

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

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

July 26, 2018
8:00 a.m.

MEMBERS:

J.B. GOODWIN, Chair
LESLIE BINGHAM ESCAREÑO, Vice Chair
PAUL BRADEN, Member
ASUSENA RESÉNDIZ, Member
SHARON THOMASON, Member
LEO VASQUEZ, Member

TIMOTHY K. IRVINE, Executive Director

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b) Presentation, discussion, and possible action regarding the adoption of an agreed final order concerning Red Oak Apartments (HTC 10226 / HOME 1001235 / CMTS 4763)	
MULTIFAMILY ASSET MANAGEMENT	
c) Presentation, discussion, and possible action regarding Material Amendments to the Housing Tax Credit Application: 17259 Mistletoe Station Fort Worth	
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- g) Presentation, discussion, and possible action on Determination Notices for Housing Tax Credits with another Issuer:
18418 LIV at Boerne Boerne

HOME AND HOMELESSNESS PROGRAMS

- h) Presentation, discussion, and possible action on State Fiscal Year 2019 Homeless Housing and Services Program awards

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- I) Presentation, discussion, and possible action on Resolution No. 18-028 authorizing the filing of one or more applications for reservation to the Texas Bond Review Board with respect to Qualified Mortgage Bonds and containing other provisions relating to the subject
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CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) TDHCA Outreach Activities, (June-July)
- b) Report and possible action on changes to items to be included in the Texas Department of Housing and Community Affairs Legislative Appropriations Request for state fiscal years 2020-21
- c) Report on the Department's Swap Portfolio and recent activities with respect thereto

ACTION ITEMS

ITEM 3: LEGAL

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Presentation, discussion, and possible action regarding the adoption of a final order concerning Southmore Park Apartments Ltd., with respect to Southmore Park (HTC 94004 / CMTS 1204 / LDLD 141 /

SOAH Docket #332-17-5544HCA)

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 Community Garland
 18036 Clyde Ranch Clyde
 18040 Farmhouse Row Slaton
 18052 Nacogdoches Lofts San Antonio
 18054 Piedmont Lofts San Antonio
 18099 Waters Park Studios Austin
 18322 Las Casitas de Azucar Santa Rosa
 18369 The Residences at Canyon Lake
 Canyon Lake
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 18000 Evergreen at Garland Senior
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 18009 Rosemount Estates Rosenberg
 18010 Edgemere Palms El Paso
 18012 Jamie O Perez Memorial Apartments
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 18013 Dayton Retirement Center Dayton
 18015 Cambrian East Riverside Austin
 18018 Columbia Renaissance Square II
 Senior Fort Worth
 18019 Highlander Senior Village Bulverde
 18024 Palladium Celina Senior Living
 Celina
 18026 Maple Park Senior Village Lockhart
 18033 The Miramonte Fifth Street CDP
 18036 Clyde Ranch Clyde

18038 3rd Street Lofts Lubbock
18039 Orchid Circle Homes & Las Palmas
Homes Gregory
18040 Farmhouse Row Slaton
18043 Huntington at Miramonte Fifth
Street CDP
18047 Miramonte Single Living Fifth
Street CDP
18052 Nacogdoches Lofts San Antonio
18053 Alazan Lofts San Antonio
18054 Piedmont Lofts San Antonio
18057 Granbury Manor Granbury
18058 Huntington at College Station
College Station
18064 Palladium Fain Street Fort Worth
18067 Palladium Crowley Crowley
18068 Palladium Teasley Lane Denton
18069 Palladium Farmersville Farmersville
18077 Park Forest Liberty
18081 Pathways at Chalmers Courts East
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18084 Artisan at Ruiz San Antonio
18086 The Village at Overlook Parkway
San Antonio
18087 Residences of Long Branch Rowlett
18091 Lavon Senior Villas Garland
18093 Green Oaks Apartments Houston
18095 Retreat West Beaumont Beaumont
18096 Patriot Park Family Plano
18099 Waters Park Studios Austin
18118 Sandstone Foothills Apartments
Mineral Wells
18126 Caldwell Heights Caldwell
18127 Metro 31 Senior Community El Paso
18129 Emerald Manor Horizon City
18130 Skyway Gardens Alpine
18137 New Hope Housing Dale Carnegie
Houston
18138 Lancaster Senior Village Houston
18142 San Juan Mission Villas
San Antonio
18148 Palmview Village Palmview CDP
18159 Rutherford Park Houston
18161 Monroe Crossing Houston
18162 Guadalupe Villas Lubbock
18166 The Legacy at Buena Vista
San Antonio
18171 Poinsettia Gardens at Boca Chica
Brownsville
18186 Avanti at Greenwood Corpus Christi
18188 Avanti at Sienna Palms Legacy
Midway North CDP

18192 Residences at Stonegate Lubbock
18196 North Alamo Heights North Alamo
CDP
18204 Cielo at Mountain Creek Dallas
18206 Ridge Villas San Juan
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18214 Mariposa Apartment Homes at
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18218 Cypress Creek Apartment Homes at
Woodedge Park Houston
18220 Mariposa Apartment Homes at
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18221 Cypress Creek Apartment Homes at
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18222 Glenn Park Apartments San Angelo
18223 Harvest Park Apartments Pampa
18230 Las Villas del Rio Hondo Rio Hondo
18235 Memorial Apartments II McAllen
18239 Casitas Palo Alto Brownsville
18243 2222 Cleburne Houston
18245 Lockhart Springs Lockhart
18249 Sweetwater Apartments Sour Lake
18250 Sweetbriar Hills Apartments Jasper
18251 Groveton Seniors Apartments Groveton
18254 Somerset Lofts Houston
18255 Pendleton Square Harlingen
18259 Cannon Courts Bangs
18260 Fish Pond at Cuero Cuero
18261 Fish Pond at Portland Portland
18267 Avenue at Sycamore Park Fort Worth
18268 Saline Creek Senior Village Nooday
18269 2400 Bryan Dallas
18273 Museum Reach Lofts San Antonio
18274 Hill Court Villas Granbury
18283 Pines at Allen Street Kountze
18288 Village at Greenwood Corpus Christi
18289 Village at Roosevelt San Antonio
18293 Silver Spur Apartments Palmview CDP
18294 The Legacy Palmview CDP
18298 Heritage at Wylie Wylie
18305 Star of Texas Seniors Montgomery
18306 Campanile on Commerce Houston
18314 The Reserves at Maplewood II
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18320 Seaside Lodge at Chesapeake Bay
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18322 Las Casitas de Azucar Santa Rosa
18323 Talavera Lofts Austin
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18338 The Greenery Houston
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 18354 Flintlock Apartments Houston
 18355 W. Little York Apartments Houston
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 18376 Lakeview Pointe Apartments Garland
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P R O C E E D I N G S

1
2 MR. GOODWIN: We will convene the July 26th
3 Board meeting for the Texas Department of Housing and
4 Community Affairs. We will start with roll call.

5 Ms. Bingham?

6 MS. BINGHAM ESCAREÑO: Here.

7 MR. GOODWIN: Mr. Braden?

8 MR. BRADEN: Here.

9 MR. GOODWIN: Goodwin, here. Ms. Reséndiz?

10 MS. RESÉNDIZ: Present.

11 MR. GOODWIN: Ms. Thomason?

12 MS. THOMASON: Here.

13 MR. GOODWIN: Mr. Vasquez?

14 MR. VASQUEZ: Here.

15 MR. GOODWIN: We have a quorum. And I would
16 ask all of you to rise and let Tim lead us in the Pledge
17 of Allegiance.

18 (Whereupon, the Pledge of Allegiance was
19 recited.)

20 (Whereupon, the Pledge of Allegiance to Texas
21 was recited.)

22 MR. GOODWIN: On our consent agenda, we are
23 going to pull Item number 1(i) under bond finance. Are
24 there any other items that anyone on the Board would want
25 to pull from the consent agenda?

1 (No response.)

2 MR. GOODWIN: If not, I will entertain a motion
3 to approve the consent agenda.

4 MS. THOMASON: So moved.

5 MR. GOODWIN: I have a motion. And a second?

6 MS. BINGHAM ESCAREÑO: Second.

7 MR. GOODWIN: Moved and seconded. Any
8 discussion?

9 (No response.)

10 MR. GOODWIN: All those in favor, say aye.

11 (A chorus of ayes.)

12 MR. GOODWIN: Those opposed?

13 (No response.)

14 MR. GOODWIN: Okay. I guess we will move into
15 the action items. And we will start with -- oh. The one
16 we are going to do is I, 1(i) under bond finance. Monica?

17 MS. GALUSKI: Good morning, Mr. Chairman,
18 members of the Board, staff. I am Monica Galuski,
19 Director of Bond Finance and Chief Investment Officer.

20 So the Department has a very robust Single
21 Family program, through which we assist primarily first-
22 time home buyers through our to-be-announced program,
23 which is a taxable program. Our -- through the issuance
24 of single family mortgage revenue bonds, and through the
25 issuance of mortgage credit certificates.

1 Both tax-exempt single family mortgage revenue
2 bonds and mortgage credit certificates, or MCCs, require
3 what is called an allocation of private activity cap, or
4 volume cap. And that is, it flows down from the federal
5 level to the state. It is based on a per capita amount.

6 And so the state receives a set amount, based
7 on population. And the Bond Review Board manages
8 allocating that cap, and the entire process, based on
9 statute.

10 With our program right now, basically, TDHCA's
11 allocation of volume cap for single family bonds, or
12 mortgage credit certificates, we are allocated
13 approximately \$277 million per year, and our needs are
14 great. We are using right now, just for our MCC program,
15 we are using about a billion dollars a year in cap.

16 So what we have done with this request, is, we
17 are requesting a total of what is called reservations of
18 cap, of \$1.2 billion. Of that amount, \$500 million would
19 be a request for new cap.

20 And about \$700 million is the composite of our
21 allotment of \$277 million, plus we have carry-forward cap
22 amounts from prior years, when all of the cap wasn't being
23 used. And we stepped in and requested unused cap amounts.

24 So that is my summary. I would be happy to answer any
25 questions.

1 MR. GOODWIN: Yes, sir.

2 MR. BRADEN: How does this request relate into
3 past requests? Is it larger, in general?

4 MS. GALUSKI: No. It is actually,
5 substantially similar. We have -- sorry. If it weren't
6 for the fact that we are very aware that there is going to
7 be a lot more requests for cap, and sort of a sensitivity
8 to us not prohibiting others from having access to that
9 cap.

10 I mean, in a perfect world, we would ask for a
11 lot more. Even with this, we are going to be scaling back
12 our MCC program significantly. And in going back to
13 working on the percentage of MCC credit, et cetera, to try
14 to be a more effective manager of that cap.

15 But we recognize that, you know, bonds are sort
16 of back across the board, and there is going to be a lot
17 of demand. And so we are making adjustments accordingly.

18 MR. BRADEN: Exactly what I was concerned
19 about. Thank you.

20 MR. GOODWIN: Okay. Any other questions?
21 Anybody want to speak to this issue?

22 (No response.)

23 MR. GOODWIN: Let me remind everyone that comes
24 up, that wants to speak, please come and sit in the front
25 few rows. And please print your name when you sign in, so

1 that we can read it, after you have been here.

2 MR. PALMER: Good morning. My name is Barry
3 Palmer, with the Coats, Rose Law Firm. And I am here to
4 speak and urge the Board not to pass this resolution.

5 The resolution is for \$1.2 billion of bond cap,
6 currently. The state has \$2.5 billion of bond cap
7 available. The agency is talking about taking 1.2 billion
8 for single family, and at the same time, the sister
9 housing agency, TSAHC, is planning to go in with a request
10 for a billion dollars of bond cap for single family.

11 That would be \$2.2 billion out of the \$2.5
12 billion that is available for 90 percent of the available
13 bond cap, roughly, going to single family at a time when
14 we have terrible needs for multifamily. It would only
15 leave \$300 million left, which is enough to do maybe ten
16 deals across the state.

17 The way that the rules currently work on
18 multifamily bond cap, is you are limited to \$20 million
19 allocation until August 15th. And many developers are
20 finding that \$20 million is not enough bond cap to build a
21 4 percent project. So they have been holding off.

22 And there are a lot of developers that have
23 been waiting until August 15th to get an allocation of
24 bond cap. And now, it is all going to be taken up by
25 TSAHC and TDHCA for single family.

1 I would like to point out that for a number of
2 years, there was plenty of bond cap available. It wasn't
3 used up until last year.

4 Last year, the same thing happened. TDHCA went
5 in for a billion dollars of bond cap. TSAHC went in for
6 \$800 million, I believe. And so there was no bond cap
7 available for multifamily after that.

8 That billion dollars that TDHCA went in for
9 last year, none of it has been used. It is still sitting
10 there. You currently are sitting on \$1.2 billion of bond
11 cap for single family that has not been used.

12 So I would suggest that rather than come and
13 take another 1.2 billion, that you use the bond cap that
14 you have for multifamily first. And then if there is
15 money available, go in for more single family at that
16 time. But don't come in on August 15th, and take up 90
17 percent of the available bond cap, and leave no money for
18 single family.

19 MR. GOODWIN: Any questions?

20 (No response.)

21 MR. GOODWIN: Thank you. Jean, did you want to
22 speak to this issue?

23 MS. LATSHA: Good morning. Jean Latsha with
24 Pedcor Investments. I really just want to reiterate what
25 Barry said, that we are multifamily developers. We

1 utilize the taxes and bond program, the 4 percent tax
2 credit program.

3 And it is true that if this gets done, I am
4 concerned -- very concerned that the three deals, just the
5 three deals that we have in our own pipeline, each of
6 which need about on average, \$40 million in volume cap.
7 They won't just be delayed. They won't get done at all.

8 If we are not able to come in and get that
9 volume cap, we will lose those contracts. You know, we
10 have got three deals under contract right now, that would
11 total maybe 900 units, a little less. And they won't get
12 done.

13 And I appreciate that there is some need on the
14 single family side. But there is a great, great need on
15 the multifamily side, too. And without volume cap, it
16 doesn't get met. It is pretty much that simple.

17 I won't take your time and repeat what Barry
18 said. But I stand behind him.

19 MR. GOODWIN: Thank you. Something new to add?

20 MR. ARECHIGA: Jason Arechiga with the NRP
21 Group. Also, in an effort not to reiterate, and repeat,
22 and echo what Barry and Jean said. Actually, I am going
23 to reiterate what Jean said. Ironically, we have three
24 deals, \$40 million each, about 900 units. It is almost
25 exactly what Jean said.

1 And if this passes, this may be the first time
2 that I have ever seen bonds oversubscribed on day one.
3 And so if the \$1 billion was successfully used last year,
4 then I could see there being, certainly, a case for
5 getting in August 15th and reserving it.

6 But as Barry said, I think it might be better
7 to at least let, to some degree, a few other multi-family
8 developers, whether it is us, whether it is Pet Core.
9 Whether it is other private developers or non-profits and
10 municipalities that want to develop multifamily have an
11 opportunity to reserve some of the bond cap.

12 And then if there is remaining left over, to be
13 able to fund, to keep filling the gap, as TDHCA has done
14 in the past, through carry-forward allocations. Thank
15 you.

16 MR. GOODWIN: Anybody else want to speak to
17 this?

18 MR. YARDEN: Good morning. David Yarden with
19 Am --.

20 MR. GOODWIN: We need for you to sign in.

21 MR. YARDEN: I will. David Yarden with AmTex
22 Multihousing. I don't mind echoing what has previously
23 been said.

24 I just learned about this pretty recently. And
25 I think that if this item were more widely known, you

1 would have a lot more people here, echoing all the same
2 sentiments that have been expressed. We just learned
3 about it.

4 This is extremely troubling, and detrimental to
5 us in the development community. We have a lot of
6 challenges already that are external to the Board in terms
7 of getting affordable housing built. And for the Board to
8 be considering an action which will further jeopardize our
9 projects and our pipeline of upcoming deals is extremely
10 disturbing.

11 I urge the Board to deny this action. Or, at
12 least in the alternative, not to consider it today. Thank
13 you.

14 MR. GOODWIN: Anybody else want to speak?

15 (No response.)

16 MR. GOODWIN: Any questions or comments from
17 Board members?

18 MS. GALUSKI: Can I speak?

19 MR. GOODWIN: Yes.

20 MS. GALUSKI: I just wanted to clarify a couple
21 of points. First of all, we are not asking for \$1.2
22 billion of new cap. We are asking for \$500 million of new
23 cap.

24 We have already stated in the Board item, and I
25 stated standing here, that we are using approximately \$725

1 million of existing carry-forward cap that we hold, plus
2 our appropriated amount.

3 Number two, we don't automatically go in front
4 of anybody. That August 15th collapse is -- everybody is
5 in the pool. It is a first come, first serve. We have no
6 control over how that is allocated.

7 And to the extent that we as an issuer are the
8 only one who pulls out, which I am not recommending that
9 we do, that doesn't guarantee that this is going to
10 multifamily or to any specific projects. We, as an
11 agency, we have done this for several years, as far as --
12 we have in the past been picking up the unencumbered at
13 the end.

14 So this is last year and this year, we are both
15 slightly scaled back from prior years. Because there
16 wasn't this great access of cap that wasn't being used.
17 But we have never wasted a dollar of cap.

18 We use every dollar. I guess it is a dollar of
19 cap. And so while I sympathize, and I recognize that cap
20 is scarce, we are all sort of in the pool of needing more
21 cap than might be available.

22 And to the issue of applications not having
23 come in, because of the limitation, there are structural
24 things within the allocation formula, et cetera, that
25 appear to really need to be fixed. Because if you go on

1 BRB's website right now, no one is claiming cap, because
2 it doesn't work for them.

3 So instead of this being a mad race on August
4 15th, perhaps some of those structural issues can be
5 fixed, so that people are aware as things are going
6 through. And things are done in a more orderly fashion,
7 and make more logical sense, as opposed to basically a big
8 pool and a mad fight at the end.

9 So having said that, in order to even go in for
10 our allocated amount, even though we are assigned the
11 277 million, to go in for these reservations, I will need
12 a certain amount of authority, and even just to claim our
13 cap. That is part of the item, here. So I guess I can
14 answer any --

15 MR. GOODWIN: Any questions?

16 MR. BRADEN: So I understand what is going on,
17 sort of. But in the application, and when I read this, I
18 understand the confusion, too. Because when I read this,
19 it does say, maximum.

20 You know, the resolution is prepared, using the
21 maximum aggregate amount of \$1.2 billion. But what you
22 are saying is that is really only \$500 million of new?

23 MS. GALUSKI: Yes, it is. It is because of the
24 way the Bond Review Board system works, as far as going in
25 and reserving your cap. Part of this is a reservation of

1 cap that statutorily, we were assigned: the \$277 million.
2 And cap that we already have as carry-forward cap. So
3 again, what I would call the newly requested amount is
4 \$500 million.

5 MR. BRADEN: So of the \$2.2 billion or so of
6 the state cap, we are really only asking for \$500 million
7 for this round?

8 MS. GALUSKI: That is correct.

9 MR. BRADEN: Okay.

10 MR. GOODWIN: Okay.

11 MR. IRVINE: Can I ask one question? Do we
12 have carry-forward available for multifamily activity?

13 MS. GALUSKI: I believe we have a small piece
14 of carry-forward for multi. It is really -- it is pretty
15 nominal, I believe.

16 MR. GOODWIN: Other questions of Monica?

17 MR. VASQUEZ: Just also to clarify, and make
18 sure the Board understands, so where does the multifamily
19 allocation, how did -- if we are asking for \$500 million
20 for single family, where do we -- who asks for the
21 allocation for multifamily?

22 MS. GALUSKI: My understanding is with, for our
23 multifamily deals that come through us, our 4 percents?
24 Is that what you are asking for?

25 MR. VASQUEZ: If we are asking for 1.2 billion

1 approval and TSAHC is asking for a billion -- and there is
2 only 300 million left, is my understanding. Although now
3 I am hearing something a little bit different. But under
4 that scenario, is the 300 billion [sic] of the 2.5
5 automatically to go to the multifamily?

6 MS. GALUSKI: No. So you have -- right now,
7 you have a reservation. You have an amount that is all
8 single family, right. And basically, no one has come in
9 and claimed any single family yet.

10 So I think at a minimum, any amounts that are
11 taking single family, nobody should have an issue with.
12 Because those were already set aside for single family,
13 including our \$277 million.

14 Then you have a whole allocation set up for
15 multifamily. Nobody has come in for any of those funds,
16 or maybe a small little amount.

17 MR. VASQUEZ: Who would come in for those
18 funds?

19 MS. GALUSKI: Those would be other.

20 MR. VASQUEZ: The developers directly?

21 MS. GALUSKI: No. Those would be local HFCs.
22 And those are going to come in through us. But none of
23 those have come in yet.

24 Because until August 15th, they can only do 20
25 million. They can only come in for \$20 million per

1 transaction, and that is not enough. So that is why you
2 see this race at the end, for everyone to sort of come in
3 and get the amount that they actually need for their
4 project.

5 MR. IRVINE: But multifamily deals come in,
6 deal by deal.

7 MS. GALUSKI: They come in on a deal by deal
8 basis.

9 MR. IRVINE: They come in through us. And they
10 also come in through local issuers.

11 MS. GALUSKI: Yes.

12 MR. IRVINE: In the statutory allocation of
13 bond cap, we are given a certain amount. And each of the
14 local issuers is provided allocation as well. So that is
15 where they are coming in for multifamily activities.

16 MR. VASQUEZ: But I think, if we were taking
17 1.2 billion, which we are not.

18 MR. IRVINE: We are only taking 500 million.

19 MR. BRADEN: What they are saying is correct.
20 The pool of money for all those other HFCs out there,
21 trying to do multifamily would be severely reduced.

22 MR. VASQUEZ: Okay. So bottom line, we are
23 only asking for an additional 500 million.

24 MS. GALUSKI: Right.

25 MR. VASQUEZ: And does that knowledge help

1 alleviate the concerns of the development community?

2 MR. PALMER: Well, that would be better than
3 1.2 billion. But I guess the question is, why would you
4 come in for 500 million when you took a billion dollars
5 last year, and you haven't used any of that.

6 MR. GOODWIN: Monica, do you want to address
7 that question?

8 MS. GALUSKI: I can address that. Actually, we
9 have used a fair amount of our cap last year.

10 And what we are looking at now is, we issued in
11 November of 2017, we released a \$1 billion allocation
12 amount, MCC program. And we are already out of those MCC
13 funds. And we have got a waiting list going.

14 So we are looking at, for our fall issue, we
15 are looking at only doing 500 million. Because we are
16 recognizing cap is becoming scarce. We need to scale
17 back. We are adjusting our credit amounts, et cetera.

18 All I can say is, we have been using every
19 dollar. We have been trying to manage it so that we do
20 have cap available when the MCC program runs out. But we
21 have been an effective user of cap now for as far back as
22 I can see.

23 MR. GOODWIN: Any other questions?

24 MR. PALMER: Could I make one last point?

25 MR. GOODWIN: Sure.

1 MR. PALMER: In the write up, staff's write up
2 on this point, they mention that 500 million of single
3 family cap will serve 300 families. If you take that same
4 500 million and put it into multifamily, that would do 20
5 \$25 million projects.

6 Each of those would serve 250 families. So you
7 could serve 5,000 families with the same money that you
8 are serving 300 families with.

9 MR. GOODWIN: Thank you. Monica, I see you
10 shaking your head.

11 MS. GALUSKI: Can I just correct that.

12 MR. GOODWIN: You disagree with that, I think?

13 MS. GALUSKI: I think the actual write up says
14 that by changing our credit formula using the 500 million
15 in cap, we would increase by 300 home buyers just by
16 changing our MCC credit amount. We are serving -- so far
17 this year, with our MCC program, we have served just under
18 4,000 home buyers with the purchase and ownership of
19 approximately \$550 million in mortgage loans.

20 So I apologize if the wording on the Board item
21 was not correct. That was simply showing the benefit of
22 moving to the tiered MCC structure, in changing the credit
23 rating. That wasn't how many borrowers we are serving.

24 MR. GOODWIN: Thank you for that clarification.
25 Any questions?

1 MR. BRADEN: I guess I will just make a
2 comment. I appreciate the fact that staff seems to be
3 cognizant of this issue. I think we do need to be
4 cognizant of this issue, as cap becomes more scarce. We
5 obviously need to take that into account, when we make our
6 application.

7 MS. GALUSKI: And if I could also point out, we
8 are asking for the ability to request up to these amounts.
9 If it is easier for the Board, if we can get this, the
10 authority to go up to these amounts, you know. We will go
11 back and we will take a hard -- we recognize this is an
12 issue.

13 We are not trying to prevent anybody from
14 having cap. That is not our role here. And so you know,
15 we can go back, you know. And we can find a way to see if
16 we can scale back any of that.

17 MR. GOODWIN: All right. Do I hear a motion?

18 MR. BRADEN: I am going to make a motion to
19 approve.

20 MR. GOODWIN: Motion to approve. Second?

21 MR. VASQUEZ: Second.

22 MR. GOODWIN: Any further discussion?

23 (No response.)

24 MR. GOODWIN: All those in favor, say aye.

25 (A chorus of ayes.)

1 MR. GOODWIN: Opposed?

2 (No response.)

3 MR. GOODWIN: It passes. Okay. We are moving
4 on to Action Item 3. Jeff, I think you were going to come
5 up on legal.

6 MR. PENDER: Good morning, everyone. Jeff
7 Pender, Deputy General Counsel.

8 MR. GOODWIN: Good morning.

9 MR. PENDER: At most of your meetings, you
10 consider approval of agreed final orders concerning
11 administrative penalties under the consent agenda. In
12 those cases, staff and the Respondent will all agree to
13 all the terms of the final order, such as violations,
14 penalty amounts, and time allowed for making corrective
15 actions.

16 These cases, in these cases, there is no need
17 for you to act on these agreed final orders under an
18 action item agenda. Now, you may have wondered what
19 happens if the Respondent doesn't agree to the proposed
20 penalties, or doesn't agree with the proposed terms, or
21 the agreed final order?

22 What happens, is they get to request a trial of
23 the matter before an administrative law judge, otherwise
24 known as an ALJ from the State Office of Administrative
25 Hearings, what we call SOAH. Before this, in this matter

1 before you today, staff has alleged the Respondent,
2 Southmore Park Apartments, Limited failed to timely
3 correct 15 violations of the UPCS, the Uniform Physical
4 Condition Standards, eleven of which are L3 violations --
5 which, as you probably know, is egregious physical
6 violation.

7 Following the hearing before the ALJ, and the
8 presentation of quite a bit of evidence, the ALJ issued a
9 proposal for decision, upholding substantially all of
10 staff's allegations. This PFD is now being presented to
11 you for your consideration in adopting your final order on
12 this matter.

13 The proposed final order incorporates all of
14 the ALJ's findings, conclusions and recommendations,
15 without changes from the PFD. Just to be real clear on
16 this issue, staff hasn't altered them in any way. By law,
17 only you can change the findings and the conclusions.

18 And you can do that only if permitted by the
19 APA, which is also known as the Texas Administrative
20 Procedures Act. In general, the APA prohibits state
21 agencies from arbitrarily changing the ALJ's findings of
22 facts and conclusions of law.

23 But it does allow you to change findings of
24 fact if you find that a technical error in a finding of
25 fact should be changed. And I am emphasizing technical

1 error. You can also change a conclusion of law, but only
2 if you determine that the ALJ didn't properly interpret or
3 properly apply the applicable law.

4 You are not bound by any of the ALJ's
5 recommendations regarding your ordering paragraphs.
6 However, your orders must be based on the facts and the
7 law, as provided by the ALJ, or as appropriately modified
8 by you.

9 You must also state the specific reasons, and a
10 legal basis for your changes in a final order. If you do
11 want to make corrections for inclusion in your final
12 orders, staff would make those corrections for you, and
13 bring the final order back at a later meeting.

14 At this meeting, the Respondent may ask you to
15 make changes in the proposed final order. Staff is not
16 proposing any changes to the ALJ's decisions.

17 If Respondent wishes to argue for changes, the
18 Respondent is limited to the facts on the record. No new
19 evidence may be offered at this time.

20 You may have also wondered, why do I have to
21 review the entire administrative record before entering an
22 order? Well, certainly, you may do that if you want to.
23 You can review the record. However, the purpose of
24 providing you with the ALJ's proposal for decision is to
25 provide you with a neutral fact-finders evaluation of all

1 the evidence.

2 The APA permits you to enter a final order even
3 though you did not sit for the hearing or read the entire
4 record, so long as number one, the proposal for decision
5 has been served on all the parties, and number two, the
6 parties were given opportunities to file what are called
7 exceptions and replies with the ALJ. At which point, she
8 can either accept them or reject them, and modify her PFD
9 reporting to you.

10 These requirements have been met. The ALJ's
11 April 6, 2018 letter to Mr. Irvine provides a copy of the
12 PFD to staff and the Respondent, and solicits exceptions
13 and replies from the parties.

14 Also, her letter to Mr. Irvine, dated May 10,
15 2018, indicates that exceptions and replies were
16 incorporated in her PFD. Accordingly, the statutory
17 requirements, prerequisites for you to render a final
18 decision today have been met.

19 Finally, there is no separate notice required
20 to be served on the Respondent for this meeting, other
21 than the normal requirements of the Open Meetings Act.
22 However, staff did notify Respondent on July 6, 20 days
23 ago, by email, certified mail, and first class mail, with
24 the fact that this item would be placed before you today.

25

1 So unless there are any more questions about
2 your role, I will proceed with a brief summary of the
3 case.

4 MR. GOODWIN: Any questions?

5 (No response.)

6 MR. GOODWIN: Okay. Jeff, go ahead.

7 MR. PENDER: First of all, all factual
8 assertion that I am going to make here at the podium are
9 taken directly from the ALJ's proposal for decision. I am
10 not offering any new evidence today.

11 Southmore Park received a \$237,523.00 per year
12 tax credits in 1996. And Charles V. Miller, President of
13 CVM Interests, Inc., which is the Respondent's General
14 Partner, executed a land use restriction agreement. As
15 you know, they are also referred to as LURAs.

16 In 2014, Respondent was referred to the
17 Enforcement Committee for failure to timely correct
18 compliance violations. On February 15, 2015, this Board
19 approved an agreed final order with the Respondent,
20 requiring the Respondent to pay \$5,000 of administrative
21 penalty, \$11,160 in delinquent compliance fees, and those
22 were for the years 2006 through 2013. And to submit
23 documentation showing that the violations had been
24 corrected.

25 The Respondent paid those administrative

1 penalties and the delinquent fees, but didn't submit
2 documentation to the CMTS system as required by our rules,
3 showing that the violations had been corrected.

4 The violations cited in the 2015 agreed final
5 order included UPCS violations, failure to submit annual
6 owners' compliance reports, failure to properly calculate
7 and implement a utility allowance. Failure to complete
8 tenant files, demonstrating units were leased to only low
9 income households, failure to submit requested pre-onsite
10 documentation. Failure to pay annual compliance fees, and
11 failure to provide an affirmative action marketing plan.

12 To be clear, these previous uncorrected
13 violations from that 2015 agreed final order are not part
14 of the violations which staff is seeking penalties for
15 today. They are not.

16 However, an earlier violation, cited in that
17 2015 agreed order, that continues past -- continues to
18 exist at the time of any subsequent inspection, that is
19 considered a new violation, or a continuing violation.
20 And new penalties are available for those infractions.

21 So in March 2015, a month after the issuance of
22 that 2015 agreed final order, a regularly scheduled UPCS
23 inspection was conducted on the property. In that
24 inspection, numerous serious property conditions --
25 condition deficiencies were found.

1 And a corrective action deadline was set.
2 Partial corrective action was received, but 15
3 deficiencies remained outstanding.

4 At the hearing, the ALJ found 13 of the 15
5 deficiencies to be substantiated by staff, by their
6 evidence. Of the 13 substantiated violations, 11, or
7 nearly 85 percent of the remaining UPCS violations were L3
8 violations, again. Which, as you know, are the most
9 egregious violations.

10 Then in January 2016, Compliance conducted an
11 onsite monitoring review, sometimes called a file review.

12 The unresolved violations identified in the file review
13 are also part of the matter before you today, in addition
14 to the recent unresolved UPCS violations.

15 Again, the unresolved file monitoring
16 violations were identified, and a corrective action
17 deadline was set. And the following violations were not
18 corrected by the corrective action deadline and are
19 included in the proposed final decision, final order
20 before you today.

21 Number one, failure to maintain written tenant
22 selection criteria. Two, failure to post a copy of the
23 tenant rates and resources guide. Three, failure to
24 collect complete tenant file information, so that the
25 income qualification could be verified. This finding

1 remains unresolved for nine of the 92 units, or almost 10
2 percent of all the units.

3 Number four, failure to collect complete new
4 tenant file information, so that the income qualification
5 could be verified. This finding remains unresolved for 17
6 of the 93 units, or 18 percent of all the units.

7 Number five, failure to provide annual
8 eligibility certifications. The findings remain
9 unresolved for 20 of the 93 units, or almost 22 percent of
10 all the units.

11 Number six, failure to execute required lease
12 provisions or exclude prohibited lease language. The
13 finding remains unresolved for 21 of the 93 units, or
14 almost 23 percent of all the units.

15 Number seven, failure to calculate and
16 implement a current applicable utility allowance for the
17 property. This remains unresolved. Failure to submit
18 requested pre-onsite inspection documentation. This is
19 also unresolved.

20 Failure to pay annual compliance fees for the
21 years 2014 through 2016, totaling \$4,185. This is also
22 unresolved.

23 Number ten, failure to provide a compliant
24 affirmative marketing plan. Unresolved. Eleven, failure
25 to complete, to submit parts A and B of the 2015 annual

1 owners compliance report. The missing parts were
2 submitted, but 236 days past the deadline.

3 In the ALJ's analysis section of her PFD,
4 beginning on page 46, she makes several statements that
5 are very revealing of her overall emphasis on the case. I
6 would like to close with two of those statements.

7 When discussing the effectiveness of past
8 enforcement efforts by the Department, the ALJ stated,
9 "Respondent's conduct, shown in the evidence, indicated
10 the administrative penalty imposed in the agreed final
11 order was considerably too small to deter future
12 violations."

13 And when discussing the Respondents' efforts to
14 correct any violations brought to its attention, the ALJ
15 stated, "The evidence shows a clear pattern for years of
16 Respondent not taking seriously the need to correct
17 violations promptly and completely, to document
18 corrections, and to submit the documentation to CMTS so it
19 can be promptly and efficiently reviewed by TDHCA as
20 required by the LURA, the Texas Government Code, and TDHCA
21 rules."

22 Wrapping it up. Staff recommends that the
23 Board adopt the final order as proposed, requiring
24 Respondent to pay an administrative penalty of \$73,890,
25 and to correct and properly document outstanding

1 violations within 60 days of the date this order becomes
2 final. I would be happy to answer any questions you may
3 have.

4 MR. GOODWIN: Any questions from the Board
5 members?

6 (No response.)

7 MR. GOODWIN: If not, do I hear a motion to
8 accept staff's recommendation and adopt this final order?

9 MR. BRADEN: So moved.

10 MR. GOODWIN: Moved. Second?

11 MS. BINGHAM ESCAREÑO: Second.

12 MR. GOODWIN: Any discussion? Anybody want to
13 speak to this?

14 (No response.)

15 MR. GOODWIN: If not, all those in favor, say
16 aye.

17 (A chorus of ayes.)

18 MR. GOODWIN: Opposed?

19 (No response.)

20 MR. GOODWIN: Okay. Thank you, Jeff.

21 MR. PENDER: Mr. Chairman, if I could, I would
22 like to use one more minute and just recognize a member of
23 the Legal Division who is also the Secretary of your
24 Enforcement Committee. And that is Ysella Kaseman.

25 She is sitting right over here. Raise your

1 hand up there, so we can see you. She has been the
2 Secretary of the Enforcement Committee for almost ten
3 years now. It has had various incarnations. It is now
4 known as the Enforcement Committee.

5 Ysella gets all the referrals that come to her
6 from Compliance. She is the person who individually
7 contacts everybody. She tries to work with responsible
8 parties the best she can.

9 She does a lot of hand holding, does an awful
10 lot of technical assistance, probably some arm wrestling.

11 I don't know, I have never really seen it happen. But
12 anyway, she does a lot of this.

13 And this has resulted in an amazing percentage
14 of the number of referrals being taken care of and
15 resolved before they ever wind up before you. And I am
16 probably talking a little -- I don't have numbers. I am
17 probably talking on the order of 90 percent of them get
18 resolved at this point, due to the efforts of Ms. Kaseman.

19 MR. GOODWIN: Well, thank you for those
20 efforts, and your service.

21 (Applause.)

22 MR. PENDER: But her work doesn't stop there,
23 either. If that doesn't work, she takes them to the
24 Committee. The Committee usually recommends an agreed
25 final order. And it winds up before you. You get two or

1 three of these a month.

2 Ysella is the person that drafts those final
3 orders, and she does an excellent job of doing it. If
4 final orders don't work, the only thing left to do, unless
5 the Respondent wants to sell their property to somebody
6 who can take care of the property. In that case, Ysella
7 works with Asset Management to make sure that we don't
8 trip over each other with Enforcement and property
9 transfer matters.

10 So it is quite a juggling act. I am watching.
11 I try to stay out of it, and just watch her from afar on
12 that. If that doesn't work, she refers them to SOAH for a
13 hearing. And at those hearings at SOAH, Ysella also
14 provides expert testimony on the workings of the
15 Enforcement Committee.

16 So I just remembered the words of our first
17 Chairman of the Enforcement Committee, Mr. Tim Irvine.
18 And he used to tell everybody that came before that
19 committee, he would say. Look, we are not here to impose
20 penalties.

21 We don't really want to impose penalties. What
22 we really want is compliance. And I can assure you that
23 that is exactly what Ysella tries to do every single time
24 she works with a Respondent. Thank you, Ysella, for
25 everything.

1 (Applause.)

2 MR. GOODWIN: Thank you, Jeff.

3 MR. PENDER: Thank you.

4 MR. GOODWIN: Item 4(a), Andrew. Presentation,
5 discussion of awards for direct loan funds.

6 MR. SINNOTT: Good morning, Chairman Goodwin,
7 members of the Board. My name is Andrew Sinnott,
8 multifamily direct loans administrator.

9 So these are the 9 percent layer direct loan
10 awards being made today, in conjunction with the 9 percent
11 tax credit awards. So in total, there are five direct
12 loan layered 9 percent applications that are going to be
13 recommended for direct loan awards.

14 Three are eligible for HOME funds under the
15 general set-aside, totaling \$2.38 million. They are,
16 \$660,000 for Clyde Ranch, 18036. \$660,000 for Farmhouse
17 Row, 18040. And \$1,060,000 for Residences at Canyon Lake,
18 18369.

19 In addition to those three HOME awards, we are
20 recommending another HOME award under the CHDO set-aside.

21 And that is to Las Casitas de Azucar, application 18322.

22 And that is for \$1.6 million in HOME funds.

23 And then finally, there is one application for
24 TCAP repayment funds, the National Housing Trust Fund, and
25 that is, Waters Park Studios, application 18099. They are

1 being recommended for a million dollars of direct loan
2 funds out of those two sources of funds, TCAP and National
3 Housing Trust Fund.

4 In total, these five direct loan awards will
5 result in 57 direct loan assisted units, and further
6 support a total of 305 units. In addition to these five 9
7 percent layered applications being recommended for a
8 direct loan awards, five more 9 percent layered
9 applications are being maintained on the waiting list for
10 credits, in the event that credits become available later
11 this year.

12 And you can see those in the Board action.
13 Okay. So if you have any questions, I would be happy to
14 answer them.

15 MR. GOODWIN: Any questions?

16 (No response.)

17 MR. GOODWIN: If not, do I hear a motion to
18 entertain this, receive this?

19 MS. BINGHAM ESCAREÑO: Move to approve.

20 MR. GOODWIN: Okay. Moved to approve.

21 MS. RESÉNDIZ: Second.

22 MR. GOODWIN: Any discussion?

23 (No response.)

24 MR. GOODWIN: All those in favor, say aye.

25 (A chorus of ayes.)

1 MR. GOODWIN: Opposed?

2 (No response.)

3 MR. GOODWIN: Okay. It passes. Thank you,
4 Andrew.

5 MR. SINNOTT: Thank you.

6 MR. GOODWIN: Before we move on to 4(b),
7 Sharon, I think we have a letter, Michael, that you wanted
8 to read. You know, we try to give everybody we can a
9 voice. I think this letter just came in last night. I
10 haven't actually seen it.

11 MR. LYTTLE: Yes, Mr. Chairman. That is
12 correct. Last evening, we received a letter from an El
13 Paso County Commissioner regarding two applications under
14 Item 4(b). So that letter now is -- you know, it is up to
15 you and the Board if you want to accept it or not.

16 MR. GOODWIN: I would say, why don't you read
17 it into the record?

18 MR. LYTTLE: Okay. Very well.

19 MR. ECCLES: If I could interject. This is a
20 letter from a public official on an application that is
21 coming up for a 9 percent award.

22 MR. LYTTLE: That is correct.

23 MR. ECCLES: I will point out that this is
24 certainly fine for public comment. But the time under the
25 rules for public official input to be counted as evidence

1 in a scoring matter is long past. So it cannot be
2 considered as evidence or count as a scoring matter for
3 the application it discusses.

4 MR. LYTTLE: The letter is addressed to
5 Chairman Goodwin. It reads, I write to express my
6 opposition to Housing Tax Credit applications 18012, Jaime
7 O. Perez Memorial Apartments. And 18707, Nevarez Palms,
8 located within the city of Socorro, and the County of El
9 Paso.

10 My concerns are rooted in the selection of a
11 site that is not compatible with general accepted land use
12 practices as well as the mission of the Texas Department
13 of Housing and Community Affairs, quote, invest its
14 resources strategically, and develop high quality
15 affordable housing which allows Texas communities to
16 thrive. In the past, I have worked with all of our
17 community's Housing Tax Credit applicants to support and
18 coordinate expanded access to affordable multifamily
19 housing.

20 As the County Commissioner who represents some
21 of the most impoverished areas in El Paso County, I am an
22 ardent advocate of initiatives that foster partnership
23 between the public and private sector to provide critical
24 services to the community, including affordable housing.
25 However, within one quarter mile radius of the proposed

1 developments are a high number of incompatible land uses
2 and geographic features, including eight individual
3 parcels of land utilized for industrial purposes.

4 Currently, these intense developments near the
5 proposed development generate significant heavy commercial
6 and trailer traffic. The roadway that serves the area is
7 substandard, and in certain stretches, measures only 24
8 feet in width.

9 Construction of the new multifamily housing in
10 the area would place the development's residents in an
11 already dangerous traffic situation. If constructed, the
12 area would generate well over 1,000 trips during the
13 afternoon peak hours alone.

14 While I recognize that the City of Socorro and
15 Representative Mary Gonzales have submitted letters of
16 support, both have not been presented with this
17 information pertaining to traffic conditions that exist
18 today. The city zoning laws do not require traffic impact
19 analyses to be conducted, preventing the City Council from
20 fully understanding the unsafe conditions that currently
21 exist that would only be exacerbated for new residents of
22 the proposed development.

23 I respectfully request that the Board deny the
24 recommendation to provide tax credits to applications
25 18012 and 18707. The Department's charge to provide for

1 high quality affordable housing development is not met by
2 investing the state's limited resources in developments
3 that would place residents in a highly unsafe and
4 incompatible area.

5 The Applicant acknowledged the incompatibility
6 of the site for residential uses at the May 1, 2018
7 meeting of the Socorro Planning and Zoning Commission.
8 Specifically, Mr. Bowling stated that the property is,
9 quote, not conducive to a single family development.

10 It backs up to trailer parks. There is a
11 junkyard down the road. Around the corner is semi truck
12 parking. His comments recognize that this land is not
13 suitable for development of single family homes, but
14 contends that such conditions are acceptable for low
15 income residents.

16 Thank you for your service and consideration of
17 this matter. Respectfully, Vincent M. Perez, County
18 Commissioner, Precinct Three, County of El Paso.

19 MR. GOODWIN: Thank you, Michael. Sharon, we
20 are ready to move on to Item 4(b).

21 MS. GAMBLE: Mr. Chair, may I speak to that

22 MR. GOODWIN: Yes.

23 MS. GAMBLE: Good morning, Board, Mr. Chairman.

24 My name is Sharon Gamble. I am an administrator for the
25 Competitive Housing Tax Credit program. Better? Okay.

1 Item 4(b) is the presentation, discussion and
2 possible action regarding awards from the 2018 State
3 Competitive Housing Tax Credit Ceiling, and approval of
4 the waitlist for the 2018 Competitive Housing Tax Credit
5 Application Round. And confirming obligations to the
6 Section 811 Project Rental Assistance Program for those
7 properties that were awarded points for providing program
8 units.

9 It seems like just yesterday we were doing
10 this, but a lot has happened since the last time we were
11 here. Back on January 9, 2018, we received 362 eligible
12 pre-applications. On March 1st, we received 138 full
13 applications, requesting more than \$159 million.

14 And there are currently 120 applications
15 eligible for consideration today, which are collectively
16 requesting credits totaling more than \$136 million. Our
17 credit ceiling for 2018 is just over \$76 million.

18 In determining awards, we started with the
19 regional allocations. Regional allocations are developed
20 in compliance with a formula, described in Texas
21 Government Code Chapter 2306.115, and are published prior
22 to the start of the application cycle. Scoring is
23 finalized through application reviews, and applications
24 are sorted, based on regional allocations, set-aside
25 requirements and scores.

1 To make the award recommendations, staff relies
2 on the allocation methodology set out in 10 TAC Chapter
3 11.6 of the 2018 Qualified Allocation Plan, the QAP. We
4 first ensure that we have enough applications that qualify
5 for the non-profit set-aside.

6 We don't usually have a problem meeting that
7 requirement, and this year was no different. We then
8 turned to the at-risk set-aside, as required by Texas
9 Government Code, Chapter 2306.6714. The Department sets
10 aside 15 percent of the state housing credit ceiling for
11 allocation to eligible at-risk developments.

12 This year, for the first time that I can
13 remember, not enough applications were received for
14 eligible at-risk developments to reach that threshold.
15 The Department also sets aside 5 percent of the at-risk
16 credits for allocation to rural developments which are
17 financed through USDA, as required by Texas Government
18 Code, Chapter 2306.111(d)(2).

19 Again, not enough applications financed through
20 USDA were received to reach that threshold. Which is
21 fine, if we don't have those applications to do that.

22 Next, the highest scoring applications within
23 each of the 26 sub-regions are selected, as long as there
24 are sufficient funds within the subregion to fully award
25 the next application. There are statutory limits that we

1 consider in making those selections.

2 In regions containing a county with a
3 population that exceeds \$1 million, the Board may not
4 award more than the maximum percentage of credits
5 allocated to the subregion for elderly developments,
6 unless there are no other qualified applications in the
7 subregion. Urban Regions Three, Six, Seven and Nine are
8 effective by this requirement.

9 In regions containing a county with a
10 population that exceeds \$1.7 million, the Board shall
11 allocate credits to the highest scoring development, if
12 any, that is part of a concerted revitalization plan that
13 meets the requirements of the QAP, as located in an urban
14 subregion, and is within the boundaries of a municipality
15 with a population that exceeds \$500,000. Urban Regions
16 Three, Six and Nine are affected by this requirement.

17 If the Department determines that an allocation
18 recommendation would cause a violation of the \$3 million
19 credit limit per applicant, the Department will not
20 recommend such allocation. This year, two applications
21 are not eligible for an award for this reason.

22 Once there are not enough funds left in a
23 subregion to fully fund the next application, the
24 remaining funds from the subregions are pooled into what
25 we call the collapse. We have the rural collapse and the

1 statewide collapse. We do the rural collapse first.

2 We find the most underserved rural subregions,
3 as compared to the subregions allocations, then award the
4 next application in line in that subregion. This rural
5 distribution continues through the rural subregions until
6 at least 20 percent of the funds available in the state
7 are allocated to applications in rural areas.

8 This year, with fewer applicants participating
9 in the at-risk and USDA set-aside, staff reached further
10 into the rural subregions in order to meet the required 20
11 percent rural set-aside. For instance, in 2017, the rural
12 set-aside was met with ten at-risk applications and five
13 applications from the rural set asides.

14 This year, there were only six rural Applicants
15 in at-risk. And ten applications were selected from the
16 rural subregions in order to achieve the set-aside
17 requirement, which we met at 20.54 percent.

18 The statewide collapse takes all the remaining
19 credits, and like the rural collapse, goes through the
20 subregions, based on the most underserved. Where there
21 are not enough credits left to award the next application,
22 we ensure that at least -- again, at least 10 percent of
23 the allocation is made to applications from the qualified
24 non-profit organizations. And the allocation ends there.

25 If the Department secures enough credits

1 through credit returns or national pool to award the next
2 application, those awards will be made from the waiting
3 list with any determined conditions applied to them. The
4 applications being recommended for award today are
5 reflected in Report 1, the list that says, Award
6 Recommendations.

7 These are all the recommended applications from
8 the at-risk USDA and non-profit set asides and the rural
9 and urban regional allocations. This report includes one
10 application that is still being reviewed by multifamily
11 program staff; 18293, Silver Spur Apartments in Region
12 Eleven, Urban.

13 And our recommendation for that application is
14 conditioned upon completion of that review and a
15 subsequent real estate analysis review. If that
16 application is found to be deficient in any way, the
17 Applicant will have the same ability to provide
18 clarification for further information as other
19 applications had, and will have the right to appeal any of
20 staff's decisions that are appealable.

21 The posted list includes 21 applications still
22 being underwritten. Since the list was published that
23 number has been cut to ten. So they have been working
24 their little butts off.

25 All five of the underwriting decisions are also

1 subject to appeal. Any issues that arise from
2 underwriting will be resolved at or by the next Board
3 meeting.

4 All eligible applications are reflected in
5 Report Two. These are all of the active applications from
6 the at-risk USDA and non-profit set asides and the rural
7 and urban regional allocations.

8 This is a complete list of all of the
9 applications recommended for award, and the waiting list
10 of all active applications not recommended for an award
11 today. Those recommended for awards are reflected on that
12 report in the recommendation column.

13 Report Three lists the obligations made by
14 Applicants that were awarded points under the Section 811
15 project rental assistance program. Through this program,
16 the Department provides affordable housing units for
17 persons with disabilities and other special needs
18 populations. Based on the number of program participants,
19 we will add over 400 units to the Section 8 program this
20 year.

21 Report Four is the summary of the award results
22 which includes funding amounts for the rural and urban
23 regional allocations and for at-risk USDA and non-profit
24 set-asides. It also shows the amount of funds that remain
25 after all of the awards are made, in the amount of

1 \$162,247 in credits.

2 Report Five includes the Real Estate Analysis
3 Division application summaries that were available when
4 the Board materials were posted. Subsequent summaries
5 have been posted to the Department's website. These are a
6 handy two pager for you to use that give the gist of the
7 whole underwriting report.

8 Report Six is a summary of conditions
9 recommended by EARAC to be placed on awards as a result of
10 pre-participation reviews and conditions that resulted
11 from staff review. Not all applications have conditions.

12 This report includes all of the applications that do.

13 Report Seven includes information regarding
14 public input received for each active application. This
15 year, we didn't receive as much public comment as we
16 usually do. And so all of the comment that we received is
17 included in that report.

18 A lot of dedicated staff contributed to what is
19 indeed a ton of information for you. Our review staff has
20 worked tirelessly to complete the reviews and to gather
21 information so that we can put it into a nifty little
22 format to present to you today.

23 My fab five: Ben Sheppard, Elizabeth Henderson,
24 Liz Cline-Rew, Nicole Fisher, and Shannon Roth are still,
25 after all this time, the undisputed hardest working most

1 dedicated people in the universe. Jason Burr, our old
2 mountain man is our database guru.

3 Patrick Russell has -- had to introduce Russell
4 last year. I think this year, everybody knows who Patrick
5 is. So I don't even really have to talk about it.

6 But he is awesome. He is great. He has made a
7 name for himself with everyone through his hard work and
8 his dedication to making what we do better, which is
9 great.

10 Andrew Sinnott with the direct loan program and
11 his staff, Cris Simpkins and Marie Esparza, not only
12 handle their own business but they also assist us in any
13 way that we ask. And we really appreciate them.

14 I still thank Teresa Morales, even though she
15 is not with us anymore. Well, in physical space, she is
16 not with us any more. But she is still with us. She was
17 stolen from us, though. And I will just leave it at that.

18 And Marni Holloway, of course. I thank God
19 every day for Marni. She has a like zen quality that kind
20 of helps to keep me focused and keep me from running off
21 the rails. And I admire her leadership and her smarts.

22 And of course, it is not just about
23 multifamily. Patricia Murphy is Compliance Division.
24 Brent Stewart is Real Estate Analysis Division. Brooke
25 Boston is Section 811 team. Captain Tweety is Policy and

1 Public Affairs Division. Bo is Legal Division -- have all
2 be just indispensable to this process.

3 Terri Roeber, she is a godsend. I know you
4 know that. But I want to make sure that you know that.
5 You know, it is all hands in, really all the time.

6 And last, but certainly not least, our
7 Executive Director Tim Irvine brings us all together, and
8 kind of keeps us all moving forward. Keeps the ship
9 moving forward, I guess, is a good way to say that.

10 And this Board, you know, you guys make some
11 really tough decisions up here every month. And it gets
12 tough, I know. And so I appreciate all of the things that
13 you do.

14 I am proud to say that with this action today,
15 we are going to rehabilitate 560 units, approximately, and
16 put approximately -- put over 4,900 brand new affordable
17 units of housing on the ground for working Texans.

18 And with that, staff recommends the approval of
19 the recommended awards and the waiting list -- well, it is
20 not going to meet it yet -- for the 2018 Competitive
21 Housing Tax Credit application round. I can answer any
22 questions.

23 MR. GOODWIN: Any questions?

24 (No response.)

25 MR. GOODWIN: Do I hear a motion to approve?

1 MS. RESÉNDIZ: So moved.

2 MR. GOODWIN: A second?

3 MR. VASQUEZ: Second.

4 MR. GOODWIN: It has been moved and seconded.

5 We will now have discussion. And this is about the ORDS
6 list, not about individual projects.

7 MS. HOLLOWAY: May I?

8 MR. GOODWIN: Yes, you may.

9 MS. HOLLOWAY: I need to add to the discussion
10 that Sharon just presented. We have one application, the
11 Star of Texas Seniors, number 18305 in Montgomery, Texas.

12

13 This is a readiness-to-proceed application. So
14 it claimed five points for that item. Part of the
15 requirements for readiness to proceed is that they have
16 zoning at award.

17 At a City Council meeting on this past Tuesday,
18 we are informed that they did not receive that zoning.
19 This award for this application, 18305, Star of Texas
20 seniors is conditioned on resolution of that question. We
21 will be issuing a scoring notice. And of course, they
22 will have rights of appeal.

23 MR. GOODWIN: Okay. Any other items? One time
24 there was one that might have gotten pulled, that you had
25 in this?

1 MS. HOLLOWAY: Might have gotten pulled. No.

2 MR. GOODWIN: Okay. So 18305 is

3 conditionally --

4 MS. HOLLOWAY: Is conditioned on resolution of
5 the zoning question.

6 MR. GOODWIN: Okay. Any questions?

7 MS. STEEL: Good morning. I am Andrea Steel
8 from Coats, Rose, here on behalf of Blazer Building in
9 support of application 18353. Heritage Seniors in Region
10 Six rural.

11 The request is in connection with the readiness
12 to proceed provision added to the 2019 QAP by the Governor
13 prior to this approval Marni just spoke about. This
14 provision allows Applicants in FEMA-declared disaster
15 areas to earn five additional points if they can prove
16 that they will close on all financing and have the
17 construction contract executed by October 31st.

18 The provision in the QAP includes a list of
19 items that the application may provide to support its
20 assertion that it is ready to proceed. But it expressly
21 states that all applications requesting these points must
22 include evidence that appropriate zoning will be in place
23 at award.

24 The provision further instructs that the Board
25 cannot and will not waive the deadline, and will not

1 consider waiver under its general rule regarding waivers.
2 Application 18305, Star of Texas, is the only other
3 application in Region Six rural. And it never provided
4 evidence that appropriate zoning would be in place at the
5 time of award. At best, it showed that it was attempting
6 to do so.

7 On Tuesday evening, this Montgomery City
8 Council denied the Applicant's request for rezoning. As
9 such, it has been confirmed that the Applicant does not
10 and will not have appropriate zoning in place to be
11 eligible for the five points for readiness to proceed.

12 While we understand that this is very recent
13 information, the scoring notice provided to applicants are
14 very clear, that all information is further subject to
15 Board approval. We are not dealing with an issue of lack
16 of sufficient notice, and there is no publication of new
17 information by staff about something new that the
18 Applicant hasn't had time to consider.

19 This application's rezone request has been
20 ongoing for a few months, and while a final decision by
21 the City was not made until Tuesday evening, it has been
22 something that the Applicant has known for some time was a
23 risk. I don't think this is something that staff can
24 decide, but it is rather an issue for the Board at this
25 point.

1 I believe the QAP is clear. The Board doesn't
2 really have any leeway to extend or postpone this
3 decision. The very recent denial of the rezone request,
4 we believe, requires the Board to deny the five points
5 granted to application 18305, Star of Texas.

6 And we are asking the Board to amend the award
7 log to reduce that applicants score from 117 to 112.
8 Thank you.

9 MR. GOODWIN: Thank you.

10 MR. IRVINE: If I might, under Texas Government
11 Code 2306.6715, statutory, that there are rights of appeal
12 on scoring matters. And although he may have facts that
13 you believe establish a different outcome, we don't
14 believe we can deny them the due process of this hearing.

15 MR. STEEL: I think that statute is clear, that
16 it is when there is a publication by staff. In this
17 instance, there has been no publication by staff. This
18 comes down to a Board decision on information that is
19 recently been decided.

20 It is not as though the City Council is
21 delaying the vote on the rezone, or postponing his
22 decision. They said no. So at this point, the Star of
23 Texas application doesn't have zoning in place at time of
24 award. And it is not going to get zoning any time soon.

25 It is not really a feasible project for this

1 application round at this point. And certainly not
2 eligible for readiness to proceed.

3 MR. ECCLES: Respectfully, that may be grounds
4 that you have a winning appeal. But it doesn't mean that
5 they don't get appeal. That is what Mr. Irvine is saying.

6 And I tend to agree that if the Department is going to
7 remove five points, that is what gives that the right of
8 appeal.

9 MR. STEEL: I believe the Board does have that.
10 But I agree. I understand what you are saying.

11 MR. ECCLES: Just so I can clarify. If 18305
12 loses its points, then the next highest score slides into
13 the slot.

14 MR. IRVINE: That is correct.

15 MR. ECCLES: Okay. So it is handled by the
16 wait list.

17 MS. PALMER: Claire Palmer, representing the
18 developer at Star of Texas. When this application was
19 filed, my client presented a letter stating that the
20 property was industrial, which allowed for multifamily
21 development. And in fact, the next door property in the
22 same RD zoning is a multifamily project.

23 We believe that there was no need for rezoning.

24 And in fact, are working with the council right now to
25 explain to them that we can go ahead with the project,

1 without rezoning. Rezoning because of the industrial use
2 which does in fact allow for multifamily.

3 MR. GOODWIN: I think the motion as amended is
4 that we are taking this conditional on some things
5 happening.

6 MS. PALMER: Right.

7 MR. GOODWIN: So I don't want to turn this into
8 a debate on this one project.

9 MS. PALMER: Right. I just didn't want the
10 Board to rule that the project was losing the points
11 today.

12 MR. GOODWIN: Okay.

13 MR. STEEL: Good morning. Andrea Steel again.

14 I do want to clarify that the industrial zoning the City
15 of Montgomery does not allow for multifamily use. That
16 was the question that I inquired about with the Montgomery
17 City Attorney, and confirmed that that was current, that
18 this site is not properly zoned.

19 MR. GOODWIN: Again, the motion to do this
20 conditioned on this. I think this is something that is
21 going to be resolved one way or the other, whether that is
22 right or not, without turning this into a full debate on
23 this one application.

24 MR. STEEL: Understood, sir. I just did want
25 make the mention that readiness to proceed is an urgent

1 item, that the Applicants do need to close by October
2 31st.

3 The whole purpose of that award was to make
4 sure Applicants were ready today to move forward. To
5 postpone that decision tends to undermine the spirit of
6 that rule.

7 MR. GOODWIN: Duly noted.

8 MR. STEEL: Thank you, sir.

9 MR. GOODWIN: Any other discussion on this
10 motion?

11 MR. BOWLING: Mr. Chair, members of the Board.
12 I am Bobby Bowling. I am a developer from El Paso. The
13 letter that was read into the record is referring to the
14 two applications that I submitted from Urban 13.

15 I would like to just clarify some things and
16 give you some more background information. First of all,
17 I agree with your legal counsel's stated direction with
18 regard to the elected official. The deadline has long
19 since passed.

20 And I would also like to note that the County
21 Commissioner in this case doesn't even have any
22 jurisdiction or any opportunity to weigh in, in the form
23 of a selection criteria item. The two properties in
24 question are located within the municipal boundaries of
25 the City of Socorro, and so the elected officials that

1 would weigh in for points would be City Council, of the
2 City of Socorro.

3 The City of Socorro at several introductory
4 hearings, and then at the final hearing, at every step of
5 the way, unanimously endorsed and provided a resolution of
6 support for these two developments. Furthermore, after
7 the resolutions were submitted, I have already had the
8 zoning hearings on both of these cases.

9 Both of these sites were located within their
10 comprehensive plan, and identified for multifamily use,
11 and multifamily development. The zoning hearings at City
12 Council went right through, regarding the industrial
13 nature of Socorro that was mentioned.

14 Socorro is a growing city. It is right near a
15 major border crossing corridor called the Bridge of the
16 Americas. It is just east of that bridge.

17 Of course, there is a lot of warehouses and
18 industrial type of development along the border,
19 especially across from one of the most trafficked -- and
20 this is really the preferred bridge for the semi tractor
21 trailer traffic, because they are able to go around El
22 Paso. And they will have to come through the city limits.

23 So they go. This is their preferred port of entry for
24 major containers and shipping through the border.

25 Again, I already have the zoning. I think it

1 is very unfair. The quotation that he is attributing to
2 me came out of an hour-long back-and-forth debate at the
3 Advisory Planning and Zoning Commission at the City of
4 Socorro.

5 The way they do it, the City Council approved
6 zoning, but prior to that, they have a hearing with an
7 advisory board. This specific Commissioner's Chief of
8 Staff, I guess, lives in Socorro. But he was on the
9 planning and zoning commission.

10 He had about 20 items that he wanted to debate
11 with me. That hearing took over an hour long. I think it
12 is very disingenuous to take an hour-long transcript,
13 circle one sentence, and put it in a letter, and say, aha.

14 This is what the context of that discussion was.

15 It wasn't that at all. At the end of that
16 hearing, they recommended approval for one of the zoning
17 hearings. One of the sites and not for the other. The
18 City Council heard the whole hearing and adopted the
19 zoning, and endorsed the project.

20 MR. GOODWIN: Thank you.

21 MR. BOWLING: Thank you.

22 MR. GOODWIN: Any other comments?

23 MR. VASQUEZ: Just to clarify, are those
24 projects on our approved list that we just voted?

25 MR. IRVINE: Yes. They are.

1 MR. GOODWIN: They are.

2 MR. VASQUEZ: Can we set a new Board policy for
3 removal, deduction of points for unnecessary comments?

4 (Simultaneous discussion.)

5 MR. GOODWIN: Be careful, Tamea, now.

6 MS. DULA: Good morning. Tamea Dula with
7 Coats, Rose. I am here on behalf of the developer.
8 However, I am here with a question concerning the process,
9 and it needs to be addressed now because my issue has to
10 do with the process of this statewide collapse.

11 My developer is the developer number 18052,
12 Nacogdoches Lofts in San Antonio. San Antonio Region 9
13 Urban has more than a million people in it. Therefore, it
14 is subject to the elderly limitation that provides a limit
15 on the amount of tax credits that can go to elderly
16 developments in that urban subregion.

17 However, when you get to the statewide
18 collapse, the rules in the QAP under Section 11.63(e) for
19 the statewide collapse states -- in uniform, states
20 service regions containing a county with a population that
21 exceeds 1 million, which is Bexar County, of course, the
22 Board may not allocate more than the maximum percentage of
23 credits available for elderly developments unless there
24 are no other qualified applications in the subregion.

25 Now, this doesn't come at the beginning of the

1 process, where you have the initial application selection.

2 The staff is totally correct in graying out those
3 applications that are subject to the elderly limitation.
4 But when you get down here to the very end, in the
5 statewide collapse, there is an exception to that which,
6 we feel, has not been followed.

7 In San Antonio, there are three general
8 population and one elderly population application that are
9 recommended. Then there are two prohibited under the two
10 mile senior rule, and two that cannot be funded because of
11 the elderly limitation.

12 But this exception provides the opportunity to
13 fund that elderly limitation project -- that elderly
14 project in San Antonio. And it is required to be funded
15 under that circumstance if San Antonio's region, the
16 Region Nine Urban, subregion, is one of the underserved
17 regions, which it is.

18 Sarah Andre is going to tell you about the
19 analysis that we have done. And it appears that the
20 staff, in looking at it, saw the grade out applications,
21 said these applications are ineligible, and skipped to the
22 next most underserved subregion, which we think is
23 inappropriate. Thank you.

24 MR. GOODWIN: Thank you. Marni, can you
25 address these comments?

1 MS. HOLLOWAY: Certainly. So stepping back a
2 little bit to what Shay was discussing, our cap is
3 based -- the amount that we have to allocate is based on a
4 formula from the IRS.

5 Then we go through all the set-asides, and then
6 we get to the subregions. The subregion allocations are
7 determined by our regional allocation formula, the RAF.
8 The RAF is required by statute.

9 It is published annually by our housing
10 resource center. It goes through a public hearing and
11 comment process. And it is part of the state low income
12 housing plan, which is a rule.

13 A number of factors are considered in the RAF,
14 including the cost burden of renters, overcrowded renter
15 households, and households at or below 200 percent of
16 poverty. The RAF determines how many credits are
17 allocated to each subregion with the caveat that all
18 subregions receive at least \$500,000.

19 As Shay explained and Tamea mentioned, the
20 elderly cap applies to counties with populations that
21 exceed one million. The formula for the cap is contained
22 in statute and it is applied to the amount of credits that
23 are allocated to the subregion by the RAF.

24 So we have all of these statutory and rule-
25 required calculations that get us to those numbers. The

1 statute and rule both state the Board may not allocate
2 more than the maximum percentage of credits available for
3 elderly developments, unless there are no other qualified
4 applications in the subregion.

5 The statute and rule regarding the elderly cap
6 speaks to credits that are available in the subregion that
7 are determined by the RAF. It is not credits that go into
8 the collapse.

9 As the collapse happens, we are not adding
10 credits back into the subregion because that would violate
11 the Regional Allocation Formula. In this particular
12 instance, there are no more general applications available
13 within the subregion.

14 Even if there were another general application,
15 there aren't enough credits left to award most
16 applications. So it went into the collapse. So the San
17 Antonio, or the Urban Nine subregion has received the
18 maximum credits that it can under the regional allocation
19 formula at this point.

20 So it is not like they have lost out on
21 anything. It is not like, you know, San Antonio is
22 getting less than they should have gotten. The issue is
23 that the collapse -- by the time we get to the collapse,
24 these elderly applications had already been dealt with
25 during the regional allocation process.

1 So that is why we have conducted the collapse
2 in the way that we have. We have been doing it this same
3 way ever since that elderly maximum formula was added to
4 statute.

5 MR. GOODWIN: And the exception at the end,
6 that Tamea brought up, does not apply in this case?

7 MS. HOLLOWAY: No. The elderly maximum is
8 calculated at the subregion level. By the time we get to
9 collapse, we are done with the subregions. And we were
10 moving on with the collapse.

11 So you know, it has been allocated according to
12 the formula. It has been capped according to the formula.
13 We are done with that part of the process. We are moving
14 through collapse.

15 MR. GOODWIN: Any questions? Marni. Tamea, do
16 you want to speak again?

17 MS. DULA: I would like to respond. Tamea
18 Dula. When you are construing a statute, a rule, a law,
19 you are required to assume that words are there for a
20 purpose.

21 In the provision under 11.63(c), it talks about
22 the initial selection of each subregion. Then you go to
23 the rural collapse in subsection (d).

24 And finally, you go to (e), which is the
25 statewide collapse, absent any additional funds coming

1 into the state. The statewide collapse is the only place
2 where that exception is referenced, where it says unless
3 there are no other qualified applications in the
4 subregion.

5 Well, that means that that exception is
6 specific to the statewide collapse. The staff is totally
7 appropriate in saying all the way down through the rural
8 collapse that elderly allocations cannot exceed this
9 limitation. But it specifically says in the statewide
10 collapse that if there are no other eligible applications,
11 you do exceed that.

12 In San Antonio, two of the other applications
13 that were left unfunded were ineligible because they were
14 too close to an application being funded. But there were
15 two otherwise eligible applications for elderly that
16 simply couldn't be funded because of this limit on the
17 elderly funding.

18 That limit is specifically suspended when you
19 get to the statewide collapse. It is the only place where
20 that exception exists. And it has got to mean something.

21

22 MR. GOODWIN: Thank you. Any questions for
23 Tamea?

24 MS. HOLLOWAY: If I may. The statement, the
25 Board may not allocate more than the maximum percentage of

1 credits available for elderly developments, unless there
2 are no other qualified applications in the subregion, is
3 included in statute. And is included in the rule, before
4 we get to collapse, when we discuss what that elderly cap
5 is going to be.

6 MR. GOODWIN: Okay. So we have a difference of
7 opinion.

8 MS. ANDRE: First, and foremost. Sarah Andre.

9
10 MR. GOODWIN: Sign in.

11 MS. ANDRE: I will. To say that we have always
12 done it this way since this elderly limitation came up is
13 fine and dandy. But this is the first time we have been
14 in this position.

15 What we are asserting here is not -- I thought
16 everything they said was great. They did it all
17 correctly. The award, the next to last award is Urban
18 Seven. That is correct. And then the way the statewide
19 collapse works is, you go through every region that is
20 now, quote, underserved.

21 And the next in line after Urban Seven would be
22 Urban Nine. Then Urban Three, then Urban Eleven. And my
23 understanding of it is that staff has skipped Urban Nine
24 and Urban Three, based on this elderly limitation issue,
25 and gone straight to Urban Eleven.

1 That is not coming from me, because I think I
2 am so clever, and I know how to do the collapse better
3 than the staff. That was brought to my attention by one
4 former staff member, and then verified by four other
5 former staff members who have worked in this arena for
6 many, many years.

7 Granted, they didn't work under the elderly
8 statute. But I think that one person ran the collapse.
9 And you know, she is sitting in this audience, and has
10 verified these numbers.

11 So it is not -- I am not trying to hold up the
12 entire process. But I do think there is an issue here
13 that needs to get worked out, whether it is Urban Nine,
14 Urban Three, or Urban Eleven.

15 I don't know the mechanics of how you could do
16 this. But I think you need to take a pause right before
17 that award, and make sure that it is not just a
18 disagreement of opinion, that it is actually correct.

19 MR. GOODWIN: Thank you. Any other speakers?

20 MR. ECCLES: I would like to just inject
21 something, because we are talking about a couple of terms
22 here. There is allocation, and there is discussion of the
23 collapse.

24 Allocation and the elderly cap that is being
25 discussed, that is in 2306.6711(h) of the Texas Government

1 Code. It is, I think it is the only time I have ever seen
2 a word problem in statute. But there it is.

3 And it talks about the allocation that the
4 Board may make. Allocation is discussed in a couple of
5 other places in 2306, including the regional allocation
6 formula in 2306.1115. And then before that, talking about
7 how allocations are made in 2306.111.

8 Collapse is not a term that exists in statute.
9 That comes into the rule with how the Department deals
10 with excess credits and moves them from region to region.

11 But it is not part of the Regional Allocation Formula.

12 So to the extent that we are talking about,
13 what are the funds allocated to a subregion, if we are
14 just looking at the statute, allocation amounts are done
15 when we deal with the Regional Allocation Formula.

16 When we are talking about collapse, that is
17 more an administrative function of how to most efficiently
18 move things from one region or to various developments in
19 kind of distributing that excess around. But in terms of
20 what do we plug into that word problem, I think we are
21 dealing with what the statute would say is allocation.
22 And that is dealt with in the round.

23 MS. ANDRE: Well, then I would respectfully
24 like to ask for the math on that. Because we are not
25 disagreeing with -- I don't disagree with what you just

1 said.

2 What I disagree with is the statewide collapse.

3 It says right here, any credits remaining after the rural
4 collapse, including those in any subregion will be
5 combined into one pool. Staff did that.

6 The funds will be used to award the highest
7 scoring application not previously selected in the most
8 underserved subregion in the state, compared to the amount
9 originally made available in each subregion. So staff did
10 that, until the award, the next to last award.

11 And then they skipped two most -- most
12 underserved regions and went straight to Eleven. And
13 that, I don't understand. So I am happy to be wrong.
14 That is totally fine. But show me the math.

15 MR. GOODWIN: You didn't appear to be all that
16 happy.

17 MS. HOLLOWAY: Just as a point of correction,
18 on Urban Three, we skipped because the next application
19 was actually excluded, due to the \$3 million cap. There
20 is a \$3 million cap on the amount that any one applicant
21 can receive in any round. By the time we got to Three,
22 the next Applicant was not able to get that award, because
23 they were going to hit the cap.

24 So then we went to Eleven. I think it is
25 important to -- that the Board understand that, you know,

1 if you take action that would allow the Nacogdoches Lofts
2 application to be awarded, that next application in Region
3 Eleven will not receive an award.

4 MS. GUERRERO: Hi. My name is Debra Guerrero,
5 and I am with the NRP Group. I am writing my name down.

6 MR. GOODWIN: Print. Make sure you print.

7 MS. GUERRERO: Yes. I did. My name is Debra
8 Guerrero. I am with the NRP Group and we are the
9 Applicant for Nacogdoches Lofts. That last statement
10 is -- we are not trying to, in any way, have somebody else
11 not get an award.

12 It is not about playing us against each other.
13 What it really is, honestly, is a process question. I do
14 want to assure the Board that we did contact the agency.

15 And I understand that they didn't want to
16 necessarily visit with us individually. But just to kind
17 of walk us through what this process is. Because we did
18 hear from so many that had formerly been involved in the
19 collapse, and have been involved in reading statutes.

20 And so once we compared our analysis with
21 theirs, we felt that it was warranted. And that we could
22 have avoided just this very -- I guess, getting points
23 taken away from us for coming up here. And we are having
24 this discussion.

25 But honestly, in San Antonio, this happened

1 back in -- I think it was 2005. I went through. I
2 learned the collapse. I did it.

3 I went to the agency, and said hey. You know
4 what. I think there might be an issue here. It ended up
5 being correct. Haven't been back since.

6 But in this particular case, we felt that
7 because San Antonio Urban Region Nine was leaving money on
8 the table, and it was an underserved area, we wanted to
9 understand why in the statewide collapse it would have
10 been skipped. We now understand with Urban Region Three
11 why it was. Still don't quite understand why in Urban
12 Region Nine.

13 And I know Marni says that if we are not
14 leaving any money on the table -- but it is underserved,
15 and so that is all we are asking for, today, is the pause.

16 Is to understand the process, and to be able to make
17 sure, not that somebody else doesn't get an award, but
18 that the process is followed. And the integrity of the
19 process is transparent. Thank you.

20 MR. GOODWIN: Thank you.

21 MR. COMBS: Ryan Combs, with Palladium USA. I
22 do not have a pen, but I will write this down when I do.
23 My application is in Urban Three. Marni just spoke about
24 it.

25 It is a little bit different than Urban Nine.

1 We were skipped over because of the \$3 million cap.
2 However, we have been in communication with the Department
3 at least a couple of times, a couple of weeks ago,
4 requesting that, you know, we would like the opportunity
5 to know if we have the ability to choose that application
6 in Urban Three.

7 A couple of weeks ago, there was another
8 application that had an appeal that came before the Board;
9 that appeal was granted. We didn't hear anything from the
10 Department after that.

11 I requested again last week, to find out if we
12 had the opportunity to choose that application. The
13 answer was no. Found out this morning that that actually
14 we could have.

15 My request is that we have the ability to
16 choose that application and not have the Department choose
17 it for us. Thank you.

18 MR. IRVINE: Might I clarify that. When you
19 speak to choosing, if you have two applications that are
20 on the list. You are saying, we want this application to
21 get the award, rather than this one, that is one thing.

22 And the rules specifically provide that up
23 until the publication of the list at the end of June, you
24 had that right. At this point, we are past that, I do not
25 believe you have the opportunity to choose and leave both

1 deals on the list. If you want to withdraw an
2 application, pull it off the list, then whatever is left
3 on the list gets treated accordingly.

4 MR. COMBS: Sure. And so respectfully, I
5 understand that. Respectfully, this collapse, we didn't
6 know, and we don't know if that is even an option until we
7 see how the collapse is calculated.

8 And so how could we even make that decision on
9 June 29th, when the collapse is not done. There was a
10 Board meeting that happened earlier this month. We can't
11 make that determination.

12 And so my request is that we just have the
13 opportunity to make an informed decision. We can't make
14 an informed decision on June 29th.

15 MR. GOODWIN: Marni.

16 MS. HOLLOWAY: The rule that Mr. Irvine
17 mentioned and that Ryan is discussing says, prior to June
18 29th, an applicant that has applications pending for more
19 than \$3 million in credit may notify staff in writing or
20 by email of the applications they will not pursue in order
21 to bring their request within the \$3 million cap. Mr.
22 Combs is with an organization that had applications
23 totaling more than \$5 million, I believe.

24 They were further down on the list. If the
25 Applicant has not made this self selection by this date,

1 staff may make the selection.

2 The methodology for making this determination
3 will be to assign first priority to an application that
4 will enable the Department to comply with -- it goes on
5 and on. I am not going to read you the whole rule.

6 MR. GOODWIN: Okay.

7 MS. HOLLOWAY: On July 2nd, Sharon sent in an
8 email to Mr. Combs and said, okay. You have hit the
9 deadline. What do you want to do. And we did not hear
10 back until very recently.

11 The two applications that are being recommended
12 for funding do not total \$3 million. I will tell you
13 that. So but there isn't enough room there to get to
14 their next application.

15 MR. COMBS: May I ask a question.

16 MR. GOODWIN: Sure.

17 MR. COMBS: At this point, just a process
18 question. At this point in the process, if we were to
19 withdraw one of those applications today, would we be
20 eligible?

21 MS. HOLLOWAY: That would be the Board's
22 decision. If you make that decision, it throws the rest
23 of the list. You know, then we don't -- we can't tell you
24 with certainty that the other recommended applications on
25 your list are still valid.

1 MR. GOODWIN: Okay.

2 MS. HOLLOWAY: Because we are talking about a
3 difference of \$700,000, roughly.

4 MR. COMBS: Roughly.

5 MS. HOLLOWAY: Yes. So that -- yes, would
6 throw a lot of things off. I also would say again, you
7 know, we contacted Mr. Combs. He did not respond to us
8 until recently.

9 MR. GOODWIN: Just sit down, sir.

10 MR. COMBS: Sure.

11 MS. HOLLOWAY: So we prompted the Applicant
12 regarding the rule, and that rule exists for a reason.

13 MR. GOODWIN: Right. Any questions for Marni?

14 (No response.)

15 MR. GOODWIN: Any further discussion?

16 MR. COMBS: I would.

17 MR. GOODWIN: Please come back up to the
18 podium, if you would.

19 MR. COMBS: Yes. Thank you for the pen, by the
20 way. I would like to clarify. I did talk with Sharon
21 after all of those conversations. And it was exactly what
22 I said.

23 On June 2nd, there was a Board meeting happened
24 on June 15th. There was an Applicant in front of us that
25 went for appeal. That appeal was granted.

1 We didn't hear anything from the Department
2 after that, that gave us any indication that things had
3 changed in our behalf. And so we -- if there was
4 communication that the Department was seeking from us, we
5 were not aware of it.

6 MR. GOODWIN: I have got a question for you.

7 MR. COMBS: Yes, sir.

8 MR. GOODWIN: I thought I understand Marni to
9 say that your combined applications were over our \$3
10 million limit. They were in the \$5 million range.

11 MR. COMBS: We have a number of applications
12 that are out there. The Department today is recommending
13 two of them. One of them --

14 MR. GOODWIN: I understand. But you are not
15 answering my question.

16 MR. COMBS: I am sorry.

17 MR. GOODWIN: Do I understand correctly, you
18 had multiple applications that far exceeded the \$3 million
19 range?

20 MR. COMBS: We have a number of applications in
21 this application round. Is that what you are asking?
22 Yes, sir.

23 MR. GOODWIN: I asked you if they exceeded the
24 \$3 million? If all of them were funded, they would be.
25 Yes.

1 MR. GOODWIN: Okay.

2 MR. COMBS: But I don't believe that is on the
3 agenda.

4 MR. GOODWIN: That is not going to happen.

5 MR. COMBS: Right. Correct.

6 MR. GOODWIN: Ms. Happy? I am sorry.

7 MS. ANDRE: Don't worry. Nobody has ever
8 accused me of being too cheerful.

9 MR. GOODWIN: You are the one that said you
10 were going to be happy to be wrong.

11 MS. ANDRE: I am fine with being wrong, let me
12 put it that way. You know. You didn't hear me crying
13 after the last Board meeting. Let's just -- you know, we
14 can put that out there.

15 Now that it is really getting muddy, I truly
16 apologize. I don't -- you know, I am not concerned with
17 that. What I am concerned with is the process.

18 And I have lovely communication from Sarah
19 Anderson. I believe everybody knows who she is. She is a
20 consultant that has worked on a number of projects.

21 And last year, she pointed out at the award
22 meeting, her project was terminated in Region Six and a
23 deal was awarded in Region Six Urban that was a senior
24 deal. There was no other deal left, except for a senior
25 deal. It went over the cap. So exactly what we are

1 talking about has taken place.

2 All we are asking for is a pause in the process
3 to determine the math. I see no reason why, if San
4 Antonio is underserved, they should not be awarded a deal
5 prior to the next underserved region.

6 MR. GOODWIN: Okay. Thank you. Any other
7 comments?

8 MS. HOLLOWAY: If I may, Beau. I think you
9 have your statute right in front of you. When did that
10 elderly cap become -- when was that applied for the first
11 year?

12 MR. ECCLES: I think it was passed in 2015, in
13 September. So that would have made 2016 its first
14 application.

15 MS. HOLLOWAY: Correct. So I would say that
16 none of the former TDHCA staff who are opining at this
17 point have been involved in the conversations and in
18 that -- working through that process.

19 MR. GOODWIN: Okay. Any questions for Marni?

20 (No response.)

21 MR. GOODWIN: Okay. We have a motion on the
22 floor and a second. I would entertain -- all those in
23 favor, say aye.

24 (A chorus of ayes.)

25 MR. GOODWIN: Opposed?

1 (No response.)

2 MR. GOODWIN: Okay. The list passed. Thank
3 you, Marni.

4 MS. HOLLOWAY: Thank you.

5 MR. GOODWIN: Thanks to all of you. We have
6 now hit the stage in our agenda where we take comments
7 from the public for future agenda items. Are there any
8 public comments?

9 MS. LATSHA: Really quickly, Jean Latsha, with
10 Pedcor Investments. Just because of my history here, I
11 just want to say that wasn't me who ran any of those
12 numbers. I am not sure. Because sitting in the audience,
13 it sounded like it was me.

14 MR. GOODWIN: This isn't the time for debating
15 what we have already done. This is a time for new items.
16 So should we put on the next agenda, don't blame Jean?

17 MS. LATSHA: That is right. And really, just
18 really thanks to you all. Because I do know how much work
19 it takes. So cheers to all of you.

20 MR. GOODWIN: Thank you. All right. Any other
21 public comments?

22 (No response.)

23 MR. GOODWIN: If not, all the people that have
24 worked on this 9 percent round, in this tax credit round,
25 if you would, please stand up and let the Board show our

1 appreciation for all that you have done. Thank you so
2 much.

3 (Applause.)

4 MR. GOODWIN: If there are no additional
5 comments, I will entertain a motion to adjourn.

6 MR. VASQUEZ: So moved.

7 MR. GOODWIN: Second?

8 MS. BINGHAM ESCAREÑO: Second.

9 MR. GOODWIN: All in favor, say aye.

10 (A chorus of ayes.)

11 MR. GOODWIN: We are adjourned.

12 (Whereupon, at 9:42 a.m., the meeting was
13 concluded.)

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C E R T I F I C A T E

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: July 26, 2018

I do hereby certify that the foregoing pages, numbers 1 through 82, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Donna Boardman before the Texas Department of Housing and Community Affairs.

DATE: July 31, 2018

/s/ Carol Bourgeois
(Transcriber)

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