TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RULES COMMITTEE MEETING

VIA TELEPHONE AND WEB LINK

August 6, 2021
8:00 a.m.

MEMBERS:

PAUL A. BRADEN, Chair
LEO VASQUEZ III, Member
BRANDON BATCH, Member
KENNY MARCHANT, Member (absent)

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P R O C E E D I N G S

(8:11 a.m.)

MR. BRADEN: Today is Friday, August 6. It is 8:11 a.m., and I'll call the Rules Committee meeting of the Texas Department of Housing and Community Affairs to order. I'll do a roll call.

Leo Vasquez?

MR. VASQUEZ: Here.

MR. BRADEN: Brandon Batch?

MR. BATCH: Here.

MR. BRADEN: Paul Braden here.

Mr. Marchant, who's also a member of the Committee, is excused, and had indicated he would not be able to attend because of a preexisting conflict that was existing at the time we scheduled this meeting. So he has an excused absence.

With three of the four members in attendance, I'll call certification of a quorum, and I'll ask Bobby to lead us in the Pledge of Allegiance.

(The Pledges were recited.)

MR. BRADEN: Thank you, Bobby. Before we start the first action item, I do want to mention a little bit of a housekeeping item. And we're starting this Committee meeting earlier, about eight o'clock this morning, because we have a hard stop at 11:00 a.m.

So at 11:00 a.m., we will adjourn the Committee, and it's -- we have not -- hopefully that will be adequate time to take all public comment on our two agenda items. But I just want to give forewarning that we'll try to manage the clock such that people have appropriate time to make comments, but at 11:00 a.m., this Committee will adjourn at that time. Again, if we finish with the business earlier, there's no problem with that, and we can always stop earlier.

With that said, our first action item is the Presentation, discussion, and possible action to make recommendations to the Governing Board on the 2022 Housing Tax Credit Program QAP regarding the proposed use of 2022 Housing Tax Credits to assist 2020 Housing Tax Credit Awarded Developments.

Marni?

MS. HOLLOWAY: Good morning. So as we discussed back in May, multiple sectors of the economy have been negatively impacted as a result of the pandemic, including some rapidly increasing construction costs. These project cost estimates that were made in 2019 and early 2020 for the 2020 9 percent awards may no longer be accurate, and this is exactly the timeframe that those 2020 applicants were getting their heads together and assembling their application.

The Department has received a request from the Texas Association of Affordable Housing Providers that $5 million from the 2022 9 percent allocation be set aside for relief to 2020 applicants so that they are able to complete the originally planned developments.

The request included reference back to a similar undertaking by the Department in 2006, which involved forward committing credits for future years. We can't, at this point, under our current structure, commit -- forward commit credits, but we can, under our federal and state statute, set aside a portion of our 2022 ceiling for these 2020 deals.

So it's important to understand the impact potentially upsetting some of these funds. For the years 2018 through 2021, we've had a 12-1/2 percent increase in the per capita amount of 9 percent credits by virtue of the 2018 federal spending bill.

Without federal action to continue this increase, the per capita amount in 2022 will revert back to $2.50 per capita, whereas right now, it's $2.81-point-something-cent, resulting in a credit ceiling of 74 million available for 2022, as opposed to our current 2021, 84 million.

After deduction of the statutory-required at-risk set-aside, there's approximately 63 million available for allocation in the subregions in 2021, and these are generally our new construction applications. For 2022, if the requested 5 million were to be allocated to support the 2020 applicants, the amount remaining for the subregions would be reduced to approximately 58 million.

The request also proposes a limitation to be applied to any 2020 applicants who take additional credits in 2022 that would limit their per-developer cap of the same amount for any 2022 applications submitted by that applicant.

Other states who are using their current or future credit allocations to support these 2020 applications are also similarly capping or they're even -- it's even more than a dollar-per-dollar. They're doing, like, a dollar-to-a-dollar-50 reduction in future applications.

Consideration should be given to how that lower cap would be implemented, both in terms of adjustments for the 2022 applications, as well as impact on affiliates of the older applications. The additional allocation provided in 2006 had a similar limitation, along with consideration of the impact of subregions and statutory limitations on the location of development.

Waiver of multiple parts of the QAP would be required to implement the request for additional allocation. Other considerations relate to which applicants would be eligible to receive the additional allocation, the amount of the allocation and how those additional credits would be requested and those requests evaluated.

I wanted to report to you -- we are quickly -- you will recall that we had a note that we published recently that is designed specifically to assist these applications. We have received 10 applications requesting 15 million out of the 37 million we have available.

These applications generally indicate construction cost increases of anywhere from 17 to 40 percent. And it's interesting, though, that in looking at those increases, the request for National Housing Trust Fund dollars is not a dollar-for-dollar for those increased construction costs. So these applicants clearly have been looking at their deals and finding the ways to value-engineer those applications.

We anticipate, hopefully, if we can get through all of our processes to bring the first handful of these applications to you in September, the NOFA is still open. And as I've said, we have at least 15 million, I believe, still available -- yes, we have at least -- we've received $22 million worth of applications. We have at least $15 million still available.

We also have additional funds that we are considering programming into this 2021-3 NOFA if the demand proves up, that we do have additional funds that we could drop in there.

I would be happy to take any questions. Otherwise, staff recommends that the Board take public comment on this topic.

MR. BRADEN: Thanks, Marni. I did have a couple of questions, just from a couple items you mentioned.

So you indicated that our -- we're currently at sort of an $84 million tax credit level because of the 12.5 increase put in place, but federal action would be required to keep it at that level. Otherwise, we would drop to 74 million.

What federal agency takes that agency? What's the likelihood of that happening? When does that typically occur?

MS. HOLLOWAY: That would require a Congressional action. As I said, it was part of the federal spending bill in 2018, and that's how we received those additional credits. There is legislation working its way through the system right now.

The Affordable Housing Credit Improvement Act would provide us with additional credits along with some other changes to our 9 percent program. You know, it's impossible to predict, you know, what action Congress would take and at what time.

You know, and it could very well be that we start out the cycle with $74 million, and then Congress takes action, and then all of a sudden we have quite a bit more. And actually, the Credit Improvement Act, as drafted, would increase over time the 9 percent credit tax by 50 percent.

So that would be quite a bit more.

MR. BRADEN: Okay. And then you talked about things that the agency did, and well, you talked about at least a request being made in 2006. So in 2006, did the agency actually do a forward commitment type of --

MS. HOLLOWAY: Yes, we did. There was a forward commitment of credits from 2007 and 2008 ceilings, the forward commitments that were made to these applications that were struggling.

The longer term results of that, I think that the development community could probably speak to better than I can. But I think that there were some unforeseen circumstances later on, and you know, as I mentioned, these -- there would be a longer term impact using the '22 credits.

For instance, it would advance these 2020 deals into 2022 and impact our statutory underserved area requirements, our distance requirements and all of those things would have to be addressed hopefully to minimize any negative impact on the 2022 applicants.

MR. BRADEN: But technically, this wouldn't really be used. A forward commitment would be using --

MS. HOLLOWAY: No.

MR. BRADEN: -- the current tax credits for prior-approved projects.

MS. HOLLOWAY: Right. So as I envision this, you know, if we are moving forward, probably the cleanest thing to do would be to add a subsection to the 2022 QAP that specifically addresses this use of credits and this set-aside of credits for the 2020 applications.

So it would advance all of those applications to 2022. We would have this subsection of the QAP that specifically addresses these and addresses the application process and the review process and some of these other questions that I've mentioned. That would need to be figured out.

MR. BRADEN: So --

MS. HOLLOWAY: So it wouldn't be a forward commitment.

MR. BRADEN: Yeah.

MS. HOLLOWAY: It wouldn't be a forward. It would be a commitment of 22 credits in '22.

MR. BRADEN: But it would be a hybrid. Right? It would be this -- they also have 2020 credits and '22 credits?

MS. HOLLOWAY: In order to have it work cleanly, you know, so that we don't have a 2020 LURA for some portion of the funds and a '22 LURA for another portion of the funds, the cleanest thing to do would be apply a force majeure treatment to these 2020 applications, which basically they would be returning their 2020 credits and getting all new '22 credits, plus any additional credits.

So it would effectively make them 2022 developments. They would lose their 2020 treatment.

MR. BRADEN: So it's not -- you know, when they're asking for 8 percent of our possibly 63 million of uncommitteds for 2022, the number actually would be larger because of this trade-in. But it's just the fact that they'll all be turning in the 2020 credits, to allow those?

MS. HOLLOWAY: Correct. So the return of the 2020 credits would not have an impact on the '22 ceiling. What would have an impact on the '22 ceiling is any additional credits that are added with that force majeure request.

MR. BRADEN: Okay. Okay. I'll pause there and see if other Board members have additional questions.

MR. VASQUEZ: I have questions, but I guess I'd be interested in hearing some public comment first, and then circle back at the end.

MR. BATCH: Yeah. Likewise.

MR. BRADEN: Okay. With that said, I'll go ahead and open to public comment. I'll remind everybody, there is a three-minute limit that will start when you all start talking, and Nancy, if you'll -- I mean, who's first on the list.

And when you first start speaking, could you tell -- just officially, obviously state your name and who you represent, but then indicate whether you're for or against this proposal of using 2022 tax credits for 2020 projects.

MS. DENNIS: First we have Chris Akbari, and he is unmuted.

Mr. Akbari?

MR. AKBARI: Good morning, Rule Committee. Yes. Good morning. Can you hear me okay?

MR. BRADEN: We can.

MR. AKBARI: Great. So good morning, Rule Committee members. My name is Chris Akbari. I'm the president of TAAHP. I am for this proposal.

First, I'd like to thank you for the opportunity for this rule-making committee process. It's a great dialogue for us to have with the TDHCA, and to create better housing policy for our state. I'd like to make it very clear, though, that my company, ITEX, does not have a 2019 or 2020 deal that would stand to gain from this type of proposal.

There's a significant number of 2019 and 2020 developments that are in dire financial situations due to this escalated construction cost. We believe that if TDHCA will earmark this additional $5 million, that it could go to assist a significant number of deals that are stalled out.

Our goal is provide Texans with quick access to housing, and as you know, immediately allocating these additional funds will move these projects forward faster and get these units on the ground quicker. We believe that a good solution would be to allow for this funding to come in and to come out of the 2022 developer cap. We also think a good solution would be to have a punitive penalty of 20 cents per credit dollar to resolve this so that developers who come to the table looking to use this as a solution really need to use it and believe that it's a last resort to get their deal moved forward.

We know -- as we all know, and Marni said, construction costs have gone up significantly. And a lot of these deals are seeing 17 to 25 percent construction cost increases. She mentioned that they're, you know, reorienting things. They're making changes.

We don't want that to come at the cost of the quality of housing. And so we would like for staff to consider this as an option because we know that adding additional debt can't always solve the problem.

And you'll probably hear from some of my colleagues at TAAHP that a lot of times adding additional debt doesn't necessarily mean, for each dollar of debt that you add, that you get an additional dollar towards the project. Because a lot of times the lenders and investors will ask us to reduce the first-pay mortgage to allow for that additional debt on the project.

Again, our goal is to deliver the best housing policy and also deliver housing units faster for Texans, and we think that this is a great policy for TDHCA. And again, if we have any questions, we'd like to answer any of those, and as well as there's other developers affiliated with TAAHP who might be able to dive into the further details.

So thank you.

MR. BRADEN: Thank you, Mr. Akbari. Next speaker.

MS. DENNIS: Next, we have Bobby Bowling. We're looking to unmute him, and he is unmuted. Mr. Bowling.

MR. BOWLING: Okay. Can you hear me?

MR. BRADEN: We can.

MR. BOWLING: Okay. Good morning, members of the Committee. I appreciate the opportunity to have this meeting. I represent myself and Tropicana Building in El Paso, as well as the other tax credit developers in Region 13 in the El Paso area.

I want to speak in favor of this proposal. I want to address a couple of things that are out there.

You know, there are a lot of deals that don't need additional credits. Some deals have access to additional funds through soft debt, forgivable loans, et cetera, from other major cities, from TDHCA or other sources. But for some deals, like ours in El Paso, the only option is additional credits.

Our deals in El Paso, all three of the deals awarded in 2020 to both me, to Investment Builders, and the Housing Authority of the City of El Paso are united in our request for additional credits.

In my examples, from my specific deal that was a 2020 award called Artcraft Palms, my financing structure to my investor and my lender included a request for an $8.21 million permanent loan. It was cut back this week to 8.202 million, an $8,000 cutback. My deal literally cannot take on one dollar of additional debt, regardless of the interest rate, so I did not apply for any of the direct loan funds or the Housing Trust Fund solution that was out there.

We appreciate that solution. We know that works for some, but it doesn't work for all. You all have in place underwriting rules and real estate analysis rules that TDHCA rightfully applies to make sure deals remain feasible.

If deals are overfunded, staff cuts credit back from deals. In the 2010-2011 cycle, coming out of the Great Recession of 2008 and 2009, credit prices went from 64 cents on one of my deals to 80 cents per credit in a 12-month period.

And I had a deal called Canutillo Palms that was cut back $1 million in credits. That was because TDHCA staff determined by applying underwriting rules, rightfully, that the deal was oversourced, and credits needed to be taken from that deal and used in a future round or funding cycle.

So my deal had its credits taken or stolen, if you want to use that language, and used by another deal in a future found. Why is turnabout not fair play now? We're not asking that deals just willy-nilly be given more credits, but that ailing deals be resubmitted for consideration of additional credits, and the same rigorous, strict scrutiny from staff be given to these deals, and rightfully applying underwriting of real estate analysis rules to make a determination as to whether or not credits are needed for individual deals.

Rewarding deals that don't need additional credits is a solution, and penalizing deals that do take credits is also a solution. Please, please help us get these deals on the ground.

They're shovel-ready. They'll be in-service and placed as available housing two years in advance of anything you do in 2022. We're all in this together.

We just ask that you take a strong look at this and come forward with some solutions, similar to what other states are doing. Thank you for your time, and I'd love to answer or field any questions specific to my deal or to this proposal.

MR. BRADEN: I was planning on just taking questions after we hear public comment, but [audio interference] interim, let me know. Next speaker?

MS. DENNIS: Next, we have Robbye Meyer. Ms. Meyer, you are self-muted.

MS. MEYER: Can you hear me?

MS. DENNIS: Yes.

MR. BRADEN: Yes.

MS. MEYER: Okay. My name is Robbye Meyer. I'm representing myself with Arx Advantage. I'm in favor of this proposal, however it concerns me on the force majeure aspect of it, of returning an award and then getting the additional credits all in 2022, the reason being is because all of that credit will then go against the 2022 cap for an applicant.

Because of that, that will limit whoever is participating. That will limit what they can do in 2022. What my suggestion would be is to, since we're looking at changing the QAP for -- in the next agenda item, would be to word the QAP to change the forward commitment language for this specific item, to deal with this in disaster -- for disaster reasons or economic reasons, however you want to word that, for specific reasons.

And that way, it would be done as a forward commitment now and for those deals that are already moving down the pike, that they can already plan for those costs, and they're not sitting there worrying until the 2022 cycle.

You know, there are, you know, 53 allocating agencies, and 31 of those 53 allocating agencies actually have a forward commitment provision in their QAP. Texas is the second largest allocating state, and we don't have a forward-allocating provision in our QAP.

I understand, Chairman Vasquez, and Chairman Braden for this Committee, you have some reservations of not doing forward commitments. And I was at the agency prior to when we did forward commitments. I didn't like the way we did them back then, and I don't want to go back to that, and that's not what I'm asking for you to do.

But I think that with specific language like some of the other states have for disaster-related or economic downfalls or things like that, that that reins in the Board not to be able to do willy-nilly things, and that controls how they can be used. I think it's a better option. We can get the credits out the door faster, and we can get these deals served quicker, and you know, get the deals done and you're not affecting an entire development in 2022 with their cap.

That's my comments. Thank you.

MR. BRADEN: Thank you. Unless the Board members have any questions at this time, we'll move on to the next speaker.

MS. DENNIS: Next, we have Tom Huth, and you are self-muted, Mr. Huth. Mr. Huth, you are self-muted. Mr. Huth, can you hear us?

MR. HUTH: I -- can you hear me?

MS. DENNIS: Yes.

MR. BRADEN: Yes, we --

MR. HUTH: Tom Huth, president and CEO, Palladium USA. Good morning, Board.

MR. BRADEN: Good morning.

MR. HUTH: Good morning, Mr. Wilkinson. So in 2020, Palladium was awarded two transactions, our Palladium Fain Street developments and our Garland Senior Living developments. We were also a consultant on another development. That was Stemmons.

All three of these developments that were awarded in 2020 have closed. We act quickly. We act fast, and we close our transactions as soon as possible.

It doesn't sound to me like there's any consideration given for deals that have already closed. Just for instance, our Dallas Stemmons development is overbudget strictly due to lumber by 990,000, 47 percent of the line item for lumber, and 8 percent of the total construction costs. Our Palladium Fain Street developments, over budget by 1.6 million, 80 percent of the line item, 12.6 percent of the total construction costs.

We were fortunate that our Garland Senior Living development, which closed in January, did not have a similar issue. We need to be cognizant of how we rectify the situation, what is out there to help us get our deals that have already closed through the construction process.

There's a timing difference once you've started construction, once you've closed the transaction. The job contractor wants to be paid. We don't get our next cap con until construction completion, and that next cap con is what pays the developer fee, which we would then use for this cost overrun.

This is not just a 2020 issue. This issue will bleed into 2021 and most likely into 2022. In 2021, we were awarded a development, Embree Eastside by Palladium in Garland. We are in the process of closing this transaction that we were just awarded last month by the end of this year.

Our construction pricing came in 2.8 million over budget, 18 percent. We've got a lot of work to do to try to figure out how this works. We've got to protect those deals that have been awarded, and especially those deals that are under construction.

But this doesn't just rest with 9 percent. Our 4 percent transactions have an immediate need as well. Yes, we get additional credit on 4 percent transactions, but we get half the credits. That means we've got to use a lot more debt.

We're in favor of this proposal. We need to work through it together, how we can effectuate it and protect those deals that have not only been awarded, but have already closed. Thank you.

MR. BRADEN: Thank you. We appreciate the comments. So we now have -- one, two, three -- four people speak in favor.

Is there anybody lined up who is against this proposal, just so we can start maybe getting both sides of the issue? Is there anybody lined up against the proposal? Could they sort of raise their hand, however you do that in this process, or send a text to the monitors?

Nancy, if you want to go ahead and take whoever in next in line, but then after that, maybe we can take a look to see who's against?

MS. DENNIS: Yes. Next, we have Sarah Anderson.

MR. DARUS: And this is Nathan. If you are registered to speak or wish to speak and you are against the item, please use the raise-your-hand feature, and go ahead and click the hand button. It will raise your hand for us.

MS. DENNIS: Sarah Anderson, you are --

MS. ANDERSON: Okay. I intended to speak on this. I'm just in favor of getting more credits to those developments. So I was really here to speak on the next agenda item.

MR. BRADEN: Okay. Thank you. Your support is noted.

Next person? Nancy or Nathan, do we have either somebody against, or just the next person in line?

MS. DENNIS: The next person in line is Rick

Deyoe, and they haven't indicated for or against.

MR. BRADEN: Okay.

MS. DENNIS: Mr. Deyoe, you are unmuted.

MR. DARUS: And nobody has yet raised their hand to note that they are against.

MR. BRADEN: Okay.

MS. DENNIS: Mr. Deyoe? Mr. Deyoe, you are self-muted.

MR. DEYOE: Hello.

MR. BRADEN: I can hear you.

MS. DENNIS: Yes, we can hear you now. Mr. Deyoe, you just self-muted yourself again.

MR. DEYOE: Okay. Now, that -- now, can you hear me?

MR. BRADEN: Yes, sir.

MR. DEYOE: Okay. Thank you. My name is Rick Deyoe. I'm the president of Realtex Development Corporation. We've got an allocation of tax credits in 2019. We closed on that allocation in March 2020, which was the exact month, as you will all recall, that the pandemic shut down -- and shelter-in-place requirements were put in place.

The 2019 project that we received an allocation has, just in lumber alone, a $675,000 cost increase. There's other cost increases in materials. And we are having problems at this point even getting materials to get the project where we can get the project -- we can't get R-15 insulation. It's on a six-month delay.

Things like that, that have caused the project extreme delays and extreme cost overruns. Right now, we're about 1-1/2 million in cost overruns. The project is about 60 percent complete, and we're sitting at a standstill because we are waiting on materials that aren't expected to be on site for another three months, purely because of cost increases and cost shortage effort -- supply shortages.

And in addition, we've had the pandemic, labor shortages due to the pandemic. We would request that there be some additional credits available in order to cover the additional costs.

I've been in the program for 30 years. I can tell you, back in 2005, when we had, you know, 20 percent cost increases across the board in construction costs, the Board did do -- allowed us a separate allocation of credits to cover those cost increases and we were able to benefit on four properties at that point.

[Audio cuts out] to make them where they were -- projects were complete. It was a pretty simplistic process or commitment of some of the next year's credits, and it worked well from a developer's perspective. I just wanted to make sure that the Board was aware that 2019 projects are in the same boat, if not worse, in many instances [audio cuts out].

MR. BRADEN: All right. Thank you, Mr. Deyoe. We either lost you or I think you ended your point. We appreciate your comments.

Next one?

MR. DARUS: We do not have anybody who has indicated that they are against, so the next person in line is Valentin DeLeon.

MS. DENNIS: Mr. DeLeon, you are self-muted.

MR. DeLEON: Good morning. Can you hear me?

MR. BRADEN: We can.

MS. DENNIS: Yes.

MR. DeLEON: Oh. Thank you. Good morning, Board members and staff. My name is Val DeLeon. I'm a senior vice president, development for Housing Trust Group. We are a national for-profit developer and owner of tax credit portfolio.

I am speaking in support of this agenda item. I appreciate staff working so hard to bring this back to you all's attention.

You know, I'm not going to say anything new that you haven't heard already. I just want to reiterate what you've heard from other developers, and that, you know, significant -- increasing construction pricing, you know, just to, you know, give reference, we were underwritten at around $80 a square foot back in 2019. And you know, we've received several bids from contractors, and we were up to -- we got one bid up to $153 a square foot.

So significant cost increases in -- not only in materials, but also due to labor shortages that, you know, construction timing is going to be extended as well. And that's after we've, you know, worked on value engineering adjustments. So, you know, I'd like to think that we weren't naive about what was happening in the market and trying to get ahead of it, but those efforts just are coming up short.

So you know, any additional help that we could have for these 2020 deals would be much appreciated, and I appreciate the work that you all have done so far.

So thank you.

MR. BRADEN: Thank you, Mr. DeLeon. So let me pause there for a second. So it seems like every -- obviously, everyone who has spoken so far is in favor of this proposal. And when we asked if there was anybody against it, so we're -- I'm getting the impression that the developer community is united in this request, and if that's not the case, you know, and other people have different views, we'd like to hear them.

MR. ECCLES: Chairman, let me just speak to that. I have received a message from Ryan Combs with JPI, who has registered against this agenda item.

MR. DARUS: He is available to speak now.

MR. ECCLES: He is available to speak now. Very good.

MS. DENNIS: Mr. Combs, you self-muted. You're good to go.

MR. COMBS: Can you hear me?

MR. BRADEN: Yes, we can.

MR. COMBS: Okay. Thank you. Yes. I was entering, and I'm glad that you brought me in. I'm against it only because I had an application that was awarded in 2020 that is dealing with the same issues as what everyone has talked about, but what Mr. Huth said is exactly right.

This problem has not gone away. Lumber is still an issue, as well as not just lumber now. It's many, many other trades and materials that have gone up, and so 2021 is going to have the same problem. 2022 is going to have the same problem.

I do not think that taking from the future fixes this problem. I think all it does is makes it worse. I think that there is a problem, but I don't think the answer is taking credits from the future.

MR. BRADEN: And Mr. Combs, so technically, you're saying, we wouldn't necessarily do a forward type of borrowing, but we'd be using '22 credits for some specified programs. That's -- your comment applies to that as well, right?

MR. COMBS: It does, and I think anybody that takes credits from 2022, if that were to go that way, I think that they ought to be subject to the $3 million cap. Because you are taking allocation from that year, and you know, if there is a development that needs those funds to make a prior year work, then they ought to be willing to take that penalty to keep that deal viable.

MR. BRADEN: And with respect to your specific project, you indicate you have the same problems. Are you looking to the debt programs that TDHCA has made available?

MR. COMBS: So what we're looking at, and you know, we're dealing with a seven-digit, you know, increase in lumber pricing as well. What we're doing is, we're looking at working with our lenders and investors, getting the deal closed.

We do know that while material pricing is going up, rents, rent growth here in DFW is over 3 percent this past year, so we know that rents are going to grow. What we're looking at is solving for the problem right now, and knowing that long term -- I mean, these are long term deals -- knowing that long term rent is going to keep our deal in a good place.

MR. BRADEN: I appreciate those comments, and I sort of interrupted your three minutes, so I want to make sure you have time to say anything else that you'd like.

MR. COMBS: No. I just wanted to be able to speak. I know that there's a lot of people with a lot of deals out there that are having a lot of trouble, and you know, I get it. I'm in the middle of all of that, but I don't think that taking allocations from the future -- because it doesn't fix it.

I mean, we still are in the middle of this problem. Are we going to be right back here wanting to take 2023 and 2024? And I mean, we're just going to be in a situation where these costs are not -- it doesn't get fixed by doing this.

I think we either need to raise the $3 million cap or do something else to fix things in the future, but I don't think taking money from the future fixes it.

MR. BRADEN: I appreciate that. I don't know if any Board members have any questions at this point. We finally have somebody that's not in favor, so I'm not sure who else is going to speak up, but --

MR. VASQUEZ: We applaud your bravery for speaking up here, Mr. Combs.

MR. WILKINSON: I have a question. Would rural areas be experiencing the same rent growth as Dallas?

Would some deals not have the rent growth?

MR. COMBS: You know, Bobby, respectfully, I don't know that I can speak to rural areas. I know DFW, we -- to your point, we are experiencing good rent growth, and so it may be -- you're probably right, that it probably is more regional. But I know places like Region 3 and certainly in the Austin area are experiencing pretty great rent growth.

And so these are areas that may not need that help as much, long term. I mean, again, if we're just looking at developer fee right up front, then, yeah, we're all going to take a hit on that. But if we look at these things over the life of the deal, then we have to figure out how to solve for those things, and we developers are all pretty smart at how to do that.

If there's a way for us to get our developer fee up front, we're going to want to do that, for sure. But if there's a way for us to look it long term, then that's certainly something that we can do. But I don't want to see us steal from the future.

MR. WILKINSON: Thanks, Ryan. One more question. This idea that it's going to be an issue in 2022 and 2023 -- I mean, are you saying that the apps that are going to come in in six months are going to be underestimating construction prices --

MR. COMBS: Yes.

MR. WILKINSON: -- and --

MR. COMBS: Absolutely. So we just got awarded a 9 percent deal this year, and when we underwrote it, lumber was one price, and now it's something completely different. And so the challenges right now with 9 percent credits, with a cap of $1.5 million per deal, we run out of tax credits at about 80 units, which means that's why you see a lot of deals at right around 100 units.

Well, when lumber goes up by seven digits, you don't have a lot of room in a 100-unit deal to cover that cost. What we really need is, is we need larger deals to be able to absorb costs. And so when we have a cap of $1.5 million, we just can't absorb a massive overrun like that. It becomes much, much more challenging.

And so I think the issue is -- you know, maybe you keep the cap at $3 million, but the cap per deal is at $2 million. Now that -- a lot of developers are not going to like that, because they can't do two deals. I would rather do one good deal than two marginal deals, and so that's what makes sense to me.

But yes, I do think that 2021 deals are going to have the exact same problem. In fact, I'm almost positive most all of them are in the same situation right now.

MR. WILKINSON: Thanks, Ryan.

MR. BRADEN: Does anyone else have any other comments or questions?

(No response.)

MR. BRADEN: All right. Thank you, Ryan. I appreciate those comments.

We'll go back to the public comment list and see who else is up to speak.

MR. DARUS: We do have Donna Rickenbacker, who has also asked to speak against the item.

Just as a reminder, if you do wish to speak, please let us know -- so in the questions box. The hand-raising was just to let us know if anybody who had registered to speak was speaking against the item. So please let us know in the questions box if you have comments.

MR. BRADEN: Okay.

MS. DENNIS: Ms. Rickenbacker, you should be ready to go.

MS. RICKENBACKER: Perfect. Thank you. Donna Rickenbacker. I'm speaking on my own behalf, for my own company. I'm not necessarily against this proposal, but you know, the recognition that -- Marni said a lot in her oral presentation.

There's nothing in writing for us to really react to on this call today, and so -- and I've heard a lot of speakers, you know, recognizing with legitimate right that they are struggling with their deals. How do we help them to get those deals across the finish line?

So I'm not opposed to it, but it's hard to say I'm for it. Because really the outcome is in the details of the rule changes and how the rule will be implemented, and who will be eligible for those additional credits. All of that, I'm assuming, is kind of a work in progress here.

So I align my favoritism with what Robbye Meyer stated. She was with the program. She fully understands this forward commitment issue, back when she was with the agency, saw it in implementation and how it was utilized, and quite frankly, how it was not utilized very well.

I think that it's just in the details of the rule changes and how this is going to all be rolled out, and again, who's going to be eligible. Because at the end of the day there will be a disruption unless housing that's put in effect in -- or awarded credits in '22, in 2022, as an outcome of this rule change.

So again, I'm going back and forth here, because I'm not definitely for it, and I'm certainly not definitely against it. And I think it's important for everybody to kind of better understand the details of the rule changes and how it's going to be implemented.

Those are my comments. Thank you.

MR. BRADEN: Thank you, Donna. Before we take the speaker, and Nathan or Nancy, how many more speakers do we have on this issue?

MS. DENNIS: We have four speakers, three for and one against.

MR. BRADEN: Okay. So let's go ahead and take a "for," maybe a couple "fors," and then we'll turn to the "against."

MS. DENNIS: Okay. Next, we have Janine Sisak. And Ms. Sisak, you are self-muted.

MS. SISAK: Okay. Good morning, everyone. This is Janine Sisak. I am senior vice president and general counsel of DMA Development Company, and I also serve, as you guys know, as immediate past president of TAAHP.

I will try to make my comments really brief, but I'm going to make some TAAHP comments and then I'm going to make some DMA comments. So my TAAHP comments -- I want to respond to a couple of the prior speakers, one on the cap issue.

You know, I feel like TAAHP's proposal regarding a 20 percent penalty as sufficient -- I don't think that, if we go down this road of approving this policy, that we should, you know, take our whole, you know, new force majeure 2022 allocation against our 2022 cap. I mean, it just doesn't really make sense to penalize deals that much.

But I agree that a penalty would work to discourage people from coming back unless they absolutely need the additional credits to make their deal viable.

With regard to the deals that have closed, to Mr. Huth's comments, you know, most operating agreements that are signed between developers and investors will allow for an upward adjustor. And so a policy like this would help deals that already closed, assuming they have that very typical upward adjustor in their partnership agreements. So I do think that this policy could be applied in a very fair way to help both deals that haven't closed yet and deals that have closed yet.

Finally, with regard to the comment about, you know, deals in areas where rents are increasing like Austin -- should have other solutions to solve this problem. You know, I primarily work in Austin, and while we do see pretty significant rent increases every year, the cost escalation rate is outpacing rents in Austin. It's simply outpacing rents.

They're -- we're having not only material challenges here, but labor, serious labor challenges here, and we can't even get subs to hold pricing for, like, literally more than a week. So it's a constant moving target. It's impossible to manage.

You know, I got a bid from my Austin deal a couple -- a month ago, and within days, you know, it had gone down a half a million dollars, because lumber started going down. But that was only a half a million dollars.

My deal -- I'm going to switch to specifics about my deal -- my deal experienced a $3.7 million increase between time of application and now. That does -- that reflects the lower lumber price. That's a 22 percent increase.

Talking about, while lumber is coming down -- I got an email from my contractor last night. I asked him -- I said, I'm preparing for this meeting, and I know other things are going up, while lumber is going down. Can you send me a list?

This is what he wrote. Any materials that are resin-based, PVC, acrylic tubs, insulation on wire, electrical devices, rough-in boxes, vinyl plank, vinyl windows, roofing materials, some forms of thermal insulation, steel and concrete, pretty wide range of products that are incorporated into what we do.

And then he wrote this morning: Oh, and Hardiplank. So this is a real problem. The fact that lumber has come down significantly has not solved this problem.

I applied for NHTF funds with my Austin deal because pricing is so high. And because we wanted priority under the NOFA, we limited our request to $2.2 million. I also have 2 million in fully forgivable loans from the City of Austin.

My deal still doesn't work. Deferred fee is almost at 100 percent, which means that all of my cash flow for the 15-year pro forma period will go to pay developer fee, which means that there will be nothing to repay this loan.

It will have to be put -- you know, we're kicking the can on repayment to the end of the term in a balloon payment. And while a lot of the rules for the loan program have been waived, it's repayable. You still need to pay it back somehow.

And while we've solved the loan to value constraints on the front end by making these funds soft, it doesn't solve it on the back end. And so we're, as developers -- you know, we're having to do these deals for no profit.

And you know, us making no profit directly impacts our ability to be feasible, as many of us are small businesses, and it impacts our ability to chase new deals. This is a real problem, and this loan program helps, but it doesn't solve the problem. It just kicks the can down the road, and over-leveraging these deals with debt, I would love to talk to the agency about making those funds forgivable. I really think we need to be talking about that now, because if we don't talk about it now, we're going to be talking about it in 13 years.

So I appreciate everything the agency is doing. I will end my comments there. Thank you for your time and consideration.

MR. BRADEN: Thank you. Thank you for your comments.

Next speaker?

MS. DENNIS: Next, we have Kathryn Saar. Kathryn, you are self-muted.

MS. SAAR: Can you hear me?

MS. DENNIS: If you can -- yes.

MR. BRADEN: Yes, we can.

MS. SAAR: Kathryn Saar with the Brownstone Group in Houston.

Ryan Combs mentioned earlier about the rent growth in the Dallas area. In large metro areas, we are seeing that type of rent growth, but it does go to Bobby's question about the smaller, rural deals and the deals in smaller metro areas, like in the Valley, where you're not seeing that kind of rent growth. You're seeing very stagnant income levels, and therefore, the rent levels don't increase.

I know the Board is recently going to look at a deal in the Valley to refinance some of their debt because they've been struggling this whole time, since the beginning, because they were under-capitalized from the very beginning. I am not opposed to increasing or offering additional credits to these deals. I don't have a deal that would be affected.

But I think that we need to look at all of the tools in the toolbox, and this is one of them. However, I think the language about the $3 million cap is statutory, and if you're taking 2022 credits, the language in statute, I think, very clearly says that that would count towards the cap.

MR. BRADEN: Okay. Thank you. Do we have somebody who has raised their hand as against this proposal?

MS. DENNIS: I know the rest are for.

MR. BRADEN: Okay. And how many more do we have?

MS. DENNIS: Three.

MR. BRADEN: Okay. Let's go ahead and finish up.

MS. DENNIS: Okay. Next, we have Nathan Kelley, and Mr. Kelley, you are self-muted. You should be good to go.

MR. KELLEY: Thank you. Can you hear me?

MR. BRADEN: We can.
MR. KELLEY: Can you hear me okay?
MR. BRADEN: Yes. Can you hear us?
MR. KELLEY: Very good. Thank you so much for your time this morning. I -- yes, I can hear you.
MR. BRADEN: Okay.
MR. KELLEY: I would just -- I want to be respectful of this Committee's time and defer comments. I obviously noted I am in favor and can't provide any notable evidence, as some of the previous speakers have, but I do want to be respectful of the fact that we've got another agenda item to cover.
MR. BRADEN: Thank you. I appreciate that.
Next speaker?
MS. DENNIS: Next, we have Lisa Stephens. Ms. Stephens, can you hear us?
MS. STEPHENS: Good morning. Yes. Good morning. This is Lisa Stephens with Saigebrook Development. We had one 2020 application. And I'll keep my comments brief, but I did want to respond on this.
Briefly, to the comments that Mr. Combs made in regards to rent growth, and I'd just like to remind you that, in 2021, maximum incomes and rents in Tarrant County went down. They didn't go up. So we were actually further hamstrung in Tarrant County in being able raise rents in

order to support more debt to cover our cost increase, because incomes went down.

So rent growth is not always guaranteed, and I don't think that future rent growth is what we should be depending on in order to make sure that the deals are financially feasible. We need to look at where they're at today.

Our project had a 15 percent increase in costs. We were able to take a 17 percent increase in debt, and that only covered 50, five-zero, percent of the cost increase, because as someone else said, increasing debt doesn't dollar-for-dollar go to cover an increase in construction costs. So even though we maximized our debt -- we took as much as we could handle -- the project was still in a position where we had an $800,000 gap in our financing structure.

Like Janine said, we deferred our fee to be able to close. We wanted to get the project started. We broke ground.

We took the risk as a developer of deferring our fee, with the hope that this -- these additional credits would actually come to fruition. And we've built that into our partnership agreement to allow for an adjustor, should this actually come into play.

So I would just encourage you to keep in mind: we're dealing with today's facts, and relying on future rent growth is not a guaranteed strategy. Thank you.

MR. BRADEN: Next speaker?

MS. DENNIS: Next, we have Audrey Martin. Ms. Martin, you are self-muted.

MS. MARTIN: Hi, there. Can you all hear me?

MR. BRADEN: Yes, we can.

MS. MARTIN: Thank you. This is Audrey Martin with Purple Martin Real Estate. I'm a tax credit consultant. I'm speaking on behalf of myself.

I'm in support of this policy proposal. I did want to address one of the comments made by Ryan Combs earlier that, you know, I don't disagree with him that this is a problem that we're likely to see over and over again into the future, but I wanted to point out, one of the reasons for that is that we have a statutory scoring item in the QAP related to costs of the development per foot. And every applicant really has to choose to limit their credit allocation right from -- right off the get-go at the time of application in order to be competitive.

And for a long time, that particular scoring item has incentivized developers to base their credit requests on costs that are not truly the costs of the development, particularly as it relates to construction costs, or specifically as it relates to construction costs.

And I think that this kind of dovetails with the next item that we're going to be talking about. I think that we need to take a hard look at how much below actual construction costs does TDHCA want to incentivize developers to base their credit requests on. The problem is going to keep being pretty significant if we are underwriting our deals right at the beginning at construction costs that are really significantly below reality.

So I just wanted to say that I think in the policy development of the QAP, we also have a chance to address this for future deals by getting a little more realistic about what the construction costs are that we're underwriting an application. I think that we need to -- that scoring item incentivizes folks to trim back credit requests so credits can be spread around more. But we shouldn't do that [audio cuts out] that we are compromising [audio cuts out].

Those are my comments. Thank you so much.

MR. BRADEN: Thank you, Ms. Martin.

Next speaker?

MR. DARUS: We do not have any more speakers in the queue.

MR. BRADEN: Okay. I think that some people have asked to maybe speak again in response to some of the comments that were made by people who spoke after them. But before we do that, I'd like to turn it over to the Board and see if Board members have any -- or Committee members have any additional questions or things they want to ask staff or generally?

MR. VASQUEZ: I have some comments that -- this might be the time to speak up a little bit on it, and I'm sure some of these might, as they say, kind of kick up the hornet's nest here. I don't think it's been any secret that I have been very skeptical of this idea from the very beginning. Just because we did it in 2008 and even back in the '90s, I believe, doesn't mean we should do it again.

My understanding is, that created all kinds of chaos and havoc and unintended consequences. So I'm very concerned about unintended consequences, things we haven't thought about, other, you know, rule changes and statutory changes we need to make on -- that caps and maximums and things like that.

But let me ask Bobby a question, just to remind everybody here, on the 9 percent deals, we are always oversubscribed. I mean, I can't think of hearing of any time that we did not have enough applicants to cover our available credits.

Is that correct?

MR. WILKINSON: Oh, yes. I mean, there's plenty of applicants, every year, around --

MR. VASQUEZ: Yeah. I mean, there's always plenty of applicants and qualified -- and you know, we always have the tough decisions towards the end of the -- you know, in the July meetings that -- there's some good deals that just don't get done.

And also, before I go too far in my thoughts, I want to agree that we probably do need to reexamine that cost per square foot in the next half of this meeting, because that's -- it's just realistic to reflect the current markets. So I'm agreeing with that.

Being that we always have enough deals to oversubscribe the tax credits, if someone -- okay. I'm still saying that I agree with, you know, taking forward into, you know, 2022, applying it back to 2020.

However, perhaps we should think about if any developer does want to take forward credits, which is taking from other deal in the future, and bring them back to the already-awarded deals, maybe it shouldn't be a 20 percent penalty, but it should be 100 percent penalty. Or even let's take it beyond that. That group should be barred from that -- the 2022 round altogether.

I mean, if they're having that much trouble in their current deals, I don't know if we should be giving them additional deals on top of that until they get everything straightened out with the past deals. So perhaps we need to be talking about, just if you're taking money from 2022 back into 2020, why don't you skip the 2022 round?

Again, as Bobby just said and as we all know, we're always oversubscribed. There's going to be plenty of deals that happen in 2022. It's just a thought and concept I wanted to throw out there for discussion.

You know, again, let's -- I think someone said, I'd rather do one good deal than a bunch of iffy deals. Well, let's get your old deal, your past deal, done correctly, and then wait until 2023 or 2024 to start getting you more deals.

Again, we can talk about that, and I'm sure others will have some opinions on that. I'd also like to explore more about the debt programs and loan programs. Again, the Housing Trust Funds are great, that we're putting that forth.

And I understand -- again, I -- my background is in finance, and I've done all sorts of different, you know, real estate deals and transactions and work with financial institutions. Perhaps we can structure our loans as subdebt, and with deferred payments and virtually no interest, et cetera, so that that does not mess any debt service coverage ratios. If it's subdebt, the senior debt and the financial institutions should treat that as equity, basically. So it should not count against the debt-to-equity ratios.

I understand there's -- you know, if someone -- and that's why I got notes all here -- one of you talked about, well, we've got to pay it back sometime, and at the -- you know, if it's at the very end, that's when you're going to get your conversion to cash. It doesn't -- it shouldn't affect you. That debt should be able to be paid back when you exit the property, or just refinance it out into another long term debt, separate and apart.

So again, I believe that debt structures -- it can be put where there's no adverse impact to cash flow. There's no impact to debt service coverage ratios. If it's subordinated, the senior debt lender should look at it as, effectively, equity. Again, there are ways, I believe, to structure debt loans from the Department where it doesn't adversely impact the cash flows of the deal.

So those are my two main concepts -- or three main concepts. Again, very concerned about unintended consequences, ripple effects and chaos. Yeah.

I think if we do go down this path, hey, great. We're going to restructure our rules to help you in your past deals, but then you have to skip a round, I believe, in going forward. And again, there's always other deals behind you, so that's going to -- they're going to still be there. And then let's look more in depth at loans and structuring where it does not adversely impact the developer.

So those are my quick thoughts, and I'll turn the floor back to Paul or Brandon or Bobby, if you want to answer something.

MR. BRADEN: Thanks, Leo. Brandon, do you have any immediate or additional comments you wanted to make right now?

MR. BATCH: No. I think I'm good. I'm -- you know, being a new member on the Board, I honestly think it's really good just for me to hear these comments and get a firm understanding of some of the things you've done in the past, and how, you know, a lot of what we're thinking about could affect the future.

But outside of that, I don't have any comments.

MR. BRADEN: Thanks, Brandon. I'll make a couple of comments on what Leo said. I mean, I am concerned about sort of stealing from the future now.

Maybe this isn't quite the same thing as we're talking about current-year awards, as opposed to, well, we're going to give you awards from future years, but it still is, sort of, because you're taking current-year awards and allocating towards past practices. Now, what Marty suggested and what Leo said, sort of, echo along the lines of what I was thinking, although perhaps not as radical as Leo was suggesting.

You know, if you amend the rules so that this is a force majeure, and in essence, because you're going to take more credits in 2022 to pay for your 2020 project, then all those credits are viewed as 2022 credits and that counts against your $3 million total. So you are getting, you know, in essence a penalty, because now it looks like you have a project already that counts against your $3 million total. So if you had another project that could come in in 2022 and still not bust that cap, then maybe I would allow that.

I wouldn't be as harsh as Leo in terms of saying, if you want to do this, you can't line up, but maybe that would be the same effect. But it would seem like it would limit that, and people who would do this would really, really need it, because they would have to, in essence, skip a year. So, I mean, I think that's a possibility too.

I just thought about similar comments, and the offer up of a $1.20 for each dollar, you know -- yeah, that's a little bit of a penalty, but you know, maybe it needs to be more serious, if we're talking about doing this. So otherwise, that's really the initial comments.

I'm sure there are a lot of people who have some rebuttals back to Leo or my initial comments. So we can open the floor back up to additional comments from some of the public.

MR. WILKINSON: I was going to speak earlier to make sure that we all agreed on the TAAHP proposal. You know, any 2022 credit to save an older deal, that dollar must be removed from their 2022 per-developer $3 million cap. And so the proposal for 20 cents is an extra 20 cents, right? -- $1.20 for dollar, and the Board could want to increase that, up to double, like Chairman Vasquez said, or temporary department or whatnot, or just they can't participate next round.

So, yeah, I'd be curious what comments we get from that kind of proposal.

MR. VASQUEZ: I'll be right back.

MR. BRADEN: Leo has to get an additional cup of coffee to listen to the comments.

MR. VASQUEZ: I can hear you. Go on.

MR. BRADEN: So Nancy or Nathan, do you have other people or additional people who want to speak on this or respond?

MR. DARUS: Yes. We have -- from what I can tell, we have three people who have responses they would like to give.

MR. BRADEN: Okay.

MR. DARUS: We have Bobby Bowling, Robbye Meyer and Chris Akbari.

MR. BRADEN: Well, let's start from the top. Mr. Bowling?

MS. DENNIS: Mr. Bowling, you are self-muted.

MR. BOWLING: Okay. Can you hear me now?

MR. BRADEN: Yes, sir.

MR. BOWLING: Okay. So we really appreciate this back-and-forth discussion. This is what we had been hoping to engage you all in, in this agenda item and through this process. So I thank you all for your thoughtful -- Mr. Braden and Mr. Vasquez, and you as well, Mr. Batch, for entertaining this.

I've been doing this since 1999. I got into this program at a very young age, and I've been successful with the 9 percent award every year since 2001, and this year, I was awarded my 37th 9 percent deal in Region 13. I'm not clear as to what these unintended consequences that came from the 2005-2006 housing bubble hyperinflation which we experienced or the 2008-2009 Financial Crisis that we experienced.

I mean, the consequences -- I don't know what the unintended were, but the consequences were deals got done and housing got on the ground. And that's what we're asking for here today.

I mean, did staff have to work harder to make that happen? Yes, they did, but we had to work a lot harder too, as the development community. I was doing deals in 2009 with 64 cents on the dollar credits, and I didn't make any money on those deals.

So it's not like all of these deals have always been without risk, and this and that, but there was at least enough tax credit assistance program and tax credit exchange program and things like that that helped us get the deals get built. And that's what we're really trying to accomplish here.

As for the idea of kicking us out of the program, you know, there are a lot of applications you get. Yes. Some of those are very bad applications. Some of those don't even reach underwriting and real estate analysis.

You're talking about the consistent winners, the consistent quality developers of this program, that are awarded every year, like myself, like my competitors in El Paso, like most of the people that are on this phone call. If you really want to kick out all of us for trying to save our 2020 deals and 2022, I think that's detrimental to the program and really a negative impact for the state.

I mean, you're going to be getting some developers that probably have never done a deal before and don't know what they're doing. They're not financially strong enough to take these things through, and they just don't understand the complexities that we're going to be facing when we do this.

As far as the Dallas example that was given, I mean, that's already been rebutted just next door in Tarrant County, but it's the same thing in El Paso. Most of our deals are 100 percent low income, too. We don't have a lot of market deals where we're going to get market-rate rents to prop up these deals.

And with all due respect, if somebody has put in an application in 2021 that is in the same place that 2019 and 2020 deals were and didn't somehow account for this hyperinflation, then that's on them. My 2021 deal is fine. I -- we all saw this coming. I accounted for that in my projections.

No one saw this coming when we were putting our 2020 applications together. No one could have imagined that we were going to be facing 17 to 40 percent construction cost increases. So it's not like -- well, we just didn't do our due diligence or something like that. Who could have foreseen the world that we lived in through

2020, with COVID and trying to get people back to work, this crazy lumber crisis?

And finally, the final point I want to make. Marni made reference to the tax credit allocation possibly being cut back if Congress doesn't reallocate the increase of credits that they did in 2018, and she made a comment that it's impossible to predict.

Well, that's true. It's impossible to predict what a governmental body is going to do eventually, but I can tell you, as somebody who employs Washington, D.C. lobbyists, they've given us feedback that this is a pretty easy lift, to get the credit allocation to the states at least back to what it has been since 2018. And in fact, it's a pretty easy lift with the Biden Administration and both houses of Congress being controlled by Democrats, but it's going to increase even more than it was in 2021 on a per-capita basis, plus Texas's census count is going to be much larger than I think was initially projected.

So we're going to have a lot more credits in 2022. I can't say that with absolutely certainty, but the likelihood is, we're going to have a lot more credits in 2022 than we did in 2021. So I'd like you to take a long, hard look at this.

We're open to whatever -- you know, some reasonable penalty situation. I think it's draconian to kick all of us out if we ask for any new credits for next year. The TAAHP proposal, like Bobby stated, is 100 percent penalty. If you wanted to make that 150, you know, put something out there, though, for those of us to consider, without, you know, barring us from the program.

I mean, I have a spotless compliance record, and I've been advocating for decades that we should be getting credit for that in the QAP. We don't, but now you're thinking about -- because of circumstances being beyond our control in the financial arena that somehow I'm going to be kicked out of the program just for trying to save my 2020 deal. That doesn't seem too fair.

I mean, you know, like I said, we're all in this together. We all want to get this housing on the ground as soon as possible. Like Lisa Stephens presented to you, all of us have already made deals in our limited partnership agreements that are going to allow for additional credits.

With all due respect to what Mr. Vasquez is talking about with soft debt and subordinate debt, that is going to require a complete restructuring of our agreements and a whole new round of negotiations with our lender and our investor. We're going to have to start over. It's going to take months.

And like Janine said, it's not like that debt solves this problem. What they're going to do is, lower our senior debt, like my $8.21 million debt example. They're going to take some of that back and say, okay, if you took 200,000 from TDHCA, we're going to lower our permanent debt.

And yeah, I'm going to go from a 5 percent interest rate to a zero percent interest rate, theoretically, from TDHCA, but that's not going to save me a whole lot. That's not going to create -- it might create another $50,000 of debt capacity for me, or $100,000 in debt capacity for a million-dollar problem I'm facing.

So you know, I encourage you to continue with the back-and-forth and to seek solutions. We're open to some type of penalty, not, you know, kick us from the program. Or may I suggest --

MR. BRADEN: Okay.

MR. BOWLING: -- some type of reward program. Yes.

MR. BRADEN: If you can just wrap it up, because you've --

MR. BOWLING: I'm finished. Thank you, Mr. Braden. I think I've made my point. I appreciate you. Thank you.

MR. BRADEN: Thank you.

MR. VASQUEZ: Paul, if I could just clarify, I did not --

MR. BRADEN: Go ahead.

MR. VASQUEZ: -- mean to kick out someone permanently, not, you know, a developer permanently, just from the round in which you are taking future credits and you're pulling them to a past round. Just for that round, I'm saying, skip that round. And not kicking -- proposing kicking, you know, our good developers out of the program, by any means.

MR. BRADEN: Okay. Thank you. No, I understood what you were saying.

And I'll remind the rebuttals -- I mean, we'll give you a little more latitude, but let's still try to keep it no more than three minutes in the responses.

So, next speaker?

MS. DENNIS: Next we have Terri Anderson.

MS. ANDERSON: Good morning. This is Terri Anderson for the Anderson Development and Construction. Thank you all so much for holding this meeting on this very important issue.

I am a developer, former consultant, former TDHCA staff person who's been in the industry since '98, I believe. I do not have a transaction that is impacted by this particular issue, but I definitely believe that it is critically important to salvage developments that are already in existence. These are ready to go with the need of assistance.

As Marni mentioned, trying to give back 2020 credits in 2022, that would definitely impact the $3 million statutory limit. And I don't know if there is another way to allow the 2020 credits to remain without giving them back, given certain statutory deadlines from the IRS, but penalizing future deals in 2020 [sic] to salvage the 2020 developments, I believe, is a really bad idea.

Again, it would not impact me at all. I understand the desire to somehow penalize the developers. But as Bobby mentioned, this is completely outside of the developers' control.

So I would, you know, encourage the Board and this particular Committee to consider putting housing on the ground without penalizing those of us who can successfully do it.

Thank you.

MR. BRADEN: Thank you. Next speaker?

MS. DENNIS: Next, we have Robbye Meyer.

MS. MEYER: This is --

MS. DENNIS: Ms. Meyer?

MR. BRADEN: Yeah.

MS. MEYER: Can you hear me?

MR. BRADEN: Yes, ma'am.

MS. MEYER: Okay. Just give me -- quick -- I just want to give you another example of what's going on.

I have a transaction that was a readiness to proceed. So we are required to close in November of 2020, and so that put us ahead of everybody else. So we've been closed long before everybody else, and so we are -- before all of this, you know, the lumber prices and everything skyrocketed -- so this is completely out of our control, and we didn't -- and if I knew now what I didn't know then, you know, I would have certainly considered actually just returning that, because my development is under water, and I have no choice.

I mean, I'm closed. We're under construction. I've got no way to do anything about it, and now I'm sitting here with my hat in my hand to you, saying, help, just to figure out a way to do it.

The additional debt that the Department has put out there for the additional leveraging funds, I can't do those, because I've already closed. I've already started construction, and those aren't available, so I can't even use that. And if you have a HUD program that you're using, putting additional debt on those properties, as Bobby stated, that's a whole 'nother structure.

You've got to go back and redo your figures. In your LP agreements, doing additional credits is already in your partnership agreement. So it's not as big a chore putting additional credits on a transaction than putting additional debt.

And I get your angst, but there's a heck of a lot more angst on this side when you're closed and you're sitting there, you know, a million dollars underwater. But you know, I understand -- you know, if there's going to be a penalty, you know, I ask you not to penalize us for something we didn't have the control for, and you know, not to take a developer out of, you know, the program for the cycle.

You know, this is what we do on -- you know, this is our livelihood, and if you take us out for one cycle, you think, oh, that's just one cycle. But when this is your livelihood, you're taking your livelihood away for a year, if you'll consider it that way.

And that's my comments. Thank you.

MR. BRADEN: Thank you. I appreciate it. Are there any other rebuttal speakers?

MS. DENNIS: Yes, we have two more. Next, we have Chris Akbari again.

MR. AKBARI: Yes. I wanted to point out -- Leo, you mentioned that can be the solution to resolve this. I want to point out that just continuing to add this debt is not always the solution, because as we do these transactions, the lenders and investors require for us to evaluate whether or not the additional debt can be repaid during a period of time, and they actually do a calculation to determine if it can. And if the debt cannot be repaid or justified as being repaid, which I'm sure a lot of the deals in El Paso, areas with lower rents like the rural areas of Texas, cannot justify that this debt can be repaid.

What they will do is require us to consider that to be a grant, and when it's a grant, it actually counts against us and we have to pay taxes on it. So we don't get the net effect of the full amount of the additional debt that you add to the project.

So I just wanted to make very clear that a lot of times adding more debt, whether or not it be soft debt or whatever because of tax purposes, doesn't necessarily equate to fixing the problem. Especially if you don't have rents that are high enough to cover that additional debt and show that it can be paid off in a reasonable period of time.

And I wanted to just jump over to the point of a penalty. We believe at TAAHP that, you know, a 20 percent, you know, additional punitive against the developer in the 2022 round is a very fair thing. But one of the other things that other TAAHP members had suggested, which I think is a very fair thing, and it hasn't been mentioned on the call, and we've done this before in previous rounds, is have a possible point reduction.

Maybe one or two points that are also deducted from the developer's app so they can still be able to compete, and they don't get knocked out of business for that year. But just a possible solution so that they could be able to continue to keep their business online.

So that's my only comment. Thank you.

MR. BRADEN: Thank you, Chris. Next speaker?

MS. DENNIS: Next, we have Lisa Stephens. Ms. Stephens?

MS. STEPHENS: Hi. Thank you. Hi. Lisa Stephens. So I have to agree with a couple of comments already made, and Chris, you stole my thunder.

I was actually going to mention that some debt has to be treated -- has to pass a true debt test. Not only does it get counted as income if it fails the true debt test, but it becomes a grant, which reduces your tax credit basis. So there are other complications of having subdebt that goes beyond what can be repaid. Not only that, but our LURA runs out well beyond a 15-year period.

So as Janine said, in year 13, if this debt is out there, it's got to be able to be repaid, or it's going to -- we're going to coming back to you for forgiveness at that point. We can't just cash out and sell it as a market-rate property, because our LURA restriction runs for 35, 40, 45 years. So there's not the ability always to re-fi out and pay off that subdebt.

The other comment that I wanted to talk about was just on the penalty side of things. You know, I think it's very telling -- this group never agrees on anything. Typically, if you have a topic, you're going to have five for, and you're going to have five against, and you know, we're going to be split down the middle.

You've had 10 speakers you've heard from today. I don't know how many people are actually signed into this webinar. You've heard one voice against.

This is a problem that is industry-wide. We are also facing it. We did nothing to cause it.

This is not a developer who doesn't know how to manage their deal. It's not that we don't know how to get financing done. It's not that we're not being creative enough. We have run out of solutions, and we need help, as Robbye said.

So I just urge you -- take a look at this in the bigger context of how issues normally come to you and how split this industry typically is, and understand that we are all speaking here today, fully aligned, with the exception of one voice, asking you to provide some assistance.

MR. BRADEN: Thank you. I appreciate your comments.

Next speaker?

MS. DENNIS: We have no one else to speak on this item.

MR. BRADEN: Okay. So a couple of observations.

MR. VASQUEZ: Mr. Braden? I'm sorry. I have a quick question, that I'm wondering -- isn't additional equity another source of financing a project? It's just strange to me that I haven't heard anyone mention finding additional sources of equity.

That's a rhetorical question.

MR. BRADEN: Okay. So I think there's something -- that point reduction sort of addressed something a little bit I was thinking about, where we're taking a certain percentage of the 2022 tax credits, which obviously are all subject to a competitive process, as to who gets 2022 tax credits. But we are now taking a portion of it, in essence allocating them, giving them to people who have existing deals, who qualify, however we figure this out.

But the whole competitive nature of that -- we're splitting up the 2022 tax credits -- is gone for whatever amount we've set aside. Well, if you put a penalty too, at least those same developers would maybe have a little bit of a hindrance in terms of going forward, and those people who didn't take tax credits would have a little bit more of a heads-up, or a little more, you know -- be able to compete competitively at a little better level.

So I think there's something to that. You know, the $1.20 penalty that's being offered -- I think some of you made a comment about, I don't know why you would penalize them? I think, you know, TAAHP itself is offering a penalty, as associated with this.

And again, I don't -- I'm not really for disbarring or saying for sure a developer cannot participate in 2022, if we were to go this way. But I do think, $1.20, $1.50, somewhere along the lines, or some situation, if the -- Marni and other people who work on this technically say the best way to do this is, you give back the 2020 credits and you get new allocation for 2022. That means all of it goes against your $3 million cap.

I mean, really, that would be a bigger penalty. And it seems like that could be something as well, or maybe there are mechanisms by which we can figure out how to only penalize them at $1.20 or at $1.50. But generally, I don't -- you know, I don't know -- and we're getting close, you know, we're at 9:40.

We're only going to go to 11:00. We still have a second item that's sort of open-ended. But I do want to sort of try to give staff some direction.

We're not going to take any action. This is really just to make recommendations to the Board or give some guidance to staff as to how this Committee views, you know -- I don't know if anybody wanted to make any comments from the Committee as to what thoughts are.

MR. ECCLES: Chairman Braden, just before you move into anything that might look like a vote, I have two positions that have been registered for public comment.

One is Roger Canales with BETCO Housing Lab -- has registered in favor of the recommendation of this item, as well as Mr. Adrian Iglesias has registered in favor.

Just need to get that out of the way as public comment has come to a close.

MR. BRADEN: And actually, thank you, Beau. But I appreciate it.

And Leo, your rhetorical question has raised two people who want to respond to your rhetorical question.

MR. VASQUEZ: Missing the whole point of a rhetorical question.

MR. BRADEN: Well, you throw that out there. You don't expect this community just to be quiet about that, right?

I do think there's something to be said, that all the developers, except for perhaps one, seem to be in agreement that something needs to be done. And there are a lot of -- we all know these developers are incredibly creative, that they'd figure out a way to do a deal and make money and still do their projects.

The fact that they're all clamoring, you know -- maybe this is just another way to do a deal, but there might be something to the fact that they're all clamoring for this. Do we want to discuss more on Board? Do you want to hear from the two people who want to respond directly to the question?

MR. VASQUEZ: You're the Chairman of this Committee. You --

MR. BRADEN: Okay. Why don't we go ahead and [audio interference] two remaining speakers? Let's just not make it too long, because we do still have a second agenda item that will take some discussion.

So Nancy or Nathan, if you could queue them up?

MR. DARUS: Yeah. This is Nathan. First is going to be Bobby Bowling. And then Beau, we do need you for the purposes of the court reporter, since you are reading responses in, to identify yourself before you read those responses in.

MR. BRADEN: Okay. Can we move with Bobby Bowling in the meantime?

MS. DENNIS: We're looking to unmute him.

MR. BOWLING: Okay. Can you hear me?

MS. DENNIS: Yes.

MR. BOWLING: Yeah. I just -- real briefly, Mr. Chair. You know, like you've acknowledged, we're all trying the best to come up with creative solutions. The equity question that you had, Mr. Vasquez -- structurally, that just does not work in a tax credit deal.

What we're doing is, we're forming limited partnerships wherein we're selling 99.9 percent interest of that limited partnership to a tax credit equity investor, in which that agreement -- they get 99.99 percent of the tax credit and lost benefits from this. There's just no way to restructure just for some Texas deal these boiler-plate, nationwide agreements to somehow allow for some other equity partner that wouldn't also receive commensurate tax credit benefits and lost benefits.

It just structurally doesn't work. I mean, it's not ever going to be an option for us to just come in with our equity. I mean, you know, there's been times on deals where I have in a crisis, in 2008, bought my own credits in my own deal, but I bought them, you know, at a slightly higher rate than what was in the marketplace, because it made sense for me.

Our problem now is not the equity price. The equity price is really good historically right now. It's not like we're having a problem selling equity. That was our problem in '08 and '09.

So I just -- you know, I just wanted to give you some guidance that, believe me, if there was an easier solution out there -- it's not like there's something we haven't thought of, collectively, as a group.

So --

MR. VASQUEZ: Bobby, I definitely appreciate that. Let me ask you a question. What have TAAHP members done or just the industry members done to approach local, regional housing authorities to see about them kicking in some more funding?

I know this doesn't help in the rural areas, where they don't have big ones, I mean, is that -- have you all had conversations with those types of entities?

MR. BOWLING: So I mean, I live in my world in El Paso, Mr. Vasquez. I don't do -- I'm not statewide. I can only tell you that, in El Paso, with our Community Development Department, they're facing the same problem with deals they awarded with their HOME funds, and their Housing Trust Funds and their Community Development Block Grant programs.

Mostly, in El Paso, they're focused on funding nonprofit deals that are, in a lot of cases, primarily focused on ending homelessness and addressing homelessness needs. So they're facing the same problems that we're facing with our 9 percent credits. They're completely blown up with their budgets.

So like, to even have that discussion is almost, you know, from my perspective as a community member of El Paso, almost offensive to them. Like, they have their own programs that they're running.

They've traditionally never subsidized 9 percent tax credit deals. They traditionally award a whole realm of other activities that are facing the same thing that we're facing. So for me to go over there and even have that discussion of -- hey, I have a 9 -- I have a $21 million 9 percent tax credit deal that's short on funding.

They're going, yeah, well, we have, you know, three homeless deals that are $2 million each, and they're 50 percent over budget. We don't -- you know, so it's not even an option in my community. Now, I have heard from other developers, some of the larger cities, some of the larger metro areas.

They're much more involved with the tax credit program in some of those communities. And maybe somebody else can speak to that, but you know, like I said, I'm just giving you my personal testimony in my world. It's not an option. I don't have another source of funds for my deals, other than additional credits.

MR. VASQUEZ: Sure. Right. I understand. Thanks.

MR. BRADEN: Thank you, Bobby. And do we have one more speaker?

MS. DENNIS: Yes. Next, we have Janine Sisak. We're looking to unmute her.

Ms. Sisak, you're self-muted.

MS. SISAK: Hi. I'll keep my comments brief. I wanted to speak to the equity point.

You know, Bobby covered it. But there's no way we can layer additional equity on these deals, because there's no way to return -- to give a return on investment. The only other equity we can put into these deals is a developer writing a huge check and then both the agency and our investor considers that more deferred fee, and there's only so much cash flow to pay deferred fee. And so that's a non-starter.

Two more comments, and then we can move on. I agree that we should move on. You know, Chris mentioned point penalties. I would much prefer a credit cap penalty than a point penalty. I think most other people would agree.

I mean, there are just some regions where a point -- you know, losing a point bars you from participating in the program. And to Robbye's earlier point, you know, this is our livelihood. We plan. You know, everybody on this call has planned their 2022 apps already.

You know, we all have pipelines. We do lots of joint venture deals with other developers who are relying on us to be competitive. They pick us. They pick us to partner with, to be competitive.

So to take us out of our round is a non-starter, in my opinion, but I would definitely be open to TAAHP's proposal of the penalty. Devil's in the details in terms of the force majeure return of credits, but we can talk about that stuff later.

But I'd like to suggest one thing for you guys to think about, and then we can move on to the QAP. You know, if we can talk and have a really good, productive talk about the National Housing Trust Fund and making those funds forgivable, then those 10 or 12 deals can kind of move forward. And then we see who's left, you know, who can't take additional debt for whatever reason.

And maybe the $5 million ask of TAAHP to borrow from 2022 -- maybe it's not $5 million. Maybe it's significantly less than that. And we just handle it on a case-by-case basis.

I hope the one thing that you guys are hearing today is, every region is different. Every city is different. Every deal is structured differently.

Every deal is in a different part of their development timeline. Some have closed. Some haven't closed. Some are in construction, so on and forth.

So you know, I feel like you guys aren't wanting to do something blanket, and that's okay, but let's look at the individual deals and use all the tools in the toolkit and see what we can do.

Last point is that -- I forgot it. So we're out of time. So I appreciate everybody's concerns. If I think of something brilliant, I'll put it in the chat box.

MR. BRADEN: Thank you. All right. So we are at 9:50, and we only can go to 11:00.

So what's the feeling of the Committee as to how they want to move this forward? I mean, Janine, mostly she talked about -- well, should we regroup and decide how big a problem is it? How does that work in terms of timing, with input on the QAP? Could we really just -- I mean, I think staff is looking for some direction.

And Bobby or Marni?

MR. WILKINSON: I think Marni has a short presentation, and you know, TAAHP has kind of a prepared list of items that they would --

MR. BRADEN: That's for Agenda Item 2. Right?

MR. WILKINSON: Oh, yes. I'm sorry. Was the question --

MR. BRADEN: Well, let's finish the discussion on this agenda item.

So Leo, Brandon, what do you want? What kind of motion, direction do you want to do? Or what are your thoughts on this whole idea? Would you like to come back around?

MR. BATCH: I mean, you know, I'm personally pretty sympathetic for the developers. I mean, I understand that it's -- there can be certainly some unintended impacts in the decisions that we make in terms of how we handle this.

You know, I'm generally not the kind of person that likes to think about things that haven't happened yet. I think that it's important that we try to address problems that we currently have, and you know, if there are unintended impacts that we can see down the road, then we can certainly address those too.

I'm personally not familiar with happened last time. Was it 2008? Is that the last time we did something like this? Did I hear that correctly?

MS. HOLLOWAY: 2006.

MR. BATCH: You know, and I don't know what the impacts of that were. Marni, can you kind of highlight what we saw last time we did this?

MS. HOLLOWAY: So I was not in the Multifamily Division when that happened. What I do know is that now we're dealing with a group of developments that had, like, 2006 credits and 2008 credits, and the impact that that has on some of our underserved area measurements, high-threshold items, and that kind of thing.

And I know, just anecdotally, that some members of the development community have said that it did not work out well, and there were issues later on. And I -- you know, if we were to move forward with proposing this use of the '22 credits, I would be reaching out to the development community and looking for their input on very specifically what didn't work, so that we can hopefully use that for this next round, if this is something that's [audio cuts out].

MR. BATCH: So I mean, like I said, I -- if we have what seems like pretty -- uniformly with the development community, if they need help, if they're trying to address some shortfalls due to something that completely was out of their hands, and I -- you know, I think it should be noted, in one of the comments -- I mean, nobody saw that, you know, the disaster that 2020 was. Nobody assumed anything like that was ever going to happen.

So you know, Mr. Chairman, I'm sympathetic. I think that if there's assistance that we can provide, we should provide it and deal with whatever the consequences of that are as we move forward, but certainly, be sympathetic.

That's just my general thoughts.

MR. BRADEN: Thanks, Brandon. And before I let Leo speak, as I'm sure he has a few things to say, I mean, I'll say that -- I mean, I generally agree with Brandon. I am more sympathetic.

I am not -- I'm not as sympathetic with the whole thing that happened in 2006 in terms of taking credits from the future. I think this is a little bit of a nuanced difference. So the devil is in the details.

And I would be supportive of, you know, giving staff direction to work up, you know, how they think it would work, and then, you know, bring that to the Board at the appropriate time. Again, at the Board level, if staff comes back and says that there are all these unintended consequences, there are all these complications, it really doesn't work, there are more problems, then at the end of the day, they recommend we shouldn't do this, you know, I'm not wedded to doing it.

I do think it seems like it's worth exploring some more. We have a huge segment of the developer community that's asking for it, and as they've all pointed out, it's not anything anybody foresaw. They tried to fix it on their own.

They indicate they all did, and they still have these problems. You know, maybe debt does take care of some of it, maybe not all of it. But again, if we give staff appropriate direction, it seems like they could start working through those issues.

And I'll stop there and let Leo make his comments.

MR. VASQUEZ: No. Again, I think I've already sort of stated my devil's advocate position, and we all recognize that there is -- there are some great financial challenges to these projects. You know, and there's -- and I think some of these cost structures are impacted due to the, you know, federal activity that is causing labor to be more scarce.

And I hope that everyone on this call is also talking to their Congressional representatives to get that chance. I know we are doing some moves in Texas where, you know, Governor Abbott is taking positions to get people back to work.

There were a couple of comments that were made in this process about -- rents are going to -- are keeping up with -- at least in the urban areas, keeping up with some of the costs. But really, I mean, that's all well and good, but we -- I don't think we want rents to be increasing for affordable housing. You know, that's -- I think we all need to avoid that as a solution, because it kind of defeats the purpose of what we're doing.

So again, although I've expressed my skepticism, and I remain skeptical of the -- taking future credits, bringing them back, I think my concept of -- hey, if you really want these -- you know, it's -- you're going to have to make -- decide where you want to make the sacrifice: on what you have now, or you know, what you might have in the future.

But I would just recommend that we send this back to staff to come up with a model, how this could possibly really work. I know they've already been working on that, those concepts, already.

You know, where do we stand? Statutory caps on how many credits you can get and those types of things. You know, what structurally would we have to address?

And I'm sure our counsel, Mr. Eccles, would have to look at some of those statutory versus rules, and federal requirements. And again, those are all the ripple effects and unintended consequences that I'm concerned about.

So you know, again, let's -- I don't think the consensus of this Committee is saying, no, no how, no way. But let's have Bobby and Marni and the team look at how it would look and try to put as many -- you know, more meat on the bone, so we really understand what happens where.

And look, I don't think 1.2, or you know, 20 percent is enough of a -- are you really serious about this penalty? Perhaps completely having someone skip to that next session or next cycle is perhaps too extreme, although I think it should still be considered.

So again, I think we got some great input. We understand where the development community is coming from. Let's have staff look and see, help explain to us in detail how this would actually work if we had to implement it.

So those are my comments.

MR. BRADEN: Okay. So to me, it sort of sounds like there is consensus, and maybe we could view this all as sort of a motion to direct staff to attempt to incorporate some type of tax credit use of 2022 tax credits program. Or I guess maybe we're not really saying, go ahead and do it. We're asking staff or directing staff to analyze it further and come back to us at the September 2 meeting with a recommendation.

MS. HOLLOWAY: So technically, in order to meet our statutory requirements around, you know -- present a draft to the Board and having a comment period and then having a final QAP that goes to the Governor, and having the Governor approve that.

What we would be doing is drafting the QAP language and drafting that separate subsection for this process that I described earlier on -- so that, you know, what we would bring to the Board in -- at the early September meeting is -- here it is. You know, this is our proposal.

We don't have time to do something a little softer. And you know, it would have to be, this is it, in September.

MR. BRADEN: Well, I would be supportive of you going ahead and doing that. I mean, I'd be supportive of us directing staff to prepare what you can make work with the development community, within parameters of no more than 5 million, and maybe less, and within the parameter of at least a 1.2 penalty. But I think it would possibly -- I guess Leo wants at least to maybe skip around penalty.

I think 1.2 sounds a little low, so maybe we ought to at least say, 1.5. That was offered up, and it was only offered up by one individual. I realize it wasn't offered up by TAAHP.

MS. HOLLOWAY: It's actually -- the 1.5 is being used in a number of states.

MR. BRADEN: Okay. Let's say 1.5. Let's say, not to exceed 5 million, but you know, if we look at the -- if you can figure out it's a lower amount, that's okay.

And I would propose that we direct staff to go ahead and draft the language with the understanding that just draft language in the QAP, and the Board doesn't have to accept it, and can just choose not to.

MS. HOLLOWAY: Correct.

MR. BRADEN: Or alternatively is, if once you get into it, if Beau and other people say, there are legal problems, or you see there are these huge problems, if -- when you come back at the September 2 meeting with the QAP and there's not this provision there, just to explain to us why it doesn't work. Is that acceptable?

MS. HOLLOWAY: Certainly.

MR. BRADEN: Leo and Brandon, is that acceptable in terms of some direction to staff?

MR. VASQUEZ: Okay.

MR. BATCH: I think that sounds great.

MR. BRADEN: Okay. Is that formal enough in terms of which direction -- I mean, we're just a Committee. We don't have to really take action.

MR. WILKINSON: I'm good with it. Beau, do you think we need a motion and --

MR. ECCLES: No.

MR. WILKINSON: I think that's probably good enough.

MR. BRADEN: Okay. All right. So we'll see what magic you all come up with on September 2. Let's go to the next item, because we only have an hour.

MS. HOLLOWAY: It most certainly will be magical.

MR. BRADEN: The second item is Presentation, discussion, and possible action to make recommendations to the Governing Board on the 2022 Housing Tax Credit Program QAP, regarding the proposed repeal, and proposed new, 10 TAC Chapter 11 or related Chapters in Title 10, Part 1 impacting 9 percent awards.

Marni?

MS. HOLLOWAY: Thank you. I really only have two items to discuss. I've already presented or discussed these items with TAAHP membership at my QAP panel at their annual conference, and they have requested in their letter.

We get a letter from TAAHP every year for their requested changes regarding changes to the proximity to jobs scoring item. So it's actually proximity to job areas, and we have urban core and then we have this jobs measurement.

I'm proposing that we pull out urban core altogether. At this point, it's been diluted down to, you know, smaller and smaller cities in response to requests from the development community. And so what happens is we're not necessarily incentivizing development close to those vibrant, downtown areas that have lots of jobs and have lots of services and that kind of thing.

So I'm proposing that we pull it out, but leave in the proximity to job areas, which serves as a good substitute. TAAHP has requested that the radius on that jobs area be increased. I think that that likely is an appropriate thing to look at, at this point.

We've had this scoring item for several years and we've seen the results of it, but I also think that that scoring item needs to be differentiated for the metropolitan areas and larger counties, versus smaller cities and smaller counties. And so we're looking at those kinds of changes, and I'm sure you'll hear lots of comments about that.

The other change that staff is recommending actually comes out of legislation from the last session that was not successful. But adding to it our sponsor characteristic scoring item, the potential for national nonprofits or statewide nonprofits to access those sponsor characteristic points if they can prove that more experience and provide more supportive services for residents. And this is something that I've discussed with several organizations.

We had a small focus group of folks who were really interested in that item and came to an agreement about that one. Otherwise, that sponsor characteristics item is remaining as it is now.

TAAHP also has requested that schools come out of the readiness to proceed, or that schools come out -- or just that schools come out of neighborhood -- I'm reading two things in their letter. And I'm sure that you'll hear some comments about that.

And they've requested the readiness to proceed scoring item comes out. I'm sure you're aware that that was something that was added by the Governor's Office a couple of years ago, but due to the pandemic, we had suspended it for last year. We also had suspended requiring mitigation for schools last year, and I would anticipate that we will do that again this year.

With that, I'm happy to take any questions, and I recommend that the Board -- the Committee accept public comment.

MR. BRADEN: Thanks, Marni. Does anybody on the Board have any immediate questions?

(No response.)

MR. BRADEN: Hearing none, let's go ahead and go to public comment.

Nathan or Nancy, how many people have signed up to speak on this?

MS. DENNIS: We have six people signed up to speak.

MR. BRADEN: Okay. That sounds manageable. Let's start.

MS. DENNIS: First, we have Nathan Kelley. Mr. Kelley, you are self-muted.

MR. KELLEY: Hi. Can you hear me? Can you hear me okay?

MS. DENNIS: Yes, we can hear you.

MR. KELLEY: Perfect. Board, thank you so much, again, for the opportunity to speak on this specific item. I want to thank Marni for participating in TAAHP's conference a few weeks back and sharing some of her forthcoming thoughts on planned changes for the 2022 QAP.

Again, my name's Nathan Kelley with Blazer. I also serve as TAAHP's Chair of our QAP committee. It should be outlined, the three primary components of the letter that we submitted to you all.

With respect to the proximity to jobs, we do support staff's recommendation to remove the urban core component, alongside an increase or an expansion of the radius related to the jobs-oriented criteria.

On the schools topic, you know, we understand that you and the staff has some direction from the Governor's Office. Or above that -- you know, it's going to, you know, keep that decision, and not entirely in their hands. And so we're respectful of that, but do believe, you know, obviously, we've seen through this pandemic that schools have a significant impact on the outcomes of a child's performance, not only at a young age, but beyond.

And so what we are in this business to do is to provide high-quality, safe and affordable housing, irrespective of the performance of that specific public school. And so we ask, you know, that what was in practice in this last round remain, and with respect to school scoring, and potentially, the elimination of our inability to mitigate for even those poorest-performing schools.

And then with respect to readiness to proceed, also understand that the Governor's Office is going to have to play a role in the outright removal. But considering all of the discussions that were had on Agenda Item 1, knowing that the circumstances are going to be prohibitive for us to maintain or to achieve and hit that November-type closing deadline for [audio interference] also be postponed, as Marni indicated was probable.

So I'll stop there and address any --

MR. BRADEN: Does anybody have any questions for Mr. Kelley?

(No response.)

MR. BRADEN: Thank you, Mr. Kelley.

Next speaker?

MS. DENNIS: Next, we have Rick Deyoe, and you are self-muted, Mr. Deyoe. Mr. Deyoe, you are self-muted.

MR. DEYOE: Hello. Can you hear me?

MS. DENNIS: Yes.

MR. DEYOE: Yeah. I'm fine with what the TAAHP comments were on this particular item.

MR. BRADEN: All right.

MR. DEYOE: So yeah. I'm fine.

MR. BRADEN: Thank you, Mr. Deyoe. I appreciate it.

Next speaker?

MS. DENNIS: Next, we have Robbye Meyer. We're looking to unmute her. Ms. Meyer, you should be unmuted.

MS. MEYER: This is Robbye Meyer. I'm sorry. I'm good with TAAHP's comments as well.

MR. BRADEN: Thank you --

MS. MEYER: Thank you.

MR. BRADEN: -- Ms. Meyer.

Next speaker?

MS. DENNIS: Next, we have Sallie Burchett.

MS. BURCHETT: Good morning. This is Sallie. Can y'all hear me?

MR. BRADEN: We can.

MS. BURCHETT: Great. Hi. I'm here to express my support for keeping the jobs criteria exactly the way it is, and I'll tell you why real quickly. My background is city planner. I've worked for over two dozen cities across the state recommending land use policies.

And the first thing we do when we look for sites is, we think, would we want to live there? And you know, as a resident and our clients, we want to set them up for success, for a great place to live, learn, work and play. And those are the tenants that planners look for.

And just real quick. The way the jobs works -- we -- the census gives us -- census on the map gives us the number of primary jobs available, and these are all income bands. And so they're not all available for our clients, and then on top of that, those are jobs, not job openings.

So it's a good measure and a way to find jobs, but it's not, you know, as robust as you might think if you were, you know, wanting to live close to where you work. I think that expanding the job radii or the number of jobs dilutes the policy of making it close to where you would work. And so if we want to change the policy, I would think we would look at that closely.

But I -- my opinion is it's doing exactly what it's set out to do. Furthermore, by keeping the radii smaller, it has a positive effect on carbon emissions and helping people with shorter commutes to work.

And then finally, we've already done a colossal amount of work on prepping for next year. And if we want to change the policy and the scoring criteria, I think it would be a great idea to sit down and think about it carefully and look at it for 2023.

Thank you.

MR. BRADEN: And thank you for your comments, Ms. Burchett. Next speaker, please?

MS. DENNIS: Next we have Janna Cormier. Ms. Cormier, you are self-muted. Ms. Janet Cormier?

MS. CORMIER: I did not intend to speak. I support TAAHP's comments.

MS. DENNIS: Thank you. Next, we have Janine Sisak.

MS. SISAK: Okay. Hi. Good morning again. I'll keep my comments really brief. I disagree with Sallie's comment about jobs.

I think that, in particular, in places like Houston, a one-mile radius is so tight that you're seeing a lot of developments go on commercial sites near highways, like, right on access roads and highways. And I do not think this is good housing policy. I'm strongly in support of increasing it to a two-mile radius.

And I would ask the Board respectfully today to give that direction to staff, because we are all out looking for sites and we need to know this aspect of the QAP more than any else. Because it can radically change the competitive landscape, and again, in my opinion, in a very positive way.

I think we'll pick up better real estate and better sites that are more suited to residential development, and we will also benefit from being able to secure less costly sites. These commercial sites are incredibly expensive, and they often require podium parking, which is incredibly expensive, and it's driving up the costs which are, you know, exacerbating these cost problems that we're seeing.

My only other point is cost per square foot. I think you heard enough about that, that it's woefully inadequate, and that it's leaving these deals under-leveraged. We need to increase it radically and we need to look at the per-development cap.

To Ryan's comment earlier, that is really limiting us to smaller developments. Smaller developments don't pencil out as well as larger developments. We need an increase in cost per square foot and an increase on the per-developer cap.

I don't think the per-developer cap is statutory. I think -- I can research it, but I think Bobby has the ability to go up to 2 million per project. So those are by far the two most important things in my opinion.

Thank you.

MR. WILKINSON: So to the per developer cap, 3 million is statutory. The per-development cap of 1.5 million is rules. So y'all could go to 2 million, or theoretically, you could go to 3 million. They could just have one, big project, but -- yeah.

MR. BRADEN: Okay.

MR. WILKINSON: About proximity to jobs, while we're talking -- I wanted to expand that radius, I think it was last cycle, and there was, like, whoa, whoa, whoa, too late. You know, maybe next year.

So I mean, we could keep playing that game forever, because someone doesn't want their site to not be as competitive. I think one mile is pretty tight. Based on the kind of state we live in, we're not, like, an, you know, urban, dense, walkable-community type of state. I'm 36 miles from my job.

Just -- anyway. All right. Go ahead.

MR. BRADEN: I mean, the one mile does seem tight, especially for the bigger cities.

So do we have any other speakers?

MS. DENNIS: Yes. We've actually added a couple, and next, we have Sarah Anderson.

MR. BRADEN: Okay.

MS. DENNIS: Ms. Anderson?

MS. ANDERSON: Good morning. Good morning. My name is Sarah Anderson and I'm representing my consulting firm. That's Anderson Consulting.

I agree with the TAAHP items. The things that I would like to cover are things that we saw happen this last year that I'd like to bring back up and hopefully we can get some direction to fix, so that next year, we'll be a little bit smoother. So I've got three or four items.

Specifically, first, for the revitalization plans. We struggle every year with how the revitalization plans are reviewed, whether or not they're real. You know, we put staff in the weeds having to read hundreds of pages of documentation.

And what I'd like to see is staff propose something that simplifies the CRP scoring items significantly. I think we need to get away from staff making the determination of legitimacy of some of these plans, and instead, rely more on the city affirming.

So I'd like to see something as simple as getting a letter from the city confirming the revitalization area and plan, and have the letter speak to some of the things that we would like to see about maybe having funding and things that they have done in the past and the reasons why and for the revitalization area.

You know, for what we submit for the application, we can take anywhere from five to 10 hours to put these things together, listing every single page that has every single item, and we still end up arguing at the end of the day whether or not it's real or not. And I think that the cities are the ones that we should rely on to confirm whether or not something is legitimate or not.

Second, I'd like to see -- for the RFID process or the challenge process, I'd like to see a couple of things happen this next year. I think that in the past what we've had happen is, when something looks like it's below the line, staff just doesn't review the challenge for the RFID. And what we're seeing happen is a bunch of deals may die in front of them, and all of a sudden, we have a challenge that has not been reviewed, and we're in the last week or two, and it just gets funky and weird.

So I would suggest that all RFIDs be reviewed, instead of just ones that look like they are competitive. I would also say that we've seen something that's happened to us twice -- is that we'd like the RFID list to be posted, and as soon as -- that it's posted, that it be made a Board agenda item for every Board meeting from that time forward.

We've had a couple of times where a report has been made to the Board that RFID decisions have been made, and you know, we can come forward and ask for them to be re-reviewed. What happens is a decision may have been made one direction --

MR. BRADEN: Ms. Anderson --

MS. ANDERSON: -- but the Board -- the Executive Director -- I'll finish up on this -- the Executive Director overturns it, and then we don't have an opportunity to bring it back to you. So just as a process, we'd like that to be where it could anytime be back before the Board.

And then we'd like to see the administrative deficiency process reviewed as well, that we've had a lot of questions this year --

MR. BRADEN: You've exceeded time. You've already exceeded your time.

MS. ANDERSON: Okay.

MR. BRADEN: Thank you.

MS. ANDERSON: Okay. Thank you.

MR. BRADEN: Again, as you are making comments, please be cognizant of the clock and your time. We'll give you a little latitude, but we're trying to keep to three minutes.

Next speaker, please?

MS. DENNIS: Next, we have Audrey Martin. Ms. Martin?

MS. MARTIN: Hi, everyone. This is Audrey Martin with Purple Martin Real Estate. [Audio cuts out] comments -- I'm sorry. Can you all hear me?

MR. BRADEN: Yes, we can.

MR. WILKINSON: You cut out a little.

MS. MARTIN: Oh, I'm sorry. I wanted to support TAAHP's comments. I wanted to also indicate my support for everything Janine Sisak mentioned related to jobs, increasing the radius to get higher quality, more cost-effective sites that still achieve the policy objective, to be really close to job centers.

And then I probably don't need to spend much time on this, because we had two hours of public comment about it, but just another comment about the development cost per foot. I agree with Janine. I think it's really important that we hit the reset button here and get a little closer to reality.

Given all the struggles that we're trying to fix for past deals now, let's make sure we don't have those problems, moving forward. And I think that TDHCA has a lot of good, current data on actual deal costs, because asset management collects construction status reports that include actual construction contracts for closed deals.

So I think we have a lot of really good, real-time information in the Department's hands that hopefully could be evaluated without too much trouble so we could get what -- you know, what's the realistic number these days for cost of deals. And then we can decide, you know, what kind of discount TDHCA wants to impose in the scoring item to spread the credits around to some extent, but still not compromise feasibility.

So those are my comments. Thank you so much.

MR. BRADEN: Thank you. Next speaker?

MS. DENNIS: Next, we have Alyssa Carpenter. Ms. Carpenter, you are self-muted.

MS. CARPENTER: Yes. Can you hear me?

MR. BRADEN: Yes.

MS. CARPENTER: Okay. Great. Thank you very much. My name is Alyssa Carpenter, and I am a consultant speaking on behalf of myself.

My first comment is regarding schools, and I agree that no mitigation should be required for 2022 due to the continuing lack of TEA ratings due to COVID. I would also like to propose that the ineligibility of sites in school attendance zones with DNI or F ratings be suspended for 2022.

TEA did not have ratings for 2020, and they will not have ratings for 2021. I think Marni indicated that mitigation would probably not be required for 2022.

But my additional request for 2022 is to also not declare sites ineligible because of these older school ratings. It does not seem appropriate to make sites and schools ineligible based on data that is now several years old.

Also, there was an appeal about an application that did not disclose schools, a pre-application, and I think disclosure should also not be required for schools in 2022. So that would be a change from the 2011.

Additionally, I would also question whether there should be disclosure mitigation for crime under the 2022 QAP. I think that with COVID there are going to be some differences with crime occurrences in areas, and patterns could have changed. And I'm not sure that recent data will be representative of true long-term conditions that would impact a new tax credit deal.

And finally, I would propose that urban core be kept in the QAP as an alternative to jobs. There are areas within the urban core which might be in close proximity to downtown jobs, but they might not hit the top jobs points on the census mapping website because it is a more residential area.

So in some cases, taking out urban core completely might remove areas that would be desirable for development and close to downtown. I know that this two-mile radius has been proposed, and I'm not opposed to that, but we don't really know the impact of a two-mile radius on some of the areas that would have been considered prime for development in this last QAP. And I ask that it remain in 2022's QAP.

Those are my comments, and thank you very much.

MR. BRADEN: Thank you, Ms. Carpenter.

Next speaker?

MR. WILKINSON: Chairman Braden, I -- may I have a moment? I misspoke earlier when I said it's statutory 3 million per developer, but there wasn't a per-development statutory. It's 2 million per development in statute, but the Department, years ago, went ahead and lowered it in rule to 1.5 million per deal.

So you could go up to 2 million per deal.

MR. BRADEN: Okay. Thank you. That's helpful.

Do we have any -- do we have an additional speaker?

MS. DENNIS: Yes. We have three more. Donna Rickenbacker is next.

MR. BRADEN: Okay.

MS. RICKENBACKER: Good morning. This is Donna Rickenbacker. I would like to certainly support TAAHP's comments, and I want to add to Sarah's list of comments that are in reaction to this last cycle, namely, occupied developments.

We had so much fun with this rule this cycle. I would like to bring some clarity in this rule and what types of development the rule applies to, which I feel like the rule does. But if we need to bring clarity to it, this is what I'm suggesting: that it applies to rehabilitation of existing projects and/or those applicants that are seeking direct loan funds, irrespective as to whether or not the occupied improvements are residential or commercial.

So that really is my limited comment. And again, I do support Sarah's list. I know she couldn't complete that list, and I hope she will submit it in writing, because I think all of her comments and what she was going to speak to, although she ran out of time, is an additional comment that needs to be incorporated into our rule changes.

So thank you very much.

MR. BRADEN: Thank you, Donna. And I add to that -- if you run out of time, and you're not able, please send those additional comments to staff, so they can consider it as they're working on this.

Next speaker?

MS. DENNIS: Next, we have Robbye Meyer.

MS. MEYER: Thank you. This is Robbye Meyer with Arx Advantage, speaking on behalf of my company. I wasn't going to speak, but -- and just to support TAAHP's comments, but Sarah Anderson brought up, you know, a good point on the RFID process.

When we first put this, you know, in process back in -- I do believe it was 2004 -- this process was brought out to bring things to the attention of staff that wouldn't have been able -- that staff would not have been able to found out on their own. And now it's gotten into a whole realm of -- let's just pick apart our competitors.

I'd really like to see this process go back to what it was originally intended, and that is to bring things to staff's attention that is not in the normal realm of their review process. And that way, hopefully, we will get back to a review of the application, and staff can do their job, and we can bring about points that they would not normally find out in their review.

That's what I would like to get back to, so that this is not such a cumbersome process for both applicants and staff, and we're not picking each other apart, you know, just to be picking each other apart. So I'd like to look at that again, and I also, you know, echo the comments about cost per square foot. That really does need to be re-looked at.

And thank you.

MR. BRADEN: Thank you.

Next speaker?

MS. DENNIS: Next, we have Kathryn Saar. You are self-muted, Ms. Saar.

MS. SAAR: Good morning. Kathryn Saar, Brownstone Group. I just wanted to second Janine's comments related to jobs and then also Sarah Anderson's comments related to deferring to local municipals on the validity of the CRP.

Thank you.

MR. BRADEN: Thank you. Next speaker?

MS. DENNIS: Mr. Braden, we have no more speakers.

MR. BRADEN: Thank you. All right. I'll turn it over to the Board now, to make additional comments or notations or any kind of comments with respect to the QAP generally.

MR. BATCH: I don't have any comments, Mr.

Chairman.

MR. BRADEN: Thank you, Brandon.

MR. VASQUEZ: I might have a comment. And actually, I definitely appreciate everyone's input on this agenda item. Just in responding to several of the commenters, you know, I have always -- I think I understand the intent behind urban core and proximity to jobs and such, but I think it's so difficult to apply across the board.

I'm definitely in favor of expanding the radius on the proximity, and as one of the speakers said, you know, there's a difference between jobs and jobs available. You know, it's -- in Houston, or I guess, especially in the urban areas, the available land within such type of radius is going to make some deals very difficult.

So again, I think that for the most part, the comments are sort of wanting to expand it, and I don't have any problem with that. We definitely need to look at the cost per square foot, just the realities of that, and update to reflect the current conditions, I think, is a reasonable, you know, pragmatic step to take.

I'd be interested to hear staff's thoughts, not necessarily at this very moment, but -- about going up to the $2 million per development. I don't see why we have to necessarily limit it to the 1.5 anymore. Again, unless there's some reason -- reasoning against it, I'd be amenable to raising that to the statutory cap.

I also agree on the CRP, you know, the evaluation of those plans. You know, there's -- we've got to recognize there's huge differences between what a city of Houston versus -- I'm not picking on small -- you know, gun-barrel cities', you know, redevelopment plans, you know, probably aren't as detailed as, you know, the city of Houston or city of Dallas.

And you know, it's almost in that category of gotcha, again, that I'm an advocate of us avoiding. So giving staff more discretion and flexibility on approving and accepting those kinds of plans, I'm totally in favor of as well.

I agree -- who is that said -- I think it was Robbye -- we have to change the RFAD from just tearing someone else to, you know, truly something that's out of the ordinary, that needs to be brought up.

MS. HOLLOWAY: So yeah. If I may, I -- you know, we have a statutory prohibition on applicants appealing other applications.

MR. VASQUEZ: Uh-huh.

MS. HOLLOWAY: And the RFID has become sort of a back-door way to do that. I think if the Board or if this group is supportive, that staff could propose language that tightens that up quite a bit. Because that's something that we're seeing too, and it means that we're spending a lot of time on things that we already know about or we've already decided, and -- yeah. That's my comment.

MR. VASQUEZ: Yeah, right. Absolutely. I agree with you, Marni.

And I don't know if -- between Bobby and Beau and Marni, if there's a way -- and I know some of this is statutory, but wherever possible, there's got to be a way that we can incorporate in our rules, and just kind of standard operating procedure, items that are truly not material that can just be correcting a mistake.

Someone forgot to check a box or cross a T or dot an I, that should be able to get resolved, and that staff, with the authority to accept a -- what would -- an immaterial error or something that -- again, I just think that there's things that end up getting escalated, that really didn't need to be escalated. And I don't know how building that discretion, that flexibility in the rules -- and again, that's that whole -- get rid of the -- those gotcha situations.

And then one item that I haven't heard anyone speak about, and I'd be interested in getting more comments, and perhaps industry can give us some more written comments on this, but I'm concerned that we don't have enough emphasis on supportive housing. And again, I don't know if there's a way to get more points in the evaluation process to, you know, not just provide a roof and four walls, but actually figure out how to improve the prospects of people in affordable housing, with the support of programs to help get them out of affordable housing eventually.

So I don't know if -- I mean, this may be a more longer term -- but I'd like to see if there's some way that we can get the, I don't know, scoring system or something where supportive housing is scored higher, or we have a way to get that more incorporated.

And then finally, on the schools, I think I agree with the commenters that let's leave it in the rules, how we have, about needing mitigation and everything. But you know, we're going to -- I think as a Board, I'd recommend we'd waive those criteria again, because there really, truly isn't any updated scoring system available.

That said, whenever there is a district or a school where the numbers have been very poor, and you know, they need improvements or they have F's, I still want to hear that presentation from the school districts and the city council and the consultants and the principals that -- how they are taking steps to improve those schools. Because I'm sure they all are making steps, but you know, let's make sure we've heard that.

So I think that kind of summarizes most of my comments.

MR. BRADEN: Thanks, Leo. A couple things, and I'll echo some of the things that Leo said and other people said. I mean, I think we all agree on the construction costs. We've heard the issue, and it needs to be addressed.

I also agree on the concept of -- why not go ahead and go up to the $2 million per development versus -- you know, versus the $3 million per developer. And you know, maybe Bobby or other people -- there maybe are reasons we stayed at 1.5, but I'd be okay with going to 2 million, statutory, as well, considering that.

I'm fine with the two-mile rule. I think we talked about that, so I'm supportive of those types of changes as well.

So you know, Bobby or Marni, if you have any additional comments you want to make?

MR. WILKINSON: I would say, 1.5 -- I believe the logic was -- well, then you could do two, up to a $3 million cap, and so -- but I mean, people can make their own choices on whether they want to apply for two 1.5 deals or a two and a one, or whatnot. It will have fewer developments funded in a round, but the same number or more of units.

Marni, is that kind of accurate?

MS. HOLLOWAY: Difficult to say. You know, the only $2 million developments that we've seen are in the at-risk set-aside, where that 2 million is allowed. Yeah.

Unless we put some limitation on -- this is the only way you get that 2 million, is if you're providing more units or something, you know, that would be one approach, or doing a credits per unit that can get up to 2 million, kind of, measurement. And that's used in some states, also.

MR. BRADEN: And then I'd be careful with that, because I would think what we're doing is, we're recognizing construction costs are higher, right? So --

MS. HOLLOWAY: Uh-huh.

MR. BRADEN: -- I don't know if you say, well, we'll go to 2 million, but instead of doing 80 to 100 units, you have to do 200 units. Well, I don't know. I mean --

MS. HOLLOWAY: It's a double-edged sword.

MR. BRADEN: Yeah. I think my general feeling is, we all know construction costs have gone higher, so let's take a look at what we're -- the cost per square foot and see if we can adjust that number to more market reasonable numbers. And in doing that, I'd be okay with just taking the 1.5 to two. If that's huge, negative effects, we can talk about that.

The other thing I want to mention, and Marni, I was glad to hear you make comments that you thought there was a way to help this. I agree about the RFID process. I think everybody who joins this Board -- I know Leo and I and other Board members who joined at the time we do, we're almost shocked by the whole process.

You know, it's like this highly competitive process where competitors can attack each other, and I understand that, originally -- I mean, there's limitations on staff. So the whole idea that somebody might be a bad actor out there or missing big things, and staff really is not equipped to check those out, that sort of makes sense.

But what this has evolved to is really shocking at certain levels, and the back way they get around to object to other people's applications and all that stuff going on, I mean, when I hear those comments making that, I wholeheartedly agree with that. But I struggle with this. How can you easily fix that?

And so, Marni, when you say, well, there might be a few things we can do to strengthen some language, I find that very encouraging, because I would encourage to do what we can to do that.

MS. HOLLOWAY: Okay. We'll take a stab at it.

MR. BRADEN: Brandon, do you have anything you want to add?

MR. BATCH: I'm good, Mr. Chairman. Thank you.

MR. BRADEN: Okay. If nobody has any other comments, I'll go ahead and entertain a motion for adjournment.

MR. VASQUEZ: So moved.

MR. BATCH: So moved. And seconded.

MR. BRADEN: Those in favor, aye?

(A chorus of ayes.)

MR. BRADEN: All right. We stand adjourned. Thank you, everyone, and thank you, everyone, for participating. I think this was helpful.

(Whereupon, at 10:41 a.m., the meeting was adjourned.)

C E R T I F I C A T E

MEETING OF: TDHCA Rules Committee

LOCATION: via telephone and web link

DATE: August 6, 2021

I do hereby certify that the foregoing pages, numbers 1 through 110, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Latrice Porter before the Texas Department of Housing and Community Affairs.

DATE: August 9, 2021

(Transcriber)

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