

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

John H. Reagan Building
Room JHR 140
1400 Congress Avenue
Austin, Texas 78701

October 14, 2021
9:11 a.m.

MEMBERS:

LEO VASQUEZ, III, Chair
PAUL A. BRADEN, Vice Chair
BRANDON BATCH, Member (absent)
KENNY MARCHANT, Member
AJAY THOMAS, Member
SHARON THOMASON, Member (absent)

BOBBY WILKINSON, Executive Director

ON THE RECORD REPORTING
(512) 450-0342

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
CALL TO ORDER	7
ROLL CALL	
CERTIFICATION OF QUORUM	
CONSENT AGENDA	
ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:	8
EXECUTIVE	
a) Presentation, discussion, and possible action on Board meeting minutes summary for September 2, 2021	
ASSET MANAGEMENT	
b) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement	
01144 Autumn Oaks of Corinth Corinth	
02008 Prairie Commons Dallas	
03066 Anson Park Abilene	
03190 Westview Ranch Pearsall	
04241 Anson Park II Abilene	
98174 Lodge at Merrilktown Austin	
99005 Homes of Parker Commons Fort Worth	
99059 The Retreat at Texas City Texas City	
c) Presentation, discussion, and possible action regarding a Material Amendment to the Land Use Restriction Agreement	
534339 Southwest Village Apartments Marble Falls	
d) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application	
20192 Arbor Park Austin	
20205 Ella Grand Houston	
20451 Crossroad Commons Austin	
e) Presentation, discussion, and possible action regarding a waiver of §10.101(b)(4)(M) of the 2016 Uniform Multifamily Rules	
16373 Avondale Farms Seniors Haslet	
BOND FINANCE	
f) Presentation, discussion, and possible action on	

Resolution No. 22-003 authorizing request to the Texas Bond Review Board for annual waiver of Single Family Mortgage Revenue Bond set-aside requirements, authorizing the execution of documents and instruments relating thereto, making certain findings and determinations in connection therewith, and containing other provisions relating to the subject

- g) Presentation, discussion, and possible action on Inducement Resolution No. 22-004 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority

21628 The Preserve at Cottonwood Creek Wilmer
 21629 Union Acres Center
 21630 Palladium Glenn Heights Town Center Glenn Heights
 22600 Harvest Ridge at Brushy Creek Hutto
 22601 Torrington Arcadia Trails Balch Springs
 22603 Marine Park Fort Worth
 22604 Socorro Village Socorro

- h) Presentation, discussion, and possible action on Inducement Resolution No. 22-005 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Applications for Private Activity Bond Authority

21608 Fiji Lofts Dallas
 21609 Throckmorton Villas McKinney

- i) Presentation, discussion, and possible action on Inducement Resolution No. 22-006 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing an Application for Private Activity Bond Authority for Delafield Villas (#21610)

SINGLE FAMILY & HOMELESS PROGRAMS

- j) Presentation, discussion, and possible action authorizing the submission of requests to remove property from the Neighborhood Stabilization Program land bank
- k) Presentation, discussion, and possible action regarding a waiver of 10 TAC §23.31(a)(2)(c) relating to submission of a Reservation to assist owners of unoccupied housing under the Homeowner Reconstruction Assistance Program

RULES

- l) Presentation, discussion, and possible action on an order proposing the amendment of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.3, Sick Leave Pool; and an order directing its publication for public comment in the *Texas Register*
- m) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative; proposing new 10 TAC Chapter 5, Section 8 Housing Choice Voucher Program, §5.801, Project Access Initiative; and directing their publication for public comment in the *Texas Register*

MULTIFAMILY FINANCE

- n) Presentation, discussion, and possible action regarding the issuance of a Determination Notice for 4% Housing Tax Credits for K Avenue Lofts (#21454) in Plano

COMMUNITY AFFAIRS

- o) Presentation, discussion, and possible action on the selection of Community Council of South Central Texas, Inc. to administer the Weatherization Assistance Program in Brewster, Crane, Culberson, Hudspeth, Jeff Davis, Pecos, Presidio, and Terrell counties

FINANCIAL ADMINISTRATION

- p) Presentation, discussion, and possible action to adopt a resolution regarding designating signature authority and superseding previous resolutions

CONSENT AGENDA REPORT ITEMS

- ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS: 8
- a) Media Analysis and Outreach Report (August 2021)
 - b) Report on Activities Related to the Department's Response to COVID-19 Pandemic
 - c) Housing Finance Activity Report
 - d) Report on the closing of the Department's Single Family Mortgage Revenue Bonds, Series 2021A and Single Family Mortgage Revenue Refunding Bonds, Series 2021B (Taxable)

ACTION ITEMS

Executive Session: the Chair may call an Executive None

Session at this point in the agenda in accordance with the below-cited provisions

ITEM 3: EXECUTIVE	
Executive Director's Report	9
ITEM 4: BOND FINANCE	
Presentation, discussion, and possible action regarding the Issuance of Multifamily Housing Revenue Bonds (The Park at Kirkstall) Series 2021 Resolution No. 22-007, and a Determination Notice of Housing Tax Credits	19
ITEM 5: SINGLE FAMILY & HOMELESS PROGRAMS	
a) Presentation, discussion, and possible action regarding a waiver of 10 TAC §23.32(a)(19) relating to submission of Reservations to assist owners of housing under the disaster relief set-aside	23
b) Presentation, discussion, and possible action to authorize the issuance of the 2022 HOME Investment Partnerships Program Single Family General Set-Aside Notice of Funding Availability and publication of the NOFA in the <i>Texas Register</i>	27
c) Presentation, discussion, and possible action to authorize the issuance of the 2022 HOME Investment Partnerships Program Single Family Persons with Disabilities SetAside Notice of Funding Availability and publication of the NOFA in the <i>Texas Register</i>	31
d) Presentation, discussion, and possible action to authorize the issuance of the 2022 HOME Investment Partnerships Program Single Family Contract for Deed Set-Aside Notice of Funding Availability and publication of the NOFA in the <i>Texas Register</i>	33
ITEM 6: RULES	
a) Presentation, discussion, and possible action on the proposed repeal of 10 TAC Chapter 13, Multifamily Direct Loan Rule, the proposed new 10 TAC Chapter 13, Multifamily Direct Loan Rule, and directing their publication for public comment in the <i>Texas Register</i>	37
b) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 10 Subchapter E, Post Award and Asset	41

Management Requirements, and an order proposing new 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, and directing their publication for public comment in the *Texas Register*

ITEM 7: MULTIFAMILY FINANCE	
a) Presentation, discussion, and possible action to amend the 2021-3 Multifamily Direct Loan Notice of Funding Availability	44
b) Presentation, discussion, and possible action regarding awards from the Multifamily Direct Loan (MFDL) 2021-3 Notice of Funding Availability (NOFA), as amended	47
c) Presentation, discussion and possible action on requests for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Applications Awarded Competitive (9%) Housing Tax Credits in Prior Application Rounds	55
PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS	none
EXECUTIVE SESSION	none
OPEN SESSION	--
ADJOURN	62

P R O C E E D I N G S

1
2 MR. VASQUEZ: I'd like to call to order the
3 meeting of the Governing Board of the Texas Department of
4 Housing and Community Affairs. It is 9:11 on October 14,
5 2021.

6 We will start out with the roll call. Mr. Batch
7 is not able to attend today, so we'll have to hold off on
8 our "Let's go, Brandon" cheer until next meeting.

9 (General laughter.)

10 MR. VASQUEZ: Mr. Braden?

11 MR. BRADEN: Here.

12 MR. VASQUEZ: Mr. Marchant?

13 MR. MARCHANT: I am here.

14 MR. VASQUEZ: Mr. Thomas?

15 MR. THOMAS: Here.

16 MR. VASQUEZ: Ms. Thomason again has asked for
17 an excused absence, as has Mr. Batch, who is stuck in
18 Midland, and Mr. Vasquez is here, so we do have a quorum.

19 We will start, as usual, with the pledges of
20 allegiance, led by Bobby Wilkinson.

21 (The Pledge of Allegiance and the Texas
22 Allegiance were recited.)

23 MR. VASQUEZ: And in the spirit of the Astros
24 and the ALCS, "Play ball."

25 We are going to the consent agenda. I believe

1 we do not have any resolutions for Mr. Lyttle to read.

2 MR. LYTTLE: No, sir.

3 MR. VASQUEZ: Although we'll call this Houston
4 Astros Month officially.

5 Are there any items on the consent agenda that a
6 Board member or member of the public would like to pull
7 from the agenda and move to action?

8 (No response.)

9 MR. VASQUEZ: Hearing none, the chair will
10 entertain a motion to accept the consent agenda as is.

11 MR. BRADEN: Mr. Chair, I move that the Board
12 approve the consent agenda items 1 and 2, as described and
13 presented in the respective Board action requests.

14 MR. VASQUEZ: Thank you.

15 Motion made by Mr. Braden. Is there a second?

16 MR. THOMAS: I second, Mr. Chairman.

17 MR. VASQUEZ: Seconded by Mr. Thomas. All those
18 in favor say aye.

19 (A chorus of ayes.)

20 MR. VASQUEZ: Any opposed?

21 (No response.)

22 MR. VASQUEZ: Hearing none, the motion carries.

23 There will not be an executive session today, so
24 moving on to the first item on the agenda, executive
25 director's report.

1 MR. WILKINSON: Thank you, Chairman.

2 We're about a week to go left in the third
3 called session of the 87th Texas Legislature. Both the
4 Senate and the House have been deliberating on legislation
5 affecting Texas pandemic response funds.

6 We had our own streams of money that were
7 specific to us from ARPA, the American Rescue Plan Act, but
8 the legislature is appropriating the more general use
9 funds.

10 There was some testimony in committee hearings
11 in both chambers related to additional funding for
12 affordable housing, but as of this time there's no
13 legislation being considered which would impact our
14 programs or our funding.

15 We didn't obviously advocate for anything, but
16 there was a little bit of talk of using it for housing. Of
17 course, a thousand people have a thousand different ideas
18 on how to spend big pots of money.

19 Texas Rent Relief, still probably the biggest
20 thing going on with us. We crossed a major threshold,
21 we're over a billion disbursed as of this morning, so
22 assistance to more than 172,000 households and there's
23 another \$64 million already approved and in the payment
24 process. Probably look for a Governor's Office press
25 release on it, which is always nice when the executive

1 wants to chime in on what we're doing.

2 We're the first state to distribute a billion in
3 rent relief. We still have \$900 million to go because we
4 had a second billion appropriated to us from the American
5 Rescue Plan Act. Since the program launched in mid
6 February, we've served more households and provided more
7 relief funds than any other state, and we've reached 95
8 percent of all counties in Texas. I'm pretty sure like
9 Loving County might not even have a renter, so you know, we
10 won't get to 100 percent.

11 Homeowner Assistance Fund, that's the 800-and-
12 something million dollar mortgage assistance fund also from
13 the American Rescue Plan Act. We submitted our plan to
14 Treasury. We've heard from other states that Treasury will
15 soon be providing feedback to states on their plans, but
16 Treasury has not approved any state plan as of yet.

17 The process at the federal level is moving much
18 slower than we'd like. There's a little less urgency with
19 the Homeowner Assistance Fund compared to rent relief, but
20 still we're anxious to get going. We have selected a
21 vendor; we haven't executed the contract yet, but we're
22 going to be moving and ready to launch as soon as Treasury
23 approves our plan.

24 Multifamily finance changes. Since the last
25 Board meeting we hired Cody Campbell as the director of

1 Multifamily Programs.

2 Cody, can you stand, please, or wave, whatever
3 you want to do?

4 MR. VASQUEZ: There he is.

5 MR. WILKINSON: Cody began his TDHCA career in
6 2013 as a monitor in the Compliance Division. Since then
7 he has served in various roles, including his most recent
8 position as director of Physical Inspections, overseeing
9 the Department's physical inspection and migrant labor
10 housing licensing activities.

11 We're excited to have him. It was a role we
12 needed to fill right away, and he was able to hit the
13 ground running with his experience in the agency, and he
14 already knows the program and a lot of the regs because he
15 was responsible for enforcing them.

16 Back to the Compliance Division, as a result of
17 his transition to Multifamily, Wendy Quackenbush was
18 promoted to be director of Multifamily Compliance.

19 Wendy, are you here? No, she's not here.
20 You'll have to look her up later.

21 Wendy oversees the compliance monitoring,
22 physical inspections, and the migrant farm worker housing
23 licensing. She's been with TDHCA for 20 years and brings
24 lots of experience in overseeing all aspects of monitoring,
25 training, complaints and technical assistance for the

1 Department's multifamily programs.

2 We also promoted Amy Hammond to manager of
3 Compliance Monitoring, and Manuel Pena to manager of
4 Physical Inspections.

5 We conducted our first in-person training last
6 week on income eligibility at TDHCA headquarters, and it
7 was a success. This is something we haven't done in the
8 last 20 months, so we're now offering the basic training
9 class in person every other month.

10 Our next scheduled training will be on December
11 2, 2021. The training class covers how to determine income
12 eligibility for our programs and for our multifamily
13 properties.

14 To bonds, multifamily bonds. The Multifamily
15 Bond Program will be participating in the 2022 private
16 activity bond lottery with requests that total \$623
17 million, which makes the Department's set-aside almost four
18 times oversubscribed, which is more oversubscribed than our
19 9 Percent Housing Tax Credit Program.

20 To put all caps on more, there's a 4 percent
21 versus 9 percent rivalry we have here. The requests are
22 from 22 applications of which only seven are expected to
23 get reservations. This is a change from a few years ago
24 when multifamily didn't even use all of their bond cap.
25 It's been raging, as I'm sure some of the people in the

1 audience are aware.

2 HOME ARP, this is ARP for American Rescue Plan,
3 HOME is a particular funding source from HUD. Our state,
4 we're getting, I think, \$132.9 million from there, and our
5 state's efforts to combat homelessness received a boost
6 with this \$132.9 million in American Rescue Plan funds.

7 The program is designed to assist individuals or
8 households who are homeless, at risk of homelessness and
9 other vulnerable populations by providing housing, rental
10 assistance, supportive services and non-congregate shelter
11 to reduce homelessness and increase housing stability
12 across the country.

13 We're pleased to announce that Naomi Cantu, who
14 has been our Homelessness Program manager, will be the
15 director of this new division for TDHCA. Naomi is
16 currently working on consultations, as required by HUD.

17 Naomi, are you with us? No, another one. Okay.

18 It's a little more complicated than a normal HUD
19 plan in that we have to do a separate plan for this and we
20 have these required consultations with different groups who
21 are meeting with homeless nonprofits and supportive housing
22 developers and such to get their ideas on how we should
23 grant out this money.

24 It's a good source for actual capital
25 construction, unlike a lot of the stuff that we've been

1 spending, like rental assistance and housing stability
2 services which is one-time money for a service where
3 nothing is going to exist afterwards, so hopefully we can
4 get some stuff built with it.

5 On the homeownership side, thanks to this
6 Board's waiver, we're adding a three-year forgivable second
7 for down payment assistance on Monday, the 18th, so in just
8 a few days we'll be helping people a little bit more and
9 excited about that.

10 That's all I have on prepared remarks. Any
11 questions from the Board?

12 MR. BRADEN: Mr. Chair.

13 So Bobby, on the rental relief money, is there a
14 deadline when we have to get all that money committed?

15 MR. WILKINSON: Next September.

16 MR. BRADEN: Okay. September of 2022?

17 MR. WILKINSON: Yes. And there was a milestone
18 that we reached this September where for the first pot if
19 we had spent or obligated -- obligated definitely, mostly
20 as spent -- at least 65 percent, then we were eligible to
21 get reallocated funds, and we hit that easily.

22 Treasury is moving on reallocation. Mostly it
23 seems for this first round they want to reallocate within
24 states, so for local programs that have low spending ratios
25 they might take it and give it to the state or maybe to

1 another local, that's still being worked out. Maybe later
2 there will be some state to state.

3 Most states are resisting that because most
4 people aren't ahead, but there will be some states, like
5 Wyoming, for instance, that are not going to spend their
6 small state minimum, they just have enough renters that
7 qualify. They would have to like pay for every renter in
8 the state kind of thing -- I mean, I'm exaggerating.

9 So we might get reallocated funds, but we're
10 going to be starting on ERAP 2.0 from the rescue plan
11 before we get any reallocated ERAP 1.0. Sorry for the
12 acronym, Emergency Rental Assistance Plan.

13 MR. BRADEN: Okay. Thank you.

14 MR. MARCHANT: Do you have any idea or have you
15 received any information as to whether they may sweep
16 funds, unused funds at a certain point, and do you fear
17 that? For the search for funds to fund the new bill many
18 times they'll go sweep programs out that still have quite a
19 bit of money in them that are unused, which many of the
20 states do.

21 MR. WILKINSON: Sure.

22 MR. MARCHANT: We wouldn't be affected by that
23 at this point?

24 MR. WILKINSON: I don't think we're in danger of
25 getting anything swept. For the rental assistance they

1 were pretty explicit that it's going to be a reallocation
2 to other areas that have the need rather than just a
3 clawback by the Feds.

4 And we've got bumps in all kinds of programs,
5 like our energy assistance, et cetera, and that become a
6 capacity issue with our nonprofit subrecipients and local
7 governments, but I don't think we're in danger of having
8 anything swept yet.

9 MR. MARCHANT: Okay.

10 MR. WILKINSON: Maybe one exception?

11 Brooke, will you come to the mic?

12 MR. MARCHANT: Because much of the
13 infrastructure bill is money that was unused from the
14 previous program, at least half of it, so I don't know if
15 that was --

16 MR. WILKINSON: I thought we were good, but I
17 think we have an exception.

18 MS. BOSTON: Just one exception, and hopefully
19 it's a very small amount. Our Low Income Home Energy
20 Assistance Program, LIHEAP, we received two allocations of
21 that, and the first allocation they had to finish their
22 expenditures by September 30.

23 We won't know their final closeout numbers until
24 mid-October, but we are fairly sure the subrecipients did
25 not spend it all, and that will return to HHS.

1 MR. MARCHANT: The demand was not there then.

2 MS. BOSTON: I think it has less to do with
3 demand and more to do with capacity of the nonprofits
4 across the state.

5 MR. MARCHANT: Gotcha.

6 MS. BOSTON: And they have a second allocation
7 that they have access to already that has a little bit
8 longer time line. That first time line was pretty fast,
9 and I think there had been hope that Congress would maybe
10 somehow do an extension, and that didn't happen.

11 MR. MARCHANT: Thank you.

12 MR. WILKINSON: At some point these subs were
13 putting out money slower than usual, but they had twice as
14 much money. It was hard to adjust to a virtual environment
15 for them, and they were doing a lot of in-person casework
16 with folks as opposed to right now.

17 Thank you, Brooke.

18 MR. MARCHANT: Chairman, if I might, I would
19 like to congratulate Bobby and his staff. As I read these
20 stories around the country, as reluctant as the current
21 administration is to give praise to Texas and Florida and
22 the states who are really doing a good job, it's very
23 commendable the job you guys have done on getting the
24 rental money out.

25 And I tell the story, and you know, there's no

1 reinforcement from the general press. I've seen some great
2 stories but it's a story that needs to be told, and very
3 proud of this Board and this organization and the
4 employees. What a great job you've done on this.

5 MR. WILKINSON: Thank you, sir. I do give
6 credit to staff. They've done an excellent job of setting
7 up all these programs and working with vendors to get it
8 done.

9 MR. VASQUEZ: Bobby, as we transition from the
10 rent relief programs fund 1.0 to 2.0, is there going to be
11 any kind of pause that we need to do just to kind of clear
12 out what's in process under the first program, or not?

13 MR. WILKINSON: Not officially yet, but possibly
14 we might have to turn off and then turn on again.

15 MR. VASQUEZ: Okay. All right. Great. Keep us
16 informed of that.

17 And then just for the record, to make sure I
18 heard it clearly, how much in funds have we distributed?

19 MR. WILKINSON: Over a billion.

20 MR. VASQUEZ: Over a billion dollars with a B.
21 All right, very good.

22 Does that conclude your report?

23 MR. WILKINSON: Yes, sir, that concludes my
24 report.

25 MR. VASQUEZ: Okay, great. Let's move right

1 along to I guess it's item 4 on the agenda, Presentation,
2 discussion and possible action regarding a waiver for
3 accessibility requirements, the issuance of Multifamily
4 Housing Revenue Bonds Series 2021, Resolution No. 22-007,
5 and a determination notice of housing tax credits.

6 Ms. Morales.

7 MS. MORALES: Teresa Morales, director of
8 Multifamily Bonds.

9 The Park at Kirkstall proposes the acquisition
10 and rehab of 240 units in Houston. This property is
11 already in the Department's portfolio and was originally
12 awarded and built in the early 2000s. All of the units are
13 at 60 percent of area median income and will continue to
14 serve the general population.

15 Under the proposed financing structure, the
16 Department will issue short-term tax-exempt fixed-rate
17 bonds in an amount not to exceed \$28 million. The bonds
18 will be cash collateralized with the proceeds from a Fannie
19 Mae loan throughout the construction period, which provides
20 protection for the bondholders and minimizes risk to the
21 Department.

22 In addition to action requested on the bond
23 issuance and 4 percent credits, this agenda item also
24 requests approval of a waiver of 2002 QAP requirement
25 relating to the accessibility of the various unit types.

1 Specifically, the QAP required that where there
2 are units that are two stories, a minimum of 20 percent of
3 each unit type -- so that's your one-bedrooms, two-
4 bedrooms, and three-bedrooms -- must provide an accessible
5 entry and include a minimum of one bedroom and one bathroom
6 or power room at the entry level. Because this was a
7 requirement in the QAP, it became a requirement of the land
8 use restriction agreement, or LURA.

9 The Park at Kirkstall is not in compliance with
10 this requirement as it relates to the one-bedroom units, as
11 all of these units are built above the garage and are
12 therefore not accessible.

13 Given the proximity of the buildings and the
14 unit configurations within the buildings, adding one-
15 bedroom units or converting units is not an option, because
16 it would require moving load-bearing walls.

17 As mitigation for this waiver and a workout
18 arrangement for the lack of one-bedroom accessible units,
19 the applicant has agreed to lease two of the two-bedroom
20 accessible units at a one-bedroom rent to mobility-impaired
21 tenants or tenants that need a visitable unit.

22 Staff believes this is an acceptable solution,
23 as it provides an option for a household who needs an
24 accessible one-bedroom unit.

25 Staff recommends approval of Bond Resolution No.

1 22-007 in an amount not to exceed \$28 million, and the
2 issuance of a determination notice of 4 percent housing tax
3 credits in the amount of \$2,052,394.

4 As it relates to the waiver, staff does not
5 believe that it was foreseeable or preventable by the
6 applicant as they were not the original owner of the
7 development.

8 Based on the workout solution, staff recommends
9 that a waiver of 10 49.7(e)(3)(E) of the QAP under which
10 the award was originally made be granted. Board approval
11 of the waiver will authorize staff to amend the land use
12 restriction agreement, replacing the waiver of the 20
13 percent accessibility requirement relating to the one-
14 bedroom units only.

15 That concludes my presentation.

16 MR. VASQUEZ: Thank you, Teresa. That sounds
17 like they came up with an innovative, out-of-the-box
18 solution to get to the same number.

19 MS. MORALES: Right.

20 MR. VASQUEZ: Do any Board members have
21 questions on this item?

22 (No response.)

23 MR. VASQUEZ: Hearing none, I'll entertain a
24 motion on item 4 of the agenda.

25 MR. MARCHANT: Mr. Chairman, I move the Board

1 issue a determination notice --

2 MR. VASQUEZ: Microphone. You're on mute.

3 MR. MARCHANT: I'm afraid I'm going to fall
4 asleep.

5 Mr. Chairman, I move the Board issue a
6 determination notice of 4 percent housing tax credits for
7 The Park at Kirkstall, approve Resolution No. 22-007
8 regarding the issuance of Tax-Exempt Multifamily Housing
9 Revenue Bonds and grant a limited waiver of 10 TAC Section
10 49.7(e)(3)(E) regarding accessibility requirements for one-
11 bedroom units, as expressed and subject to the conditions
12 of the Board action request on this item.

13 MR. VASQUEZ: Great. Thank you.

14 Motion made by Mr. Marchant. Is there a second?

15 MR. BRADEN: Second.

16 MR. VASQUEZ: Seconded by Mr. Braden.

17 No public comment, it looks like. And I forgot
18 to mention if anyone wants to have public comment, please
19 when your item comes up, come up here to the first couple
20 of rows so we know you want to speak.

21 So motion made and seconded. All those in favor
22 say aye.

23 (A chorus of ayes.)

24 MR. VASQUEZ: Any opposed?

25 (No response.)

1 MR. VASQUEZ: Hearing none, the motion carries.

2 Thank you, Ms. Morales.

3 Moving on to item 5(a) Presentation, discussion,
4 and possible action regarding a waiver of 10 TAC Section
5 23.32(a)(19) relating to submission of reservations to
6 assist owners of housing under the disaster relief
7 set-aside.

8 Ms. Versyp.

9 MS. VERSYP: Good morning, Chairman and members
10 of the Board. I'm Abigail Versyp, director of Single
11 Family and Homeless Programs. I'm here to present item
12 5(a) related to requests for a waiver of the HOME Program
13 rules to assist several families under the disaster
14 set-aside.

15 The request involves four potential HOME Program
16 activities for homeowner reconstruction assistance under
17 disaster relief. Each household that would potentially be
18 assisted was impacted by Hurricane Harvey. They still live
19 in their homes, but the homes sustained damage that has yet
20 to be repaired.

21 In order to respond to the needs of Texans
22 impacted by Hurricane Harvey, the Department requested and
23 was granted a waiver of statute which allows us to use our
24 HOME funds in HOME participating jurisdictions, like the
25 City of Port Arthur.

1 Because the governor granted the waiver to
2 TDHCA, the City of Port Arthur applied for and received a
3 HOME reservation agreement. The city marketed their
4 program, they identified these four households that they
5 would seek to assist to rebuild their homes.

6 Our staff has been in communication with the
7 city regarding the use of the funds, especially in light of
8 the potential expiration of the waiver for Hurricane Harvey
9 and the program rules adopted in 2020, which require
10 activities for households assisted under the disaster set-
11 aside to be submitted to us for approval within four years
12 of the date of the disaster.

13 The City of Port Arthur did submit these
14 activities timely, and we reviewed them; however,
15 unfortunately, the submissions weren't adequate. We could
16 not determine that they met all of the requirements that
17 they need to show that they're eligible for HOME funds.

18 We worked with the City of Port Arthur for
19 several months, staff sent multiple deficiency notices and
20 requests for clarification, but ultimately, each activity
21 was disapproved when required documentation wasn't received
22 in accordance with the deadline established in our rule.

23 Disapproved activities can be resubmitted so
24 long as there's a reservation agreement in place, so a
25 disapproval doesn't kill it forever, but it just puts a

1 pause on it.

2 However, since four years has elapsed since
3 Hurricane Harvey and the activities were not submitted
4 within that four-year time frame under a resubmission,
5 we're kind of in a catch-22 here with the rule. Because we
6 understand the very serious ramifications of disapproving
7 an activity which is not eligible to be resubmitted, we did
8 contact the City of Port Arthur prior to disapproving their
9 request, just to explain verbally, like, hey, this is
10 what's happening and this is why.

11 The city staff first asked about the possibility
12 of an appeal, but since they were in agreement that the
13 rule was applied as it was written and since the city
14 didn't contest the regulatory validity of the rule, they
15 opted instead to request a waiver from the Board, which is
16 permissible for good cause under our single-family rules.

17 An additional layer of complication is that a
18 waiver of statute that allows us to utilize those HOME
19 funds in a participating jurisdiction that was granted for
20 Hurricane Harvey relief has expired. However, we do have a
21 current waiver to the statute because of the COVID-19
22 pandemic, so the Board could elect to apply this waiver to
23 these four activities to allow them to proceed.

24 Due to the extenuating circumstances in this
25 case, staff does recommend approval of the waiver for these

1 four activities for the City of Port Arthur's reservation
2 agreement. The activities still need to go through the
3 approval process. We still don't have sufficient
4 documentation to determine their eligibility, but by
5 granting the waiver today, the Board would allow them to
6 resubmit the activities for review and potential approval.

7 So that concludes my presentation and staff's
8 recommendation.

9 MR. VASQUEZ: Great. Thanks, Abby. And I
10 realize this is a complicated, convoluted story there, but
11 I applaud y'all for working through it to help get this
12 done.

13 Do any Board members have questions for Ms.
14 Versyp?

15 (No response.)

16 MR. VASQUEZ: Hearing none, do I hear a motion
17 on item 5(a)? There's only four of you -- or three of you.

18 MR. THOMAS: Mr. Chairman, I move that the Board
19 grant the limited waiver of 10 TAC Section 23.32(a)(19), as
20 expressed in the Board action request on this item.

21 MR. VASQUEZ: Motion made by Mr. Thomas. Is
22 there a second?

23 MR. MARCHANT: Second.

24 MR. VASQUEZ: Seconded by Mr. Marchant. All
25 those in favor say aye.

1 (A chorus of ayes.)

2 MR. VASQUEZ: Any opposed?

3 (No response.)

4 MR. VASQUEZ: Hearing none, the motion carries.

5 MS. VERSYP: Thank you.

6 MR. VASQUEZ: Moving on to item 5(b)

7 Presentation, discussion, and possible action to authorize
8 the issuance of the 2022 HOME Investment Partnerships
9 Program single family general set-aside notice of funding
10 availability and publication of the NOFA in the *Texas*
11 *Register*.

12 MR. LANDRY: Thank, y'all. Good morning. My
13 name is Chad Landry, and I'm the Single Family Programs
14 manager. I am before you today to present items 5(b)
15 through 5(d), which are three notices of funding
16 availability from the HOME Program. I'll give you some
17 general background information that relates to all three
18 items and then take them one at a time.

19 First a little background. Funding for these
20 NOFAs is based on our annual HOME allocation from HUD for
21 2021 of just under \$36 million. While these funds are
22 technically 2021 in HUD's eyes, our NOFA is dated 2022
23 because that's the state fiscal year that we will be
24 operating in.

25 Each year you as a Board approve a one-year

1 action plan which details how we will allocate our HOME
2 funds, we submit that to HUD, and once approved we proceed
3 using the funds as approved.

4 The Board approved our plan in the June Board
5 meeting of this year. The one-year action plan primarily
6 portions out the funds between single family and
7 multifamily activities. With the single family portion we
8 have several different activities, which is why there's
9 multiple NOFAs.

10 These include a general set-aside program, a
11 program to assist persons with disabilities, and a
12 contract-for-deed program. I'll tell you more about these
13 when I discuss their specific NOFA.

14 All of the NOFAs today are award funds using a
15 reservation system. This means that administrators access
16 funds when they have an activity that is ready to proceed
17 instead of just getting an award for a clump amount of
18 money.

19 So with that, I'll tell you about the first
20 item. Item 5(b), the 2022 general NOFA. This NOFA is for
21 \$19.9 million. Three activities make up the general
22 set-aside NOFA: homeowner reconstruction, tenant-based
23 rental assistance, and homebuyer acquisition with new
24 construction.

25 Those first two, which we call HRA and TBRA, use

1 the majority of the single family funds. HRA is allocated
2 \$11.9 million and TBRA is allocated \$6.9-. Homebuyer
3 acquisition with new construction, or HANC, as we like to
4 call it, is a new pilot program, and we've only allocated
5 \$1 million for it so that we can gauge interest.

6 State law requires that we put HOME funds
7 through a regional allocation formula to ensure equitable
8 access throughout Texas. This is first divided into rural
9 and urban of the 13 state service regions.

10 After roughly 30 days at that level, funds then
11 collapse into regional availability, and then after another
12 30 days funds are available statewide outside of
13 participating jurisdictions which are primarily the
14 metropolitan areas of the state.

15 With that, I am happy to answer any questions
16 you may have for the general set-aside.

17 MR. VASQUEZ: Great. Thank you.

18 Do any Board members have questions on -- we're
19 still working on 5(b)?

20 MR. LANDRY: We're on 5(b).

21 MR. VASQUEZ: Hearing none -- well, I think,
22 Beau, do these need to be taken, each voted individually?

23 MS. ECCLES: They're separate items so they
24 would stand for separate motions.

25 MR. VASQUEZ: Okay. All right. So on 5(b) the

1 chair will entertain a motion.

2 MR. MARCHANT: Mr. Chairman, I move that the
3 Board grant the limited waiver of 10 TAC Section --

4 MR. VASQUEZ: Next one.

5 MR. MARCHANT: Wrong one. Okay. I move the
6 Board grant the executive director and his designees the
7 authority to post and publish a 2022 HOME single family
8 general set-aside NOFA for funding, as expressed and
9 conditioned in the Board action request on this item.

10 MR. BRADEN: Second.

11 MR. VASQUEZ: Motion by Mr. Marchant, seconded
12 by Mr. Braden. All those in favor say aye.

13 (A chorus of ayes.)

14 MR. VASQUEZ: Any opposed?

15 MR. VASQUEZ: Hearing none, the motion carries.

16 Moving on to 5(c), let me just read it into the
17 record. Presentation, discussion, and possible action to
18 authorize the issuance of the 2022 HOME Investment
19 Partnerships single family persons with disabilities
20 set-aside NOFA and publication of the NOFA in the *Texas*
21 *Register*.

22 MR. LANDRY: That's a mouthful.

23 This NOFA is to assist persons with
24 disabilities. Our governing statute requires that we spend
25 5 percent of our yearly allocation on programs that target

1 persons with disabilities. These funds are available
2 statewide, and with this NOFA it does include participating
3 jurisdictions.

4 This NOFA is for \$1.7 million. Two activities
5 are eligible: home reconstruction, which gets just under
6 \$500,000, and tenant-based rental assistance, which
7 receives \$1.3 million.

8 And with that, I'm happy to answer any questions
9 on the PWD NOFA.

10 MR. MARCHANT: Mr. Chairman, I have a question.

11 MR. VASQUEZ: Please.

12 MR. MARCHANT: Is this a new home program
13 primarily or is it mainly for reconstruction?

14 MR. LANDRY: Well, this NOFA actually we mainly
15 use it for tenant-based rental assistance. There is an
16 aspect for homeowner reconstruction. We don't do any
17 homebuyer assistance with this program.

18 MR. MARCHANT: Okay. So is it a grant?

19 MR. LANDRY: For tenant-based rental assistance,
20 yes. Home reconstruction it depends on the nature of the
21 specific activity.

22 MR. MARCHANT: So if a disabled person wants to
23 buy a home, it's not suited for his/her purposes, they
24 would go to you or to a lender to access this money?

25 MR. LANDRY: Well, one, it's not homebuyer

1 assistance, we do reconstruction. But we give our money to
2 administrators throughout the state of Texas, who then work
3 with that individual household, so it's not us directly.

4 MR. MARCHANT: Okay. Thank you.

5 MR. LANDRY: And that's with all of our
6 programs.

7 MR. VASQUEZ: Actually, following on with that,
8 so the administrators are those like community action
9 agencies, or what?

10 MR. LANDRY: They can be. For tenant-based
11 rental assistance it's almost always nonprofit
12 organizations. The homeowner reconstruction can be
13 nonprofits but we have a lot of cities and counties that do
14 reconstruction.

15 MR. VASQUEZ: Okay, great.

16 Are there any other questions on this item 5(c)?

17 (No response.)

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

19 MR. BRADEN: Mr. Chair, I move the Board grant
20 the executive director and his designees the authority to
21 post and publish the 2022 HOME single family persons with
22 disabilities set-aside NOFA for funding, as expressed and
23 conditioned in the Board action request on this item.

24 MR. VASQUEZ: Great. Motion made by Mr. Braden.
25 Is there a second?

1 MR. THOMAS: I second, Mr. Chairman.

2 MR. VASQUEZ: Seconded by Mr. Thomas. All those
3 in favor say aye.

4 (A chorus of ayes.)

5 MR. VASQUEZ: Any opposed?

6 (No response.)

7 MR. VASQUEZ: Hearing none, the motion carries.
8 Moving right along to 5(d) Presentation,
9 discussion, and possible action to authorize issuance of
10 the 2022 HOME Investment Partnerships Program single family
11 contract-for-deed set-aside notice of funding availability
12 and publication of the NOFA in the *Texas Register*.

13 MR. LANDRY: Thank you very much. This one had
14 some interest, so I'm going to try to address some of the
15 questions I was given before the Board meeting.

16 This is the 2022 contract-for-deed NOFA.
17 Through a rider in our appropriation authority, the Texas
18 Legislature requires that we allocate funds to assist
19 households who may be in a contract-for-deed. We set aside
20 \$1 million for this activity.

21 Traditionally, a contract-for-deed, CFD for
22 short, was a contract for the sale of land where the buyer
23 acquired possession of the land immediately and paid the
24 purchase price in installments over a period of time, but
25 the seller retained legal title until all the payments were

1 paid.

2 So while the buyer occupied the land, they had
3 no ownership rights until the land was paid off. This was
4 a less-than-ideal situation for the household, and in the
5 past sellers have not always treated buyers well.

6 This rider was put in place to make sure that
7 households had a way to get out of these situations without
8 potentially losing their entire investment, sometimes
9 including homes that they built on vacant property. Our
10 contract-for-deed program buys out these contracts and
11 converts them into a traditional mortgage which then gives
12 the household full rights of homeownership.

13 In 2017, as a result of House Bill 311,
14 contract-for-deeds were given the same weight as a
15 traditional mortgage and buyers were ensured an ownership
16 percentage in the property. While this has limited the
17 urgency of households seeking to get out of contract-for-
18 deed arrangements, there's still an important purpose for
19 our program because the terms for contract-for-deeds often
20 have higher interest rates and steep penalties for late
21 payment.

22 Our program offers zero percent deferred
23 forgivable loans to refinance and reconstruct their home.
24 The HOME Program has had a contract-for-deed conversion
25 program since at least 1999. Over this time we've done 324

1 conversions with the average cost between \$50,000 and
2 \$150,000.

3 Primarily three organizations apply to serve
4 subrecipients under this NOFA. That's Community
5 Development Corporation of Brownsville, AYUDA in El Paso,
6 and Alliance of Border Collaboratives in El Paso, and we
7 are grateful for the great work that they do to support our
8 families. The focus is in these communities because
9 contract-for-deeds were most commonly used in the Colonias
10 along the border. Indeed, the bulk of our contract-for-
11 deed activities is in El Paso County.

12 We don't know how many contract-for-deed
13 arrangements still remain out there but the program use has
14 trended down over the past few years. Actually, the last
15 activity under this program was completed in 2020. Any
16 funds not used in this NOFA are reprogrammed to other
17 activities.

18 With that, I'm happy to answer any contract-for-
19 deed questions.

20 MR. VASQUEZ: Great. Thank you.

21 Do any Board members have questions on this
22 item?

23 MR. MARCHANT: The only reason you have this
24 program is it was put on you by a legislative action
25 through a rider?

1 MR. LANDRY: Well, there is the need, but yeah,
2 the legislative action requires us to have this.

3 MR. MARCHANT: Thank you.

4 MR. VASQUEZ: I find it fascinating that this
5 still really exists, the contract-for-deed.

6 MR. MARCHANT: No good lawyer would pay for it.

7 MR. BRADEN: I learned about it in law school.

8 MR. LANDRY: It's interesting, you know, we have
9 it along the border.

10 MR. VASQUEZ: Let's make sure these are
11 publicized, the program is publicized greatly and anyone
12 that needs to take advantage of it does.

13 So with that, not to influence the motion, I'll
14 entertain a motion on item 5(d).

15 MR. BRADEN: Mr. Chair, I move the Board grant
16 the executive director and his designees the authority to
17 post and publish a 2022 HOME single family contract-for-
18 deed set-aside NOFA for funding, as expressed and
19 conditioned in the Board action request on this item.

20 MR. VASQUEZ: Thank you.

21 Motion made by Mr. Braden. Is there a second?

22 MR. MARCHANT: Second.

23 MR. VASQUEZ: Seconded by Mr. Marchant. All
24 those in favor say aye.

25 (A chorus of ayes.)

1 MR. VASQUEZ: Any opposed?

2 (No response.)

3 MR. VASQUEZ: Hearing none, the motion carries.

4 MR. LANDRY: Thank y'all very much.

5 MR. VASQUEZ: Thanks, Chad.

6 Moving right along to item 6, Presentation,
7 discussion, and possible action on the proposed repeal of
8 10 TAC Chapter 13, Multifamily Direct Loan Rule, and the
9 proposed New 10 TAC Chapter 13, Multifamily Direct Loan
10 Rule, and directing their publication for public comment in
11 the *Texas Register*.

12 Ms. Flickinger.

13 MS. FLICKINGER: Good morning, Mr. Chairman,
14 members of the Board. For the record, my name is Charlotte
15 Flickinger, and I'm the manager of the Multifamily Direct
16 Loan Program. I'm pleased to present item 6(a) for your
17 review and hope for approval this morning.

18 MR. VASQUEZ: Great. Thank you. And would you
19 mind speaking up just a little more.

20 MS. FLICKINGER: Certainly. Is that better,
21 sir?

22 MR. VASQUEZ: Perfect. Thanks.

23 MS. FLICKINGER: Wonderful.

24 Item 6(a) is the proposed repeal and new 10 TAC
25 Chapter 13, the Multifamily Direct Loan Rule.

1 The proposed rule governs all aspects of direct
2 loan administration from application to commitment to loan
3 closing and final disbursement. There are several
4 revisions to the proposed rule this year, and I'll give you
5 a brief description of those revisions.

6 First, this proposed rule makes adaptive reuse
7 proposals eligible under limited circumstances. As you
8 know, adaptive reuse was previously prohibited but still
9 undertaken through the rule waiver process.

10 The demand for this activity continues to grow
11 and this proposed rule provides limited eligibility. The
12 proposed rule does not make proposals accessing the federal
13 historic tax credit eligible as the extended time line for
14 approval under that program threatens our ability to commit
15 funds in a timely manner.

16 To mitigate this risk and for the time-being, we
17 propose that historic tax credit proposals continue to be
18 considered on a case-by-case basis under the existing
19 process, either through a NOFA or a direct rule waiver.

20 Second, the proposed rule moves loan terms from
21 the rule into the NOFA. This will allow flexibility to
22 better meet the priorities defined in the NOFA which, of
23 course, will be presented to the Board for review and hope
24 for approval.

25 Third, with the intent of providing guidance,

1 this proposed rule includes additional information on
2 federal cost-cutting requirements, including relocation,
3 Davis-Bacon wage standards, and site and neighborhood
4 reviews.

5 There are also several additional definitions,
6 further enumeration of ineligible activities and general
7 revision for syntax and uniformity. Several passages were
8 merely moved to better reflect their place in the process.

9 Finally, in an effort to improve processing time, we
10 shortened the timing for submittals for environmental
11 reviews and disbursement requests.

12 I'll be happy to answer any questions. If there
13 are none, with your approval the proposed rule will be
14 published in the *Texas Register* and open for public comment
15 for 30 days. We will present the rule with any revisions
16 made as a result of that comment at the December 9 meeting.

17 If there are no questions, I respectfully
18 request your approval.

19 MR. VASQUEZ: Great. I was checking are there
20 any questions on this item.

21 (No response.)

22 MR. VASQUEZ: Hearing none, I'll entertain a
23 motion on item 6(a).

24 MR. THOMAS: Mr. Chairman, I move the Board
25 approve the proposed repeal and proposed New 10 TAC Chapter

1 13, Multifamily Direct Loan Rule for publication in the
2 *Texas Register* for public comment, as expressed in the
3 Board action request on this item.

4 MR. VASQUEZ: Great. Thank you.

5 Motion made by Mr. Thomas. Is there a second?

6 MR. BRADEN: Second.

7 MR. VASQUEZ: Seconded by Mr. Braden. All those
8 in favor say aye.

9 (A chorus of ayes.)

10 MR. VASQUEZ: Any opposed?

11 (No response.)

12 MR. VASQUEZ: Hearing none, the motion carries.

13 MS. FLICKINGER: Thank you.

14 MR. VASQUEZ: Great. Thank you.

15 Moving on to 6(b) Presentation, discussion, and
16 possible action on an order proposing the repeal of 10 TAC
17 Chapter 10, Subchapter E, Post Award and Asset Management
18 Requirements, and an order proposing New 10 TAC Chapter 10,
19 Subchapter E, and directing their publication for public
20 comment in the *Texas Register*.

21 Mr. Banuelos.

22 MR. BANUELOS: Good morning. Rosalio Banuelos,
23 director of Asset Management.

24 That is correct, upon Board approval, the
25 proposed asset management rules will be posted to the

1 Department's website and to the *Texas Register* for public
2 comment.

3 Public comment will be accepted between October
4 29, 2021 and November 19, 2021, and after consideration of
5 public comment, the rules will be brought before the Board
6 for final approval and subsequently published in the *Texas*
7 *Register* for adoption.

8 We are not making a lot of changes, so I will
9 summarize the most significant of the proposed changes. We
10 are removing Section 10.401 and sections of 10.402 that
11 have been relocated to the Qualified Allocation Plan. For
12 4 percent developments we are raising the threshold of tax
13 credit increases at cost certification that require Board
14 approval from 10 percent to 20 percent.

15 We are also adding a section under the new
16 10.402 to deal with subordination agreements, HUD
17 amendments and HUD riders with restrictive covenants. This
18 will identify the requirements to process subordination
19 requests and also specify an evaluation process for tax
20 credit developments that are seeking to refinance within
21 two years from the issuance of IRS Forms 8609.

22 In the Section 4 amendments we are changing
23 amendments to the right-of-first-refusal provision from
24 material, which require Board approval, to non-material, to
25 allow for administrative approval. We are also clarifying

1 that amendments to remove the HUD requirement prior to the
2 filing of IRS Forms 8609 is a material amendment.

3 Finally, in the section for right of first
4 refusal we are incorporating revisions to the definition of
5 a qualified entity in accordance with the revisions to
6 statute made earlier this year. That was under Senate Bill
7 No. 403 passed by the House on May 25, 2021.

8 That concludes my comments, and I'm available
9 for any questions.

10 MR. VASQUEZ: Great. Thank you.

11 Do any Board members have questions for Mr.
12 Banuelos?

13 (No response.)

14 MR. VASQUEZ: Hearing none, I'll entertain a
15 motion on item 6(b).

16 MR. MARCHANT: Mr. Chairman, I move the Board
17 approve the proposed repeal and proposed New 10 TAC Chapter
18 10, Subchapter E, Post Award and Asset Management
19 Requirements for publication in the *Texas Register* for
20 public comment, as expressed in the Board action request on
21 this item.

22 MR. VASQUEZ: Thank you.

23 Motion made by Mr. Marchant. Is there a second?

24 MR. THOMAS: Second, Mr. Chairman.

25 MR. VASQUEZ: Seconded by Mr. Thomas. All those

1 in favor say aye.

2 (A chorus of ayes.)

3 MR. VASQUEZ: Any opposed?

4 (No response.)

5 MR. VASQUEZ: Hearing none, the motion carries.

6 Thank you, Rosalio.

7 Moving back along to item 7(a) Presentation,
8 discussion, and possible action to amend the 2021-3
9 Multifamily Direct Loan Notice of funding availability.

10 Ms. Flickinger is back.

11 MS. FLICKINGER: Good morning again, Mr.

12 Chairman and members of the Board. I'm here to present
13 item 7(a) which is, as you said, second amendment to the
14 2021-3 NOFA.

15 You'll recall that this NOFA makes gap financing
16 available for COVID-related construction cost increases.
17 We continue to receive new applications under this program
18 under this NOFA, to date having 14 applications in-house
19 requesting over \$27 million and four new applications
20 pending full submission.

21 Due to this continued new activity, we'd like to
22 extend this NOFA to November 11 to provide opportunity for
23 the Board to review any necessary adjustments that would
24 require Board approval should they arise during application
25 review or underwriting.

1 I'd also like to point out, Mr. Chairman and
2 members, a ministerial error in Section 5(d) of the NOFA.
3 The date in the second sentence should be March 31, 2022,
4 and not 2021. I regret the error.

5 This NOFA amendment will be effective October
6 15, and happy to answer any questions the Board may have,
7 and respectfully request approval for this item 7(a),
8 second amendment to the 2021-3 NOFA.

9 MR. VASQUEZ: Great. Thank you, Ms. Flickinger.
10 Does any Board member have a question?

11 MR. MARCHANT: Could you explain what this
12 actually does in a little bit less public government-ese?

13 MS. FLICKINGER: Yes, sir, Mr. Marchant.

14 This NOFA was originally created to respond to
15 the crisis that many developers of 2019 and 2020 housing
16 tax credit developments are facing concerning costs and
17 labor increases, so with this amendment this merely
18 extended the period for which people can apply, as well as
19 for those applications that are in-house that haven't been
20 fully reviewed yet, if something should come up and the
21 NOFA would normally expire tomorrow, we wouldn't be able to
22 come back to ladies and gentlemen of the Board to ask for
23 your review of any deviation that would be necessary from
24 the requirements.

25 MR. MARCHANT: Well, this question may not

1 relate directly to that, but in that process of award do
2 you look at -- I mean, we earlier this year had a jump in
3 lumber but the lumber has come back down -- do you look at
4 the award request and then follow it through to the actual
5 expenditure? Does the actual expenditure always equate
6 back to the additional award you gave, or is there an audit
7 at the end of it?

8 MS. FLICKINGER: So what happens -- and you'll
9 see six recommendations in the next agenda item -- they
10 have to document in their application the increase over and
11 above the costs that were originally approved.

12 MR. MARCHANT: And this is costs incurred or
13 costs forecasted?

14 MS. FLICKINGER: In some cases it is costs
15 incurred, particularly for the one development that it's on
16 construction or the other that has already closed. Others
17 have documented the increase based on contracts that not
18 all have been signed, some of them are proposals from the
19 contractors.

20 MR. MARCHANT: So you have a prospective
21 contract or an actual expenditure in hand?

22 MS. FLICKINGER: Yes, sir.

23 MR. MARCHANT: And I guess my question is six
24 months later is there some mechanism that you go back and
25 find out that they actually spent those funds?

1 MS. FLICKINGER: As these are all housing tax
2 credit proposals, through the cost certification process
3 those will have to be independently certified.

4 MR. MARCHANT: Okay. Thank you.

5 MS. FLICKINGER: Thank you for your question,
6 sir.

7 MR. MARCHANT: Yeah, thanks.

8 MR. VASQUEZ: Do any other Board members have
9 questions on this agenda item?

10 (No response.)

11 MR. VASQUEZ: Hearing none, I'll entertain a
12 motion on item 7(a).

13 MR. BRADEN: Mr. Chair, I move the Board grant
14 the executive director and his designees the authority to
15 amend the 2021-3 NOFA, extend its availability date to
16 November 11, allow funds awarded under the NOFA to be
17 reserved for applications proposing FHA-insured permanent
18 debt, and post the amended note, all as expressed and
19 conditioned in the Board action request on this item.

20 MR. MARCHANT: Second.

21 MR. VASQUEZ: Motion made by Mr. Braden,
22 seconded by Mr. Marchant. All those in favor say aye.

23 (A chorus of ayes.)

24 MR. VASQUEZ: Any opposed?

25 (No response.)

1 MR. VASQUEZ: Hearing none, motion carries.

2 MS. FLICKINGER: Thank you.

3 MR. VASQUEZ: And continuing with Ms. Flickinger
4 on item 7(b) Presentation, discussion, and possible action
5 regarding awards from the Multifamily Direct Loan 2021-3
6 NOFA as amended.

7 MS. FLICKINGER: Thank you, Mr. Chairman.

8 There are six recommendations presented today,
9 and I will give you a brief summary of all of them, and
10 please don't hesitate to interrupt me with questions if you
11 choose to do so.

12 The first is Palladium Fain Street Apartments,
13 which is currently under construction in Fort Worth.
14 Previously approved for competitive housing tax credits in
15 2020, the application documents a lumber cost of a little
16 over \$1.5 million, and we are recommending \$447,000 in HOME
17 funds under the general aside for Palladium Fain.

18 The MFDL loan will have a 40-year term and
19 amortization, structured as a cash flow loan in keeping
20 with FHA requirements. Palladium Fain will serve a general
21 population. Nine MFDL designated units of the 90-unit
22 total will be restricted to 30 percent area median rent and
23 income, or AMI, and the balance of the units will include
24 housing tax credit and some unrestricted units.

25 MR. VASQUEZ: I'm sorry. Bear with me a second.

1 So the table at the top of this agenda item says \$528,735.

2 MS. FLICKINGER: That was the application
3 amount. Thank you for bringing that up.

4 MR. VASQUEZ: And then we're approving 474-, you
5 said?

6 MS. FLICKINGER: Yes. In underwriting it was
7 determined that \$474,000 was the most they could qualify
8 for.

9 MR. VASQUEZ: And which kind of feeds into Mr.
10 Marchant's question right there.

11 Okay. Please go ahead. Thank you.

12 MS. FLICKINGER: Thank you again for the
13 question.

14 The second is Vernon Pioneer Crossing, will
15 serve an elderly population in Vernon, which is located in
16 Wilbarger County. It was previously approved for
17 competitive housing tax credits in 2020, and the
18 application documents a building cost increase of over \$1.6
19 million.

20 We are recommending \$1,050,000 in National
21 Housing Trust Funds under the general set-aside. The MFDL
22 loan will be a 40-year term with amortization period
23 nearing that and payable from cash flow. This one will
24 have eight MFDL designated units of the 64-unit total and
25 they will all be at 30 percent AMI. The balance of the

1 units will include housing tax credit and unrestricted
2 units.

3 Any questions?

4 (No response.)

5 MS. FLICKINGER: The third development we're
6 presenting for your approval today is Commons at St.
7 Anthony's. This is an adaptive reuse previously authorized
8 by the Board that will serve an elderly population in
9 Amarillo.

10 Previously approved for competitive housing tax
11 credits in 2020, the application documents a building cost
12 increase of over \$3.7 million. We're recommending
13 \$2 million in National Housing Trust Funds under the
14 general set-aside.

15 The MFDL loan will have a 17-year term, balance
16 forgiven upon expiration of the federal affordability
17 period. Thirteen MFDL designated units of the 124 total
18 will be restricted to 30 percent AMI and the rest will be
19 housing tax credit units.

20 The fourth development recommended today is
21 Westwind at Dumas, which will serve a general population in
22 Dumas, located in Moore County. It was previously approved
23 for credits in 2020, competitive credits, and the
24 application documents building and labor cost increase of
25 \$1.2 million, a little over that.

1 We're recommending \$1.1 million in National
2 Houston Trust Funds under the general set-aside. The
3 direct loan will have a 40-year term and amortization
4 period, also payable from cash flow. Nine MFDL units of 64
5 will be restricted to 30 percent AMI, and the balance will
6 be housing tax credit with some unrestricted units.

7 Fifth, Arbor Park Apartments. This one will
8 serve an elderly population in Austin, previously approved
9 for 2020 housing tax credits, competitive, the application
10 documents a building and labor cost increase of \$2.8
11 million.

12 We're recommending \$2,222,900 in HOME funds
13 under the general set-aside. This direct loan will have an
14 18-year term structured as deferred payable at zero
15 interest, and there will be twelve MFDL designated units of
16 the 147 total. Those MFDL units, as with all those in the
17 general set-aside, will be limited to 30 percent AMI, while
18 the balance will be either tax credit or unrestricted.

19 MR. ECCLES: I'm sorry. Is Arbor Park HOME or
20 MHTF?

21 MS. FLICKINGER: Arbor Park is HOME.

22 MR. ECCLES: It's listed differently in the
23 chart, in the table.

24 MS. FLICKINGER: I think I have an error in my
25 notes. You're right, it's the next one that's HOME.

1 MR. ECCLES: Okay.

2 MS. FLICKINGER: Thank you, Mr. Eccles. It will
3 be MHTF.

4 The sixth is Ella Grand Apartments, serving an
5 elderly population in Houston, which was also previously
6 approved for 2020 competitive housing tax credits and has a
7 building and labor cost increase of \$3.6 million.

8 We are recommending \$2.18 million in HOME funds
9 under the general set-aside. The MFDL loan will have a 15-
10 year term, structured as deferred payable at zero percent.

11 Sixteen MFDL units of the 145-unit total will be
12 restricted to 30 percent AMI, and the balance will include
13 tax credit and unrestricted units. This award is
14 conditioned upon completion of a satisfactory previous
15 participation review.

16 And I'm happy to answer any questions that you
17 may have at this time.

18 MR. VASQUEZ: Thank you.

19 Do any Board members have questions on this
20 item?

21 MR. THOMAS: Mr. Chairman, just a point of
22 clarification. So just to make sure I understand the table
23 correctly, it appears on the table all the numbers seem to
24 fit except for the first one for Palladium Fain Street
25 Apartments, so that one you're recommending the 400- and

1 change. Right?

2 MS. FLICKINGER: Yes, sir. That was reduced
3 during underwriting.

4 MR. THOMAS: Okay. Great. Thank you.

5 MS. FLICKINGER: Thank you. Yes, the other ones
6 are all approved as requested in their application.

7 MR. THOMAS: Thank you.

8 MS. FLICKINGER: Thank you.

9 MR. BRADEN: Just as a follow-up to what Ajay
10 was saying, so recommended award, that really award really
11 should be 474-. It's probably a typo.

12 MS. FLICKINGER: We'll make that correction.
13 Thank you.

14 MR. VASQUEZ: I think it's correct in the actual
15 section for that one.

16 MR. BRADEN: Backup, yes.

17 MR. VASQUEZ: And again, I think these are
18 examples of my preference, instead of issuing more tax
19 credits, getting them to add more loans and such. So I
20 applaud these applicants for taking that route.

21 If there are no more questions, the chair will
22 entertain a motion on item 7(b).

23 MR. THOMAS: Mr. Chairman, I move the Board
24 approve the recommended 2021-3 NOFA applications, as
25 expressed and conditioned in the Board action request on

1 this item.

2 MR. VASQUEZ: Thank you.

3 Motion made by Mr. Thomas. Is there a second?

4 MR. BRADEN: Second.

5 MR. VASQUEZ: Seconded by Mr. Braden. All those
6 in favor say aye.

7 MR. ECCLES: If I could just, with the amendment
8 as expressed to the recommended amount in Palladium Fain
9 Street Apartments as expressed by the presenter, because I
10 don't believe that amount that has actually been approved
11 is in the Board action request.

12 MS. FLICKINGER: It's in the summary.

13 MR. VASQUEZ: Again, with the clarification of
14 the first one being \$474,000. Is that part of your motion?

15 MR. THOMAS: Part of my motion, and just for
16 point of clarity, just to be thorough, I will also on Arbor
17 Park make the change in your notes to HOME. Right?

18 MS. FLICKINGER: MHTF.

19 MR. BRADEN: MHTF was correct on that one.

20 MR. THOMAS: It was correct?

21 MR. BRADEN: On the chart.

22 MR. THOMAS: Okay, perfect.

23 MR. BRADEN: I just want to confirm, the chart
24 is correct except for the first award amount should be
25 474-.

1 MS. FLICKINGER: That's correct.

2 MR. BRADEN: And we're agreed. Right?

3 MR. THOMAS: We're agreed.

4 MR. BRADEN: And so my second is good with that
5 then.

6 MR. VASQUEZ: Excellent. All those in favor say
7 aye.

8 (A chorus of ayes.)

9 MR. VASQUEZ: Any opposed?

10 (No response.)

11 MR. VASQUEZ: Hearing none, motion carries.

12 MS. FLICKINGER: Thank you.

13 MR. VASQUEZ: Thank you.

14 Moving on to item (c) Presentation, discussion,
15 and possible action on requests for return and reallocation
16 of tax credits under 10 TAC Section 11.6(5) relating to
17 credit returns resulting from force majeure events for
18 applications awarded competitive 9 percent housing tax
19 credits in prior application rounds.

20 And we welcome Mr. Campbell.

21 MR. CAMPBELL: Thank you, thank you. Good
22 morning, Chairman Vasquez, members of the Board. I am Cody
23 Campbell, director of Multifamily Programs for the
24 Department, and it is a pleasure to be here this morning.

25 Item 7(c) is presentation, discussion, and

1 possible action on requests for return and reallocation of
2 tax credits under 10 TAC 11.6(5) related to credit returns
3 resulting from force majeure events for applications
4 awarded competitive 9 percent housing tax credits in prior
5 application rounds.

6 Awards of competitive credits to the
7 developments listed on the item were approved by the Board
8 in July of 2019 and July of 2020. Staff executed carryover
9 allocation agreements with the development owners that
10 included a certification from the development owner that
11 documentation for the 10 percent test would be submitted by
12 July 1, 2020 for 2019 awards and July 1, 2021 for 2020
13 awards, which was subsequently extended to September 30,
14 2021.

15 In order to satisfy the requirements of Section
16 22 of the Internal Revenue Code, each building for which
17 the allocation was made would be placed in service no later
18 than the end of the second calendar year following the date
19 of the carryover allocation agreement.

20 The department received requests from certain
21 development owners to extend the placement-in-service
22 deadline under the provisions of 10 TAC Section 11.6(5)
23 related to credit returns resulting from force majeure
24 events, and in some cases staff determined that an
25 extension of the 10 percent test was appropriate under

1 these circumstances for those deals that needed an
2 extension.

3 And just to give you an idea of where these four
4 developments are with their 10 percent tests, 19077
5 Telephone Road completed their 10 percent test last year.
6 The next two, Rockwood South and Connect South have had an
7 extension through April 28 of 2022, so they have not
8 submitted their 10 percent test yet. And then Nuestra
9 Señora submitted their 10 percent test on September 29, and
10 it is currently under review by our Asset Management
11 Division.

12 Section 11.6(5) of the QAP related to credits
13 returned resulting from force majeure events allows a
14 development owner to return issued credits within three
15 years of award and have those credits reallocated to the
16 development outside of the usual regional allocation system
17 if all of the requirements of the subsection are met.

18 Pursuant to 11.6(5), the Department's Governing
19 Board may approve the execution of a current program year
20 carryover allocation agreement regarding the returned
21 credits with the development owner that returns such
22 credits only if the credits were returned as a result of
23 force majeure events that occurred before the issuance of
24 Forms 8609.

25 Force majeure events are those under the

1 following sudden unforeseen circumstances outside the
2 control of the development owner: acts of God such as
3 fire, tornado, flooding, significant and unusual rainfall
4 or subfreezing temperatures, or loss of access to necessary
5 water or utilities as a direct result of significant
6 weather events; explosion; vandalism; orders or acts of
7 military authority; unrelated party litigation; changes in
8 law, rules or regulations; national emergency or
9 insurrection; riot; acts of terrorism; supplier failures;
10 or material and labor shortages.

11 If a force majeure event is also a
12 presidentially declared disaster, the Department may treat
13 the matter under the applicable federal provisions. Force
14 majeure events must make construction activity impossible
15 or materially impede its progress. The president declared
16 a national disaster for the COVID-19 pandemic and declared
17 a statewide disaster for Texas' Winter Storm Uri which
18 affected the state in February of 2021.

19 Development owners have communicated to staff
20 how the two presidentially declared disasters have resulted
21 in delays, in local municipalities' processing and delivery
22 of financial contracts, of supplier failures, material
23 shortages, and all have led to price increases and labor
24 shortages.

25 Staff has determined that there is sufficient

1 evidence of sudden and unforeseen circumstances outside of
2 the control of the development owners, as described in
3 11.6(5), for the Department to treat the developments under
4 an application of the force majeure rule.

5 If the Board grants the request to consider
6 these force majeure events, the development owners will
7 return the awarded credits and execution of the 2021
8 carryover allocation agreement will result in a new award
9 and a new placed in service deadline of December 1, 2023
10 for these developments, with a new 10 percent deadline of
11 July 1, 2022 for those who still need time to get that
12 done.

13 If the Board denies any of the requests
14 regarding the force majeure events, the date by which the
15 developments must be placed in service will remain the date
16 in the initial carryover allocation agreements. Because
17 the development owner has not anticipated meeting the
18 placed in service deadline, the credits are expected to be
19 returned.

20 If the development owner returns the credits,
21 the credits would first be made available in the subregion
22 from which they were originally awarded pursuant to 10 TAC
23 11.6(2) related to returned credits.

24 If there are pending applications on the
25 applicable waiting list from the relevant subregion, the

1 next application would be awarded, assuming that there are
2 enough credits to make that award. If there are not enough
3 credits in that subregion to make an award, then the
4 credits will go to the statewide collapse and contribute to
5 the next award.

6 Staff recommends the Board approve the requests
7 for treatment under an application of the force majeure
8 rule for the listed developments, and I can answer any
9 questions that you have at this time.

10 MR. VASQUEZ: Great. Thank you.

11 Do any Board members have questions on this
12 item?

13 (No response.)

14 MR. VASQUEZ: So again, these are all well in
15 process, and no one is starting from scratch and we're
16 going to be hitting -- they'll be moving right along if we
17 approve this.

18 MR. CAMPBELL: Yes, sir.

19 MR. VASQUEZ: Again, the staff's recommendation
20 is to approve these. Any potential speakers have problems
21 with that?

22 (No response.)

23 MR. VASQUEZ: Okay, great. So seeing that
24 there's no pressing public comment, the chair will
25 entertain a motion on item 7(c). And we're taking all

1 these as one vote. Correct? Is there a motion on item
2 7(c)?

3 MR. MARCHANT: Mr. Chairman, I move the Board
4 approve the requested return and reallocation of tax
5 credits under the force majeure rule for the listed
6 developments, as expressed and conditioned in the Board
7 action request on this item.

8 MR. VASQUEZ: Great. Thank you.

9 Motion made by Mr. Marchant. Is there a second?

10 MR. BRADEN: Second.

11 MR. VASQUEZ: Seconded by Mr. Braden. All those
12 in favor say aye.

13 (A chorus of ayes.)

14 MR. VASQUEZ: Any opposed?

15 (No response.)

16 MR. VASQUEZ: Hearing none, the motion carries.

17 MR. CAMPBELL: Thank you.

18 MR. VASQUEZ: Thank you, Cody.

19 Now, this was an efficient meeting, wasn't it?
20 So the Board has addressed the posted agenda items.

21 Now is the time of the meeting where members of
22 the public can raise issues with the Board on matters of
23 relevance to the Department's business or request that the
24 Board place specific items on future agendas for
25 consideration.

1 Is there anyone who would like to provide public
2 comment at this time?

3 (No response.)

4 MR. VASQUEZ: Hearing none or seeing none,
5 appreciate everyone's braving the weather, as the case may
6 be, to get here.

7 And as far as future events, it should be noted
8 that tomorrow, Friday, October 15, the Astros start the
9 American League Championship Series, and Tuesday, October
10 26, the World Series begins, and the next scheduled Board
11 meeting is Wednesday, November 10, 2021, at a location to
12 be announced.

13 And with that, it is 10:20 a.m., and the meeting
14 is adjourned.

15 (Whereupon, at 10:20 a.m., the meeting was
16 adjourned.)

C E R T I F I C A T E

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MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: October 14, 2021

I do hereby certify that the foregoing pages,
numbers 1 through 6162, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
made by electronic recording by Nancy H. King before the
Texas Department of Housing and Community Affairs.

DATE: October 20, 2021

(Transcriber)
On the Record Reporting
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