have also proposed some pretty substantive
2 changes to our Right of First Refusal Rules. Still
3 continuing to try to implement House Bill 3576 and in this
4 particular section, most of the change is reorganization
5 to identify the different types of ROFRs that we have out
6 there, the process that each of those different types of
7 ROFRs have to go through, et cetera.

8 So, if approved, these rules will also go to
9 the Texas Register. The public comment period will be
10 between October 28 and November 28, and these rules will
11 also be brought to you in December for final approval.

12 MR. OXER: Essentially parallel set for what
13 Marni has?

14 MS. MORALES: Yep.

15 MR. OXER: Okay.

16 MR. GOODWIN: Move for approval.

17 MR. OXER: Okay, a motion by Mr. Goodwin to
18 approve staff recommendation on Item 6(b).

19 MS. BINGHAM ESCAREÑO: Second.

20 MR. OXER: And second by Ms. Bingham. No
21 request for public comment. Motion by Mr. Goodwin and
22 second by Ms. Bingham to approve staff recommendation on
23 Item 6(b). Those in favor?

24 (A chorus of ayes.)

25 MR. OXER: And opposed?

1 (No response.)

2 MR. OXER: There are none. It's unanimous.
3 Okay, we have reached the point. Is there any other
4 clarification or additions you need to make to the agenda,
5 Mr. ED?

6 MR. IRVINE: No, sir.

7 MR. OXER: Okay. We have reached the point
8 where we will accept public comment on matters other than
9 those items for which there were posted agenda items today
10 for the purpose of building out future agenda. Does any
11 staff or any member of the public wish to speak?

12 Okay then, step up.

13 MS. ABLING: Good afternoon. My name is Emily
14 Abling with New Hope Housing. I'm director of real estate
15 development. Let me just sign in before I forget.

16 (Pause.)

17 MS. ABLING: So I'm here today a poor man's
18 substitute for Joy Horak Brown, who you're used to seeing
19 up here. She's traveling and asked me to speak on our
20 behalf.

21 MR. OXER: I hope you'll give her our best when
22 you go back.

23 MS. ABLING: I will absolutely do that. She
24 sends hers as well.

25 I'll respect your time and keep my remarks

1 brief. As you'll remember, two projects this year have
2 been approved by you and the Board and the staff of the
3 Department for New Hope Housing, two 4 percent bond
4 transactions both landmark projects in Houston. One
5 single room occupancy on the Light Rail, 4 percent and a
6 187 multifamily development that is serving homeless
7 families, New Hope's first foray into family development.

8 Both of those are critical pieces in Houston's
9 solution to end homelessness. And one of the things that
10 is important to us and we bring those two up today because
11 we are really concerned about the way the direction of the
12 multifamily rules are going and New Hope's ability to
13 continue providing these kinds of projects for the last,
14 the least, and the lost of our communities.

15 The staff has worked tremendously with
16 developers over the past year in creating a set of rules
17 that really incentivize development in the urban core, and
18 we're tremendously appreciative for that. There are
19 points associated with those urban developments on the QAP
20 side.

21 On the multifamily rules side, there's a little
22 bit of some backstepping, and there's a lot of tightening
23 of the parameters of the kinds of developments that can be
24 approved by the Board and those restrictions are growing.

25 And it's getting harder and harder for

1 developments like ours which are typically located in the
2 urban core near services and that typically have more
3 undesirable neighborhood characteristics than say, a place
4 out in the suburbs. We're going to be fighting issues of
5 poverty and crime.

6 In some cases, we can just prove up that
7 they're not detrimental to the project whatsoever and it's
8 relatively easy. In other cases, it's a little bit
9 harder. It costs us a tremendous amount of resources and
10 staff time and cost in hiring consultants to document
11 these issues for the TDHCA.

12 And so we're concerned that there's forward
13 motion on the QAP and backward motion on the multifamily
14 rules. And we're hopeful just on a policy level -- we
15 will be submitting formal comment -- but on a policy
16 level, we'd like to keep those in step with one another.

17 And if our intention is to allow developers
18 like New Hope Housing to create affordable, safe,
19 sustainable housing for the least, the last, the lost
20 among us, then we need to be able to do that in tandem
21 with the multifamily rules and not overburden small
22 nonprofits like us with extremely onerous rules.

23 So that's why I came here today, and I
24 appreciate your time.

25 MR. OXER: We appreciate your comments. Tim?

1 MR. ALCOTT: I'm Tim Alcott of the San Antonio
2 Housing Authority. And I want to talk a little bit about
3 the urban core points. Every once in a while your staff
4 hits a home run and writes it perfectly. This is one of
5 those situations, and I want to make sure --

6 MR. OXER: We always like to hear when we get
7 it right.

8 MR. ALCOTT: Exactly, and I want to make sure
9 it doesn't change either, so. So with the urban core,
10 this is, as you know, it's a new scoring where you get
11 five points for developments within four miles of the
12 urban core for the five largest cities.

13 And according to the TDHCA's Board memo
14 whenever they wrote the QAP and they published it, it said
15 it seeks to support development in genderfying [phonetic]
16 areas in close proximity to employment in other areas.
17 And I want to make sure that Urban Core points are
18 applicable to at-risk deals, and they currently are so I
19 want to keep it that way.

20 Looking at last year, most deals went to rural
21 areas with populations because it was easier to be at-risk
22 and also be in a high opportunity area. For San Antonio,
23 another big city, it's a little bit more of a challenge
24 where you have everything come together perfectly.

25 And so moreover, the at-risk funding comes

1 after the USDA deals and so it's a limited pool. It's not
2 unlimited. There's very few deals being done, so I want
3 to make sure that that doesn't change.

4 And looking at 2016, when I looked through who
5 actually got the deals, ten were rural, six were urban,
6 none were in San Antonio. I'm doing one there.

7 At-risk provides mixed income housing for
8 people near job centers, people 36 percent of AMI. That's
9 why that was added, and this will achieve that result.
10 And I'd also to point out, moreover, at-risk deals are
11 already in a disadvantage by being excluded from achieving
12 the maximum five underserved points and so we can't get
13 all the points there.

14 And also we have at times near downtown areas,
15 the school systems don't score as well. And so for us to
16 be able to hit that perfectly, you know, this really gets
17 us on an even playing field because we lose a point to
18 somewhere else.

19 We've already scored our application on these
20 new rules, and so it's very important to us, meaning the
21 larger cities, to be able to get these deals, to not
22 change the rule. It's perfect. Great job, Tim Irvine.
23 Wonderful job.

24 MR. IRVINE: Quick point, are you expecting to
25 submit public comment in writing that's going to cover all

1 of those points?

2 MR. ALCOTT: I e-mailed them this morning while
3 I was waiting around.

4 MR. IRVINE: Okay.

5 (General laughter.)

6 MR. IRVINE: Thank you.

7 MR. OXER: This is the suspenders, okay.

8 MR. ALCOTT: Exactly. Just in case it doesn't
9 get pushed on to the Board, I talked to underwriters.

10 MR. OXER: Thanks, Tim.

11 Okay. Any other public comment?

12 (No response.)

13 MR. OXER: Any comment from the staff?

14 (No response.)

15 MR. OXER: Don't let it ever go unsaid that we
16 don't -- we really appreciate what the staff does, and
17 thank you to you and everybody at 221 East 11th Street.
18 We know that's where all the work gets done.

19 So any question for comment from the -- Mr.
20 Irvine, care to say something?

21 MR. IRVINE: Yes, Patrick -- I'd like to
22 introduce Patrick Russell, the newest member of the
23 Multifamily Team, fresh out of school, not yet
24 disillusioned, will be --

25 (General laughter.)

1 MR. IRVINE: -- playing a key role in working
2 with all of the team to develop future rules and help
3 organize some of these complex bodies of thought. So glad
4 to have you on board.

5 MR. OXER: Welcome to the kitchen, Patrick.
6 It'll take you a while to get jaded and cynical like we
7 are, but, you know, we'll make sure that you get there.

8 MR. RUSSELL: Give me ten years.

9 MR. OXER: There you go. All right. Any other
10 member of the Board? Counselor, you have anything to say?

11 (No response.)

12 MR. OXER: All right. I get the last word.
13 It's a good thing that we do here, and it's a good thing
14 that the State of Texas needs what we do and appreciates
15 the quality of the work that we do it in. So Mr.
16 Goodwin's moved to adjourn. Do I hear a second?

17 MS. BINGHAM ESCAREÑO: Second.

18 MR. OXER: Second by Ms. Bingham. Those in
19 favor?

20 (A chorus of ayes.)

21 MR. OXER: And opposed?

22 (No response.)

23 MR. OXER: There are none.

24 (Whereupon, at 1:46 p.m., the board meeting was
25 adjourned.)

C E R T I F I C A T E

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3 MEETING OF: TDHCA Board
4 LOCATION: Austin, Texas
5 DATE: October 13, 2016

6 I do hereby certify that the foregoing pages,
7 numbers 1 through 172, inclusive, are the true, accurate,
8 and complete transcript prepared from the verbal recording
9 made by electronic recording by Nancy H. King before the
10 Texas Department of Housing and Community Affairs.
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14
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16 _____ 10/19/2016
17 (Transcriber) (Date)

18
19 On the Record Reporting
20 3636 Executive Cntr Dr., G22
21 Austin, Texas 78731
22
23