TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

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

March 10, 2022
10:02 a.m.

BOARD MEMBERS:

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

BOBBY WILKINSON, Executive Director

I N D E X

P R O C E E D I N G S

MR. VASQUEZ: I'm calling to order the meeting of the Governing Board of the Texas Department of Housing and Community Affairs. It is 10:02 a.m. on March 10, 2022. Thank you all for being here.

We'll start out with a roll call.

Mr. Batch?

MR. BATCH: Here.

MR. VASQUEZ: Mr. Braden?

MR. BRADEN: Here.

MR. VASQUEZ: Mr. Marchant?

MR. MARCHANT: I'm here.

MR. VASQUEZ: Mr. Thomas?

MR. THOMAS: I'm here.

MR. VASQUEZ: And Ms. Thomason is unable to join us. I am here.

I believe we also have a special honored guest in the audience today, Mr. Thomas. Is there a Ms. Jenna Thomas here visiting here?

(Applause.)

MR. THOMAS: I appreciate that, Mr. Chairman. My youngest daughter, Jenna Thomas, who is a 7th grader at St. Stephens Episcopal School, is interested in government and is a member of student government, so she wanted to watch and see how we all do it here in the State of Texas.

Appreciate the recognition.

MR. VASQUEZ: Thank you for being here, Jenna. Don't let this meeting discourage from pursuing.

(General laughter.)

MR. VASQUEZ: Okay. We will start with Mr. Wilkinson leading us in the pledges.

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

MR. VASQUEZ: And the TDHCA is recognizing April as Fair Housing Month, and Mr. Lyttle will read a resolution to that effect.

MR. LYTTLE: Thank you, Mr. Chairman.

The resolution reads as follows:

"Whereas, April 2022 is Fair Housing Month, and marks 54 years since the passage of the federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968), signed by U.S. President Lyndon Baines Johnson on April 11, 1968;

"Whereas, the Fair Housing Act provides that no person shall be subjected to discrimination because of race, color, national origin, religion, sex, disability, or familial status in the sale, rental, financing, or advertising of housing and charges the Secretary of the U.S. Department of Housing and Urban Development (HUD) with administering HUD programs in a manner that meets the requirements of the law and purposes of the Fair Housing Act;

"Whereas, the Texas Department of Housing and Community Affairs (the Department) administers HUD and other housing programs that promote the development and supply of safe, decent, affordable housing for qualifying Texans;

"Whereas, it is the policy of the Department to support equal housing opportunity in the administration of all of its programs and services, including encouraging equitable lending practices for its homebuyer programs and ensuring compliance with Fair Housing rules and guidelines for its multifamily developments;

"Whereas, the Department, through its programs, workshops, trainings, and materials seeks to educate property managers, consultants, program administrators, architects, contractors, developers, engineers, lenders, real estate professionals, and others about the importance of their adherence to the requirements of the Fair Housing Act;

"Whereas, the Department encourages the development of educational fair housing programs in local communities throughout the State and is seeking to build new opportunities for fair housing education and training; and

"Whereas, the Department and the State of Texas support equal housing opportunity and housing choice in accordance with the Fair Housing Act not only during Fair Housing Month in April, but throughout the entire year;

"Now, therefore, it is hereby resolved, that the Texas Department of Housing and Community Affairs

(1) recognizes the significance of Fair Housing Month as an important time to acknowledge, better understand, and support equal housing opportunity, and encourages the continued commitment to fair housing in the State of Texas; and

(2) recognizes that in the pursuit of the goal and responsibility of providing affordable housing and equal housing opportunities for all, the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate April 2022 as Fair Housing Month in Texas and encourages all Texas individuals and organizations, public and private, to join and work together in this observance of the impact and importance of affordable housing and equal housing opportunity to the success of all Texans.

"Signed this tenth day of March 2022."

MR. VASQUEZ: Thank you, Mr. Lyttle.

Hearing no objections, the resolution is so adopted.

Let's move on to the consent agenda. Are there any items that members of the Board or the public want to move from consent to action?

MR. VASQUEZ: Hearing none, I'd entertain a motion for approval of the consent agenda.

MR. MARCHANT: So moved, Mr. Chairman.

MR. VASQUEZ: Moved by Mr. Marchant.

MR. BATCH: Second.

MR. VASQUEZ: Seconded by Mr. Batch. All those in favor say aye.

(A chorus of ayes.)

MR. VASQUEZ: Any opposed?

(No response.)

MR. VASQUEZ: Hearing none, motion carries.

We will not be needing an executive session today, so we'll go straight to the executive director's report.

MR. WILKINSON: Thank you, Chairman.

The long-awaited Homeowners Assistance Fund, we got our plan approved by Treasury January 28, and we just launched on Texas Independence Day, March 2. Things have been going smoothly so far.

It was kind of a soft opening, in that we didn't do a huge marketing campaign like we did with Rent Relief. We're going to kind of beef that up as time goes on.

There's a public-facing dashboard at the top of TexasHomeownerAssistance.com, and you'll see that we have $6-something million out to over 700 households. That's pilot, that's reflective of the pilot, and those numbers will start to move on the statewide program in the coming weeks and months. Additionally, we'll develop metrics for aging files and time to pick up and all that stuff from lessons learned from Texas Rent Relief, so I'm excited about it.

Once again, for anyone in the audience, TexasHomeownerAssistance.com or 1-833-651-3874, multiple languages are available. It's a benefit up to $65,000 for a homeowner who might be behind on their mortgage or property tax, up to 40K on the mortgage side and up to 25K for the combination of HOA fees, homeowner's insurance, and the big one, property taxes.

The average payout so far in the pilot is more like 7 or 8 grand, so how many households we serve is going to depend on the data in the next few weeks to see how big the average payout is, but hope to serve over 70,000.

On the Texas Rent Relief side, the program continues its wind down. We've put out about $1.97 billion, or 99 percent of the direct rent and utility assistance funds. We've helped more than 309,000 households, and the eviction diversion portion of that was

21,000 households.

We closed the portal in November of 2021 because it was obvious we had more applications than we had funding, and we're kind of done processing approved applications; it's mostly some outstanding payment issues and appeals.

The Texas Supreme Court order establishing the Texas Eviction Diversion Program has been extended through May 1, although we don't really have the funding piece to go along with that.

It is possible that we might get some reallocated funds from Treasury. We didn't make it in the first round. Houston-Harris got some, San Antonio did, very few statewide programs got any. We should be in line for this one. We were told a few weeks ago it was going to be one or two weeks so it's imminent.

How much, I can't say. You know, hopefully it's a meaningful amount so we can serve some of the backlog of last minute applications that have not been able to get funded. I do not expect us to open the portal to new applications, even with a significant reallocation.

On the multifamily side, the deadline for the full applications for 9 percent was March 1. We received 127 applications for 2022 9 percent. That's in addition to the 36 supplemental applications for supplemental credits for '19 and '20 deals. We have a total of $174.6 million in credits requested, and we only have $76.3 million available, so it will be a fun competition, as always.

We sent out an announcement on Monday announcing our online work groups and public roundtables that are in person; we're doing a combination, as we plan for the 2023 Qualified Allocation Plan. You know, we're always still tracking, we're doing the current round and we're planning for the rules for the next one at the same time.

Kind of the development of the 2023 QAP, if you'll remember Brooke's plan, it's more comprehensive than it's been in the last couple of years. We were kind of in COVID modem and now we're really going to engage with the stakeholders and industry to develop the QAP going forward. You should get kind of an earlier look at it, as well, so that Board members and Rules Committee can weigh in.

Developers and consultants, please sign up and participate in the roundtables and such. We want to hear what you have to say. We hear you here sometimes, but it's nice to hear you at the roundtables as well.

The Compliance Division is having a roundtable on March 25, hoping to get feedback from our partners, and we'll use this roundtable to help us consider what updates, if any, are needed to the rules and such.

We have a new training for housing tax credit properties that have completed the federal compliance period. This is being done virtually on March 24. The new training is designed to help current and new owners purchasing post-15 properties on how to maintain compliance and what to expect during reviews and inspections.

On the staff side we have some good and some bad. Brian Thornton, are you here? There he is. Hello, Brian.

Brian is our new senior policy advisor and joins our Legislative Affairs team. We stole him from Senator Bettencourt's office, which Senator Bettencourt was our chair of Local Government, our oversight committee, so he's familiar with TDHCA and some housing programs.

He previously worked for Senator Campbell; I believe he worked in the House. He also worked for Ellen Troxclair when she was an Austin City councilwoman and has a lot of policy experience with the issue of homelessness.

So welcome, Brian.

On the bad side, we are losing Monica Galuski, who is leaving us at the end of the month.

Monica, are you here? She's waving.

She's been great the last seven years at TDHCA, she's done so much to improve our Bond Finance area and homeownership programs. Tried to talk her out of it but no luck. We're really going to miss you, and hard shoes to fill, so we're trying to do that now, we have a posting for Bond Finance director, we'll be advertising, et cetera. So if you know of anybody who's like Monica, you know, please have them apply.

Finally, on a very sad note, TDHCA recently lost a staffer for our compliance area. Lorrie Lopez passed away. This was Ernest's right hand, and she worked for us for 17 years in Compliance as well as Internal Audit. She touched a lot of lives at the agency, and she's going to be dearly missed. We send condolences to her co-workers, family and friends.

And that's the end of my prepared remarks, Mr. Chairman. If anyone has any questions, I'm happy to entertain.

MR. VASQUEZ: Do any Board members have questions for Mr. Wilkinson?

(No response.)

MR. VASQUEZ: Great. Hearing none, thank you for the report.

Moving on to item 4 of the agenda, report on the meeting of the Audit and Finance Committee, and Mr. Thomas, the committee chair, will present.

MR. THOMAS: Thank you, Mr. Chair and fellow members.

The Audit and Finance Committee met this morning at 9:05 a.m. Central. In that meeting, Mr. Mark Scott, director of Internal Audit, presented three report items: the internal audit of IT general controls, the internal audit of the previous participation review functions, and the status of internal and external audit activities.

Ms. Lauren Futch, with the State Auditor's Office, presented the State Auditor's Office's audit of the TDHCA financial statements for fiscal year 2021 as an action item. The committee voted to recommend approval of the State Auditor's Office's report to the full Board. Ms. Futch is here to present that report.

Lauren.

MS. FUTCH: Good morning, Chairman and members. My name is Lauren Futch, and I'm a project manager with the State Auditor's Office. This morning I will be presenting the results of our most recent financial audit at the Department.

We issued two unmodified opinions, one for the Department's basic financial statements for fiscal year 2021 and one for the Department's Revenue Bond Program financial statements for fiscal year 2021.

We determined that these financial statements are materially correct and reported in accordance with Generally Accepted Accounting Principles, or GAAP. In other words, we determined that these statements as issued were not misleading to the reader of those statements.

Additionally, we also concluded that the Department's computation of unencumbered fund balances complies with Texas Government Code Sections 2306.204 and 2306.2015.

We also issued an opinion on the Department's compliance with the Public Funds Investment Act for fiscal year ended August 31, 2021. The results of that work determined that the Department materially complied with the Public Funds Investment Act.

Lastly, I would like to thank Mr. Cervantes and the Financial Administration group, Larry and his IT team, and Mr. Scott for their assistance and cooperation throughout the audit.

This concludes my comments, and I'd be happy to address any questions that you have.

MR. VASQUEZ: Thank you, Ms. Futch, and thank you for the presentation at the committee meeting earlier today.

MS. FUTCH: Thank you.

MR. VASQUEZ: Does anyone have any questions for Ms. Futch?

(No response.)

MR. VASQUEZ: Mr. Thomas.

MR. THOMAS: Thank you, Mr. Chair.

I move the Board accept the annual financial audit of the State Housing Trust Fund and the audit of the Housing Finance Division, all as presented in the Board action request on this item.

MR. BRADEN: Second.

MR. VASQUEZ: Seconded by Mr. Braden and motion made by Mr. Thomas. And just for the record, we are now on item 4(b) of the agenda. So all those in favor say aye.

(A chorus of ayes.)

MR. VASQUEZ: Any opposed?

(No response.)

MR. VASQUEZ: Hearing none, motion carries.

Thank you, Mr. Thomas.

Moving right along to item 5, Rules. Presentation, discussion, and possible action on the proposed repeal and proposed new 10 TAC Section 7.1, 7.2, 7.3 and Section 7.7 and 7.12; 10 TAC Chapter 7, Subchapter C, Emergency Solutions Grants; and 10 TAC Chapter 7, Subchapter D, Ending Homelessness Fund, and directing their publication for public comment in the Texas Register.

Ms. Versyp.

MS. VERSYP: Good morning, Chairman and members of the Board. I'm Abigail Versyp, director of Single Family and Homeless programs.

The first item I'm presenting today are rule changes to the Department's Homeless programs at 10 TAC Chapter 7. The changes presented primarily impact the award process and requirements for TDHCA's Emergency Solutions Grants, or ESG Program, and the Ending Homelessness Fund.

Staff presented a summary of the proposed changes to interested parties during a series of roundtables where we had 187 individual stakeholders attend. They were invited to provide feedback and recommendations to the proposal.

The recommendations for the rule changes are summarized in the board book, and I wanted to highlight today the most significant proposed changes where we received the greatest amount of feedback from our stakeholders.

Portions of Subchapter A and all of Subchapter C and D are recommended for repeal and replacement due to these 70 updates. The changes to Subchapter A are primarily to align with proposed changes in Subchapter C, so anything in there is not something we expect to receive public comment about outside of comment with Subchapter C.

All of the feedback that we received was related to the proposal specifically to ESG. The proposal for ESG contains extensive changes to the distribution of funds and award process.

The distribution method proposed includes giving the Department the flexibility to enter into direct sub-grants with nonprofits with certain project types. Like if we had someone who received HOME-ARP to create a non-congregate shelter, we could directly award them funds for operation of said shelter without going through an award process.

It also includes the creation of a set-aside of at least 70 percent of funds otherwise awarded to longstanding subrecipients of the ESG that have demonstrated high performance in their prior awards, including both with expenditure and with compliant use of funds.

Currently all ESG funds are awarded through a competitive process. The funds are first divided by Continuum of Care region, and in each region the Continuum of Care lead can elect to run a local competition and make recommendations to TDHCA for awards in their region.

Most CoC regions don't elect to run a local competition, so applicants in those regions apply to TDHCA through a competitive process. The newly proposed process eliminates the use of local competition, so all applicants would apply directly to TDHCA.

Additionally, the set-aside for existing subrecipients offers us the ability to offer an award of funds proportionate to the prior year awards to subrecipients without going through a competitive process year over year as long as they remain in good standing.

While the set-aside is at least 70 percent of funds, this percentage may be increased in the NOFA in order to provide award amounts that will keep our highest performing partners funded to the greatest extent feasible.

The remaining funds would then be offered to other applicants under a competitive process described in the proposed changes, or if we have a subrecipient that was offered a direct award, elected not to take it so that they could compete, that's also an option.

The funds would maintain their regional identity through the first round of competition and then collapse into a statewide pool.

Changes to the competitive process include changes to scoring criteria. These include removal of the recommendation of the CoC lead agency from the score and changes that add points for organizational capacity and exits to positive housing destinations. Some changes are also recommended to post-award grant administration for ESG, including the eligible activities that TDHCA's ESG funds may be used for.

Since we are providing a significant investment into capital for non-congregate shelters, and since the ESG

Program has a really, really compressed expenditure deadline, the changes do propose to remove rehabilitation, renovation, or conversion of emergency shelters; however, general repairs, upkeep of those shelters is still eligible under the shelter operations activity.

We didn't receive comment about this change at the roundtable, but we did receive comment about another change that would prohibit the lease or purchase of vehicles with ESG funds.

While staff does understand that this is a federally eligible cost, there are ongoing federal requirements related to purchase or lease of vehicles that would cause administrative oversight for many, many years even after the grant term has expired, so staff did recommend that the prohibition remain in the rule.

We didn't receive any feedback related to Subchapter D, the Ending Homelessness Fund, but in summary, the changes allow us to administer the funds solely under the more flexible HHSP requirements and to increase the amount of funds in the account before we enter into a competitive funding source. The intention here is to make that fund as flexible as possible and to increase the community impact of the funds when they're awarded.

I know the changes are extensive. I welcome any clarifying questions or comments.

MR. VASQUEZ: Do any Board members have questions for Ms. Versyp on this?

(No response.)

MR. VASQUEZ: And again, I think the changes that I've seen will help move things along much faster.

MS. VERSYP: That's the idea, and to keep our partners operating with a level of security that as long as they perform, they'll receive an award.

MR. VASQUEZ: Okay. So are we done with this part of the presentation?

MS. VERSYP: Yes.

MR. VASQUEZ: Okay. Great. So the chair will entertain a motion on item 5 of the agenda.

MR. BATCH: Mr. Chairman, I move that the Board approve the proposed repeal and proposed new sections of 10 TAC Chapter 7 for publication in the Texas Register for public comment, all as stated in the Board action request on this item.

MR. VASQUEZ: Motion made by Mr. Batch. Is there a second?

MR. THOMAS: Second, Mr. Chairman.

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

(A chorus of ayes.)

MR. VASQUEZ: Any opposed?

(No response.)

MR. VASQUEZ: Hearing none, motion carries.

Thank you, Ms. Versyp. And you're still on item 6 of the agenda.

MS. VERSYP: I'm still here.

MR. VASQUEZ: Report on Emergency Solutions Grants funding under the CARES Act.

MS. VERSYP: Yes. So this is the second and last item that I'm presenting on today, and this is simply related to our ESG CARES Program. We wanted to take some time and report to you about our progress.

On March 27, 2020, the CARES Act as signed into law, and $4 billion was invested into the ESG Program for coronavirus response. TDHCA was allocated more than $97 million in two tranches in 2020. That's about ten times the annual amount of funds we receive in our regular ESG Program.

We partnered with 121 subrecipients in efforts to fully utilize this historic investment in ESG. I'm pleased to report to you that TDHCA is one of the national leaders in expended funding to aid Texans through street outreach, emergency shelter, rapid rehousing, and homeless prevention.

I'd like to take a moment to recognize the efforts of the ESG CARES team: Natalie Buteos, Zac Gibson, Alonzo Peterson, and Cecilia Nurse, who were initially led by Naomi Cantu and they're now managed by Rosy Falcon. I'd like to also mention Alexa Johnson, who is interning with the ESG CARES team and assisted with preparation of the report.

This team has demonstrated commitment, creativity, diligence, expertise and service to our partners and those that they serve. Their work has positioned us to expend funds by the federal deadline approaching in September.

While our expenditure rate is high compared to the national average, HUD recently pulled back an initial deadline that it had set for 80 percent expenditures required by March 31.

Many factors over the course of the pandemic impacted the ability of our subrecipients and subrecipients nationwide to expend funds for planned activities, especially homeless prevention.

Eviction moratoriums and additional funds made available for rental assistance reduced the number of households eligible for these activities, and our ESG CARES team worked with subrecipients to quickly pivot and prepare for the end of moratoriums and the exhaustion of other rental assistance sources.

Despite these and other challenges, many subrecipients are on track to fully expend their funds, and those that aren't are working with our team to voluntarily de-obligate funds so that they can be recommitted to other resources.

Out team routinely evaluates, reaches out to subrecipients and management regarding reallocation of funds, extension of contracts, necessary technical assistance to ensure that the funds are completely used.

The waiver authority granted by this Board allows for contract extensions up to the grant expenditure deadline, and such extensions ensure that households may continue to be entered into programs with an expectation of continuing funding for agencies to meet their needs.

Thank you for taking a few minutes with me to talk about our progress with ESG CARES. I'm happy to answer any questions that you have about the program or about the report.

And as a side note, I did poll some other states this morning to see where we were specifically in comparison to them, with a healthy spirit of competition. As of this morning, TDHCA is 55.66 percent expended, New York 27.28 percent expended, California 29.41 percent expended, and we are edging Florida by .04 percentage points; they are at 55.62. So if you know anybody, you can call and gloat. Thank you.

MR. VASQUEZ: Thank you, Ms. Versyp.

Do any Board members have questions?

MR. THOMAS: I did have one question, just a clarification.

Our packet, when we looked at the statistics of the program, roughly about 80,000 people are served from the ESG Program, but I did notice a separate special populations category and statistic that jumped out at me was that nearly 12,000 people are victims of domestic violence in that category. Is that 12,000, or 11,776, to be precise, part of that 80,000 as a component?

MS. VERSYP: Yes, it is.

MR. THOMAS: That's a pretty amazing percentage then. I'd say that's a very serious issue and one that it's nice to see that the program is assisting in that way.

MS. VERSYP: We have some providers that solely assist persons experiencing domestic violence or fleeing from domestic violence, and they provide such a valuable service in their community. We're really glad we can fund them.

MR. THOMAS: Great. Thank you.

MR. VASQUEZ: And Ms. Versyp, just to reiterate, so we are on track to expend the balance before the deadline?

MS. VERSYP: We are on track to expend. With the expiration of eviction moratoriums, the funds can be utilized more freely for homeless prevention, which is one of the main categories that we put funding into prior to receiving Texas Rent Relief, and so the expenditures are ticking up month by month. So we don't expect that this level off on this current trend is going to continue; we expect it to increase.

MR. VASQUEZ: Okay, great.

MR. WILKINSON: Quick comment, Chair.

Abby, thank you so much for everything your team is doing.

And this is a theme we're dealing with in multiple areas of the Department as far as huge COVID packages. Sometimes it's direct, like Rent Relief, and sometimes it's partnering with subrecipients, and so it's really helpful the waiver authority that y'all granted and the nimbleness of staff to try to move money into different areas and reallocate as needed. You know, the last thing we want to do is give any money back, and we want to beat Florida.

MS. VERSYP: Yeah, by more than .04 percentage points. We hope everybody expends their money, but it's nice to be first.

And I would like to point out some members of my CARES team have joined us today for the meeting.

MR. VASQUEZ: Great, great. Thank you all.

Do we have public comment on this item?

MS. TRACZ: (Speaking from audience.) No. I'm on the next item.

MR. VASQUEZ: All right. Good.

This is a report item only so I guess we're not having to vote on anything, so thank you for the report.

MS. VERSYP: Thank you so much.

MR. VASQUEZ: Moving right along to item 7(a), Presentation, discussion, and possible action granting authority for Emergency Rental Assistance 2 Housing Stability Services funds to be awarded to the Texas Access for Justice Foundation for the provision of housing Stability Services.

Ms. Tracz.

MS. TRACZ: Good morning. I'm Cate Tracz, director of Houston Stability Services. I'm presenting item 7(a), requesting authority to provide $20 million in ERA-2 Housing Stability Services funds to the Texas Access to Justice Foundation, or TAJF, for a two-year contract period.

Effective in April 2021, the Department had awarded $20 million in a contract for ERA-1 Housing Stability Services funds to the Texas Access to Justice Foundation to create a statewide coordinated response to pandemic-related legal services needs, focusing on housing stability and eviction diversion.

TAJF is the Supreme Court of Texas's administrator of funding for civil legal aid, and they've been administering the ERA-1 Housing Stability Services funds through a network of ten sub-grantees to provide local in-person and online application clinics for the rent programs such as Texas Rent Relief and other similar rent relief programs around the state, also to provide assistance with the Eviction Diversion Program application and to provide counsel and to accompany low income households to eviction proceedings and to provide mediation between tenants and landlords.

So given the reach and success of their current ERA-1 Housing Stability Services contract to date and the continued need to provide legal aid services to eligible Texans experiencing housing instability in the wake of the pandemic, staff is recommending that the Board provide approval to enter into an agreement with TAJF for a contract period of March 31, 2022 through March 31, 2024, so that TAJF may continue to provide housing stabilization services.

The contract will have an effective date of March 31, 2022, but the activity under this contract will not start until they've completely expended all of their funds in their current ERA-1 Housing Stability Services contract, and this just ensures that TDHCA meets our obligation and expenditure deadlines to the Treasury.

Providing households facing housing instability with legal counsel we've really seen has been a key component in housing stability and directly affects the household's ability to maintain stable housing.

With the ramp down of so many successful rent relief programs, including Texas Rent Relief -- which was hugely successful -- legal assistance being available now to low income households during their eviction proceedings becomes an even more critical piece in assisting that household to maintain their stable housing.

As Bobby mentioned in his executive director's report, just recently at the end of February the Supreme Court of Texas issued another emergency order extending the Texas Eviction Diversion Program through May 1.

Also in the emergency order it upheld the requirement that the eviction court judges must allow legal aid organizations and volunteer legal services to be present in court to support households, either in person or remotely, to provide information, advice or assistance to the households facing eviction.

So continued support of TAJF and their network of ten sub-awardees will provide support for activities described in the emergency order.

Before I wrap up, I do want to mention that we don't intend to bring any further allocation recommendations under this program for TAJF. This is part of the one-time COVID relief program, so actions taken under this item and then item 7(c), which I'll present next, will fully obligate all of the ERA-2 Housing Stability Services funds administered by the Department.

So I won't be back with similar award requests, but we will be providing regular progress updates through the regular board report items, and hopefully we can meet or exceed Abby's enthusiasm with her 52 percentage points.

And with that, I'm happy to answer any questions on this item.

MR. VASQUEZ: Thank you.

Do any Board members have questions for Ms. Tracz?

(No response.)

MR. VASQUEZ: Just on my part, to clarify or reiterate that the Supreme Court's program, the Texas Access to Justice Foundation, they are now fully ramped up and staffed up, so all of these will continue their programs.

MS. TRACZ: They are. Yes, they have found that with ramping up programs with so much available resources, you know, once they ramped up they felt that it was really -- and staff supports that it's really important to maintain that infrastructure now, instead of ramping down again, to maintain the good progress that they've been doing with helping households currently.

Right now their contract would end in September, and that infrastructure that they have ramped up and they're going full steam ahead with now would end in September. And we would like to continue that for up to two years. They have that amount of time to expend these funds; they could certainly do it a lot quicker as well.

MR. VASQUEZ: Okay. Well, it's great to support this program.

So hearing no other comments, the chair will entertain a motion on item 7(a) of the agenda.

MR. BRADEN: Mr. Chair, I move the Board grant the executive director and his designees the authority to enter into an agreement with the Texas Access to Justice Foundation to continue provide eligible housing stabilization services, subject to conditions and limitations expressed in the Board action request on this item.

MR. VASQUEZ: Thank you.

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

MR. BATCH: Second, Mr. Chairman.

MR. VASQUEZ: Seconded by Mr. Batch. All those in favor say aye.

(A chorus of ayes.)

MR. VASQUEZ: Any opposed?

(No response.)

MR. VASQUEZ: Hearing none, the motion carries.

And item 7(b) has been pulled from the agenda.

Moving to item 7(c), Presentation, discussion, and possible action on Emergency Rental Assistance 2 Housing Stability Services awards, and again, Ms. Tracz.

MS. TRACZ: So this is item 7(c) requesting authority to provide awards totaling $84 million in ERA-2 Housing Stability Services funds to 44 organizations listed in attachment A of this Board item.

In June of 2021, the Board authorized staff to release a NOFA, or Notice of Funding Availability, for ERA-2 Housing Stability Services funds. The NOFA was released on November 12, 2021.

Staff held an application webinar on December 1, 2021 to present an overview of the NOFA as well as an opportunity for potential applicants to ask questions. It was highly attended, we had a lot of questions, provided a lot of guidance for the NOFA applicants.

On January 7 of 2022, applications were due. Staff received 81 applications in response to the NOFA requesting nearly $197 million; that's more than twice the available funding in the NOFA of $84 million.

Of the 81 total applications, seven were disqualified for not meeting threshold criteria as outlined in the NOFA, and then upon completing scoring, four applications did not meet the 65-point minimum and are therefore not eligible to be recommended for funding. The remaining 70 applications are eligible for the NOFA requirements, and the final scores ranged from 65 up to 190 points out of a possible 200 points.

Applicants had a chance to appeal their scores to staff and staff received appeals to the executive director from nine organizations. Six of these appeals were granted and three were denied. None of the appealed decisions were ultimately requested to be brought before the Board today.

In the NOFA the Department reserved the right to revise requested funding amounts and indicated that we may elect to revise all of the applicant funding amounts by proportional amounts to increase the number of applicants that could be funded.

So for these funding recommendations and in order to extend the reach of the program and to spread the funds to more eligible organizations that would have been eligible if we just left it at 100 percent of the funds, staff is recommending that all applicants' requested funding be proportionally reduced by 32 percent. Using this approach, of the 70 eligible applications, staff is able to recommend awards for the top 44 highest scoring applications listed in attachment A.

These 44 recommended organizations, layered with the 27 current ERA-1 Houston Stability Services subrecipients and the ten sub-awardees of the Texas Access to Justice Foundation, will provide a strong network of housing stability services providers to all of TDHCA's 13 state service regions, both in the urban and rural sub-region areas, covering a large majority of the counties in Texas.

This group of organizations includes a wide variety of housing stability services providers, including mental health providers, community action agencies, local cities and municipalities, local homeless coalitions, and organizations that directly serve persons with disabilities and survivors of domestic violence.

Of this group there are 17 organizations that are currently administering an ERA-1 Housing Stability Services contract, so these organizations will not be able to access their ERA-2 award until they fully expend their ERA-1 award, and again, that ensures that we're meeting our full obligation and expenditure deadlines to Treasury.

So with your approval, staff will work very quickly to enter into contracts with these 44 organizations so that those that are currently not administering an ERA-1 contract may start their service delivery as soon as possible, and those that currently have ERA-1 Housing Stability funds may quickly transition from ERA-1 to 2 without a gap in service delivery.

With that, I'm happy to answer any questions. Thank you.

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

(No response.)

MR. VASQUEZ: And could you, just to help clarify, reiterate the 30 percent hold-back?

MS. TRACZ: Sure. So in the application we left the provision that said if we receive a large number of applications we would reserve the right to reduce everyone's funding amount proportionally by a certain amount so that we could spread those funds farther down the list to more organizations.

So we found a good breaking point at 32 percent that will capture -- instead of just giving everyone 100 percent of their request, it only goes so far down the list, by reducing everyone by that 32 percent, we can go much farther down the list and ensure vulnerable populations are covered, coverages around the state. We're providing services to large and small organizations that really have focused and niche service delivery. So instead of tiering our reduction, it was just a clear flat reduction of 32 percent.

I would say that the threshold for funding requests, applications could request up to $12 million, or they could do $100,000 or $200,000 for a request, so we do have a really wide range of organizations that applied, large city homeless coalitions versus very small shelters that serve families. So with this 32 percent reduction, we are able to reach a large population.

MR. VASQUEZ: Great. Thanks.

Okay. Hearing no other questions from the Board or seeing no members of the public to comment, the chair will entertain a motion on item 7(c) of the agenda.

MR. THOMAS: Mr. Chairman, I move the Board grant the executive director and his designees the authority to enter into agreements with the 44 entities described in this item to provide eligible housing stabilization services, subject to the conditions and limitations as expressed in the Board action request on this item.

MR. VASQUEZ: Great. Thank you.

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

MR. BATCH: Second.

MR. VASQUEZ: Seconded by Mr. Batch. All those in favor say aye.

(A chorus of ayes.)

MR. VASQUEZ: Any opposed?

(No response.)

MR. VASQUEZ: Hearing none, the motion carries.

MS. TRACZ: Thank you.

MR. VASQUEZ: Thank you, Cate.

Moving on to item 8(a) of the agenda, Presentation, discussion, and possible action regarding the issuance of Multifamily Housing Revenue Bonds Series 2022, Resolution No. 22-017, and a determination notice of housing tax credits.

Ms. Morales.

MS. MORALES: Good morning. Teresa Morales, director of Multifamily Bonds.

Item 8(a) involves a multifamily bond issuance for the acquisition and rehab of 50 units in Socorro, located in El Paso County. The transaction also involves the new construction of one residential building containing two units which are being constructed to meet the Department's accessibility requirements in that there be at least one accessible unit across all unit types.

This transaction involves the issuance in an amount not to exceed $6.5 million and utilizes an FHA 221(d)(4) loan where the bonds will be cash collateralized with the proceeds from ORIX Real Estate Capital, also known as Lument, as the FHA lender.

As is required on bond transactions, staff conducted a public hearing, and there was no public comment made; no letters of support or opposition have been submitted either.

This application is one of 21 that participated in the TDHCA bond lottery for 2022 and is the first to come before you for consideration. There was only enough volume cap to reserve seven applications, which will be before you in April and May.

As a side note, there continues to be applications added to our waiting list. We are currently four times oversubscribed with a total amount in requests being $740 million.

Staff recommends approval of Bond Resolution No. 22-017 in an amount not to exceed $6.5 million, and a determination notice of 4 percent housing tax credits in the amount of $460,618.

MR. VASQUEZ: Great. Thank you.

Any questions on this item?

(No response.)

MR. VASQUEZ: This is kind of a smaller than usual bond request.

MS. MORALES: Correct. Not the smallest we've ever done.

MR. VASQUEZ: Okay. Hearing no questions, we'll entertain a motion on item 8(a) of the agenda.

MR. BATCH: Mr. Chairman, I move that the Board issue a determination notice of 4 percent housing tax credits for Socorro Village and approve Resolution No. 22-017 regarding the issuance of Tax Exempt Multifamily Housing Revenue Bonds Series 2022, all expressed and subject to the conditions in the Board action request on this item.

MR. VASQUEZ: Motion made by Mr. Batch. Is there a second?

MR. BRADEN: Second.

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

(A chorus of ayes.)

MR. VASQUEZ: Any opposed?

(No response.)

MR. VASQUEZ: Hearing none, motion carries.

Moving on to item 8(b), which is a report item, quarterly report relating to staff-issued determination notices for 2021, non-competitive 4 percent housing tax credit applications, with a summary of year-end activity and a 2022 program update.

Ms. Morales.

MS. MORALES: Teresa Morales again, director of Multifamily Bonds.

This is a report item that speaks to 4 percent activity over the last quarter, so those applications from December through February, specifically those where the determination notice was issued administratively by staff. Exhibit A included in this agenda item reflects that activity.

Keep in mind that these are applications where the Department was not serving as the bond issuer, and the applications did not include a request for multifamily direct loan funds.

Over the last quarter staff has issued ten determination notices, which represents approximately 2,300 units and about $19 million in annual 4 percent credits. Since implementation of the policy in early 2021, staff has administratively issued 36 determination notices, representing 8,200 units and about $71 million in annual 4 percent credits.

Exhibit B in your materials highlights activity for the 2021 calendar year. There are still about ten applications from 2021 that are pending closing or still under review by staff.

Assuming all of these applications close under their current bond reservation, the 4 percent program will have produced, either through preservation of existing affordable housing or the new construction, 16,493 total units in 2021, spread over 74 applications, and approximately $141 million in annual 4 percent credits.

This is on par with what we did in 2020, which marks two consecutive years of unprecedented activity, and during a pandemic.

Now let's talk about 2022. At the start of the program year, the $3.2 billion ceiling for private activity bonds received requests that totaled $6.2 billion. Based on the reservations that were issued with available volume cap, we currently have about 40 applications that are at various stages of the review process that total over 8,400 units. Considering the units produced last year, it's anyone's guess as to where we'll end up, considering that it's only March.

Running this program is not as easy as it may seem, and it's important that I articulate the amount of work and extensive coordination required. All that is happening behind the scenes that many do not realize because it isn't the star of the show on a Board agenda.

You may be surprised to know that despite there not being a scoring component to 4 percent applications, it takes staff twice and sometimes three times as long to review compared to a 9 percent application. They are, for lack of a better word, messy when they are submitted, and can actually be more complicated than a 9 percent deal.

Last year we awarded 74 applications. Each was on a different timeline, each has its own set of issues to be worked out, and keeping all of that straight in your head is a lot.

You have to respect the work and the staff required of other divisions so that they have enough time to do their part before getting to the point of an award. This can be challenging when applicants are constantly changing material aspects of their application along the way. It's understood to some degree, because we are dealing with real estate, and real estate doesn't always work on a nice and neat timeline.

Working with all parties, resolving issues in a way that keep deals moving forward and doing so effectively are in large part why we were able to work through as many applications as we did over the past two years. And in case I didn't mention, the past two years have been during a pandemic when the majority, if not all of staff are working remotely.

Staff recommends that you accept the report.

MR. VASQUEZ: Great. Thank you, Ms. Morales.

Are there any questions from Board members on this report?

(No response.)

MR. VASQUEZ: I think exceeding 16,000 units per year under this program is amazing. It will never be enough, but that definitely is a good step forward, and hopefully we can continue that, exceed that even in 2022 and beyond.

MS. MORALES: Absolutely.

Bobby.

MR. WILKINSON: Are 9 percents ever going catch up with you?

MS. MORALES: I don't believe so. They're too busy arguing about scoring.

(General laughter.)

MR. VASQUEZ: Great. Thank you for that report, Ms. Morales.

Moving on to item 9, a report on the Texas Homeownership activity report, with Lisa Johnson presenting.

MS. JOHNSON: Good morning, everyone. Good morning, Board. Bobby, I haven't seen you in a while, good to see you and TDHCA staff.

I'm Lisa Johnson, business development officer for the Texas Homeownership Program Division, presenting to you on item 9, Texas Homeownership activity report.

As the designated housing finance agency for the State of Texas, TDHCA has been granted legislative authority to be in the mortgage business as a pass-through of funds. TDHCA also represents Texas on a national level as a member of the National Council of State Housing Agencies, otherwise known as NCSHA.

To begin, I'd like to call your attention to a very easy to follow report titled "2020 Housing Activity Finance Report." I believe this is on page 306 of your Board book.

As I go through the report, I ask that you pay particular attention to the addition of several important assistance loan options that we now offer, including the three-year forgivable second lien for both the My First Texas and My Choice Texas programs beginning on October 18 of 2021, as well as the elimination of purchase price limits for the My Choice Texas Program. We will discuss the positive impact to the programs throughout this presentation.

TDHCA is mandated by the state legislation to help those who are considered low to moderate incomes become homeowners. At the top right of the report you'll see that the number of Texas families we assisted in 2021 was 9,274 families assisted, representing a 35 percent decrease compared to 2020 numbers of 14,308 families assisted.

Following down the left column, you will see the number of homes financed through our homeownership options is 8,425 homes financed, a 33 percent decrease from 12,657 homes financed in 2020. Our first mortgage loan volume totaled $1.7 billion in 2021, a 29 percent decrease from the 2020 volume of $2.4 billion. We also issued 1,878 mortgage credit certificates, or MCCs, as they're commonly known, and this is a 49 percent decrease compared to 2020.

The Texas real estate market remains a hot housing market that continues to push demand for the assistance and the education programs we offer. Homeowners are facing unprecedented barriers to homeownership, beginning with affordability, pandemic recovery, equal access to credit, and rising interest rates, all which affect a borrower's capacity to qualify for a mortgage.

As a pass-through for funds, we are able to make mortgage loans possible by working with our Bond Finance team to maintain interest rates as low as possible and providing down payment assistance in the form of a zero percent interest second mortgage with options for deferred repayment or forgiveness.

After extensive analysis and consideration, the Homeownership and Bond Finance teams worked together to address the current market demands for down payment assistance by expanding our product line to a three-year forgivable second lien, which has often become the preferred down payment assistance option for homebuyers and is often recommended by their realtors, further driving the demand for that product.

Supporting that decision is data indicating that some otherwise qualified candidates for a mortgage could not qualify for down payment assistance because the sales prices of the homes in their neighborhoods of choice were higher than our purchase price limits. This is a statewide issue.

Also, after careful analysis, we were able to eliminate the purchase price limits for the My Choice Texas Program, partially with the knowledge that general underwriting requirements demonstrated no remarkable additional risk of becoming delinquent on mortgages to this group of borrowers or investors.

These two additions to the Texas Homebuyer Program have helped level the playing field amongst other down payment assistance providers and allowed us to robustly attract more qualified homebuyers who need the extra help to bridge the gap to homeownership.

Moving on to the top right of the report, let's note some of the financial aspects of the people we served in 2021. The average household income was $58,398 in 2021, compared to $57,890 in 2020.

Although the income averages represent only an approximately $500 annual income increase, the increase to the average purchase prices of homes in Texas outweighs the small increases in income. In 2021 the average loan amount was $204,707, compared to 2020 the average loan amount was $191,055.

In short, real estate prices are far outpacing increases in income, making the dream of homeownership an even less obtainable dream without our assistance. Combine that with rapidly rising rent levels, Texans have never been in greater need for assistance. Additional demographic information is available on the next page titled "TDHCA Aggregate Loan Originations" for your review.

Through our participation in NCSHA and discussions with our other HFA colleagues throughout the United States, as well as our partners in community development, we understand that the affordability gap is our number-one concern across the United States.

We are working together with these partners to share ideas and resources to push forward creative, collaborative initiatives that result in increased homeownership. We never stop looking for the next best idea.

The Texas Homeownership team stands ready to meet the changing needs of the market, follow the data and the trends, and to bring forth concepts and keep you informed on homeownership matters. As government servants, we appreciate your support to help us push forward strategies that work, and for that, we thank you.

We have spent the last year working diligently with our marketing firm to launch our forward-facing Texas Homebuyer website with modules speaking to homebuyers, lenders, realtors and housing counselors. The website is a resource and teaching tool designed to help homebuyers and our lending partners provide access to homeownership more often.

A very exciting long-term project we recently completed is a colorful, fully animated video that introduces the Texas Homebuyer Program to our communities and addresses many challenges a future homebuyer faces like credit scores and how to qualify for a mortgage.

This first custom video is now posted on the TDHCA YouTube channel with English and Spanish versions -- thank you, Michael -- and is soon to have a permanent home on the Texas Homebuyer website. We're excited for you to see it and share it with your communities.

Also, this year we continued our review of homeownership outreach efforts with the help of our marketing firm, who provided a comprehensive strategic analysis outlining market and industry trends, competitive advantages and challenges, insights and recommendations to help us robustly market the Texas Homebuyer Program by using various vertical niche marketing channels to maximize budget and results.

The reports include direct feedback from homebuyers, lenders and realtors, and we look forward to giving you updates in the months to come as we work through the valuable information.

Today I have the honor and privilege of being able to come before you and report our successes and our challenges of the homeownership programs. Often, we as Texans are wired to see success and the numbers that go up, up, up on a chart, and with anything, numbers do fluctuate for various reasons, and we work hard to evaluate that on a continual basis.

What we know to be absolute and consistent is the positive impact the homeownership assistance program has on our homebuyers. They let us know every day, they're very vocal in a very good way that our work makes a difference in their lives and a huge difference in their capacity to become a homeowner. It is a humble and rewarding responsibility.

The responsibility and effort is shared by our amazing team of caring professionals who starts with our director, Cathy Gutierrez, who inspires us to do whatever it takes within the rules to go the extra mile to think of even that one more new thing that we can do to help Texans become homebuyers. We are blessed to have Cathy's 29 years of TDHCA service and institutional knowledge to guide us.

With recent transitions to the Homeownership team, I am now officially serving as the business development officer responsible for developing and maintaining our relationships with lenders and realtors, lead our marketing outreach, and serve as the primary trainer for both internal and external program training.

As the HAF program was being built out this past year, the Homeownership team was integrally involved and supported the efforts of the program before an official HAF staff was hired and before Treasury had approved the HAF plan.

During that process we were able to add an additional temporary staff member to help with the overflow of duties and maintain our well respected customer service levels. Our temp, Diana Galaviz, accepted the temporary assignment with the goal of helping Texans, learning as much as she could, and hopefully join TDHCA full-time. We are proud to announce Diana Galaviz is our new Homeownership coordinator.

I am also pleased to publicly welcome our colleague, Deanna Velez, who comes to Homeownership most recently from Abby Versyp's team where she was the administrator for the Amy Young Barrier Removal Program, among many other roles in the Housing Trust Fund OCI Division, where she and I worked previously under Homero Cabello's direction.

The Homeownership team has a collective goal to cross-train all processes to provide stability and preparation as opportunities and challenges arise for the division. We share the often overused word "passion" to truly make a difference and share the path to building family wealth by owning a home.

Equally important is the role of the Bond Finance team, led by Monica Galuski and managed by Heather Hodnett. Our divisions have worked hand in hand to provide the necessary funds to ensure the finance piece of our assistance is solid as a top priority.

As often as the challenges, you know, we want to have new and fun things to do, we appreciate that that's always there. It still allows us to explore new financing options to keep the Texas homebuyer program the preferred source of down payment assistance and education. Together we are proud to be humble stewards of homebuyers' trust on behalf of the State of Texas.

We hope this provides you with an update and demonstration of the Homeownership team's commitment to excellence and how important your contribution is as our Board of Directors and executive team. As you exercise the authority as the only housing finance agency in the State of Texas, it is a pleasure serving with your support.

And with that, I will take any questions.

MR. VASQUEZ: Thank you for that report, Ms. Johnson.

Do any Board members have questions?

MR. THOMAS: Yes, Mr. Chairman.

Ms. Johnson, thanks for that report.

MS. JOHNSON: Yes, sir.

MR. THOMAS: I was looking at the data that you provided, and when we're talking about the households served and homes financed, obviously we're seeing the affordability gap in most of the metropolitan areas in the state and that continues to grow.

But the statistics, year over year, we see a big percentage decrease in households served, homes financed, first mortgages. And we dig a little deeper and why is that trending so significantly down in the program when we're trying to really encourage people to use this methodology to get into homeownership?

MS. JOHNSON: Sure. So really the trend is down -- it's been up, up until this past year or so. Affordability, strangely, is the number one -- there's always more than one thing. Affordability is something that's slowed the capacity of all homebuyers to even get to the point where they can qualify for a mortgage.

So starting with lack of physical availability of homes, they're not building enough homes. We are seeing there's additional data on more people are seeking out new construction homes because of some of the demand and competition for resale homes.

They can't win a bid for these houses so they're like, okay, at least I can maybe buy a new house, and they're not building enough, so that's exacerbating the fact, that's making it worse that prices are going up, the less people are able to afford homes at this point.

COVID did not help at all. It threw a good significant amount of people out of the market temporarily till they got their job situation back straight, so that impact it.

And then thirdly, one of the reasons we were able to add our loan programs with the forgivable option and reducing the income and getting in the way of the purchase price limits is because the market required that.

We had direct feedback from everybody, from homebuyers, lenders, and realtors in particular, they want, at least as an option, a forgivable down payment assistance option.

So we're competing against things like Bank of America, which have grants, like $30,000 grants and things like that, and other more local down payment assistance, and they have had a forgivable option for quite some time, and we were not poised to do that before because we wanted to make sure the financing piece was solid and would not impact us. We are very pleased to add that, and we feel like that's going to have a strong impact.

To take that a little bit further, the stats are showing that even with the forgivable option, since we instituted it in October 18 of 2021, we're still getting reservations almost 50/50. Part of that is because the interest rates are a little bit lower on the deferred repayable.

Does that answer your question?

MR. THOMAS: It does, and there's one follow-up question. Do you feel still that the program is adequately marketed to all either lenders or developers or people that need to know so that this becomes kind of a known option for people in this particular income bracket?

MS. JOHNSON: Sure. That's a great question. We definitely always find room for improvement on that. With our market analysis, that was one of the big things:

what are missing, what can we do better?

And we know in particular realtors we need to go much harder on direct education more than anything. There's a lot of misinformation that's out there. For instance, we have people say things that aren't true about down payment assistance, and they're giving advice to their homebuyers, and so we try to avoid misinformation and educate how it works.

And also, in particular with realtors we try to encourage them to let the lenders do the heavy lifting on the data behind it and the choices. Sometimes we hear that a forgivable option is the only option and that's the way to go, and it may or may not be. There's interest rate differences and things, and we want to have options and have everybody be able to make their own decisions.

MR. THOMAS: I would particularly encourage like reaching out, targeting some groups like mortgage brokers that have a diverse array of products and programs, because they tend to have a pretty good knowledge of how to be able to position these programs appropriately for their base.

MS. JOHNSON: I agree with you. I came from the broker side and often had to be more creative because I had to be, I had less resources, and I agree with you 100 percent.

We're working with our master servicer to open a whole broker channel. We do allow some brokers to send their business through us, but they have to go through an approved lender, but we are trying to officially open a broker channel to open that just wide open and be easier to do.

MR. THOMAS: Great. Thank you.

MS. JOHNSON: Thank you.

MR. VASQUEZ: Mr. Marchant.

MR. MARCHANT: Is the cap on the home price statutorily set?

MS. JOHNSON: The purchase price limits on the My First Texas Home Program, which is a first-time homebuyer program which is either financed with bond money or mirrors the bond program, those do have purchase price limits, and My Choice used to. My Choice is an option that you don't have to be a first-time homebuyer, and so we were able to eliminate the purchase price limits for that program.

MR. MARCHANT: So there's no purchase price limits?

MS. JOHNSON: Correct.

MR. MARCHANT: So we all know, I come from a metropolitan area, and basically this program over a period of years will begin to gravitate into rural areas and low income areas.

MS. JOHNSON: Sure.

MR. MARCHANT: And is that the specific goal or intention of the program, or is that just what it's going to become?

MS. JOHNSON: Time will tell. I mean, our intention as a team is to cover the State of Texas the best we can. Obviously we have a small staff -- no excuses -- but we have to determine where the best use of the state's funds, where our marketing should go. And any feedback that y'all have, we welcome that.

We know that the bigger markets have more need, so to speak, because there's more people there, but we're certainly aware that there are people in smaller communities that need our help, and we do want to respond to that.

MR. MARCHANT: My point was the smaller communities in the rural areas seem to have lower -- they will uniformly have a lower sales price, so if you have price caps --

MS. JOHNSON: Oh, you're saying it doesn't help them necessarily?

MR. MARCHANT: Well, it does help them more than it would somebody in Plano, Texas that the mean sales price is 650-. So there are whole parts of the state that there's no participation in this program because of the average sale price.

In metropolitan Dallas you might have parts of Dallas that would fall under the sales price that this program would help, but there are large swaths -- you know, if you're marketing in North Dallas and spending any money marketing in some of these areas, you're marketing towards an audience of almost zero.

So I mean, when you begin to talk to your marketing and the networking, you have to, in my opinion, focus it more on those areas that are most likely to be able to qualify and need the program.

MS. JOHNSON: Of course, of course, you're right, and the idea is to use as much of the funds as we possibly can, still aware that there could be other people that need our help that are not in that big area.

MR. MARCHANT: And when you get into those areas, the marketing, the brokerage system, the network of brokers, the network of mortgage brokers, they're not as organized and sophisticated in talking to each other.

MS. JOHNSON: Correct.

MR. MARCHANT: So I applaud you for the work you're doing.

MS. JOHNSON: Thank you.

MR. MARCHANT: But the price is not statutorily set, you set the cap price per home?

MS. JOHNSON: I don't know exactly how that happens on the My First Texas Program, to be honest, but I would be happy to get back to you on how that happens.

MR. MARCHANT: Okay. Thank you.

MR. VASQUEZ: Ms. Galuski might have an answer for you.

MS. GALUSKI: Good morning. Monica Galuski, director of Bond Finance.

Mr. Marchant, so we only have purchase price limits on the bond or bond-eligible, so tax-exempt bond proceeds or mortgage credit certificates, and those purchase price and income restrictions are set by the IRS.

But with respect to everything that's financed on a taxable basis, which is a significant portion of our volume, that has no purchase price limits now, and we recently increased the income limits for those as well. We're still targeting low to moderate income, but there is a lot more flexibility on the taxable financing side.

MR. MARCHANT: So do you mirror HUD and Fannie Mae and Freddie Mac, do you mirror those loan program caps?

MS. GALUSKI: Yes, on the taxable side.

MR. MARCHANT: Thank you.

MS. JOHNSON: Thank you.

MR. VASQUEZ: Any other questions for Ms. Johnson on this report?

(No response.)

MR. VASQUEZ: Hearing none, thank you for this report. Keep up the good work.

MS. JOHNSON: Hope is alive. Thank you so much.

MR. VASQUEZ: And it was nice that we had an opportunity for Ms. Galuski to talk in this meeting.

Moving on to agenda item 10 of the agenda, Presentation, discussion, and possible action for approval to submit the HOME American Rescue Plan allocation plan, as modified based on public comment, to the U.S. Department of Housing and Urban Development.

Ms. Cantu.

MS. CANTU: Yes. Thank you. Good afternoon, Chairman Vasquez and Board members. I'm Naomi Cantu, director of HOME ARP. I'm speaking on the item that Chairman Vasquez already mentioned.

The Board approved the draft HOME ARP plan on January 13. The plan was made available for 17 days for public comment, with two public hearings, one virtual and one in person.

The plan allocated $132 million in rental housing and non-congregate shelter development or rehabilitation, nonprofit operating assistance and capacity building, and administration.

Comment was received from 15 persons and resulted in changes to the plan. I'm going to talk about a few of those highlights, keeping it short.

Some of the highlights include: increase in the maximum request for rental housing from $10 million to $15 million. Clarification that the total request for HOME ARP funds would include capitalized operating costs. This assistance supports units for up to 15 years if they are reserved for persons experiencing homelessness, at risk of homelessness, survivors of domestic violence, or those others unsafely housed.

The final highlight is a streamlined early application process where applicants who were also awarded or have active applications with the National Housing Trust Fund. This early application is for cases in which the investment of National Housing Trust Funds would be at risk due to commitment deadlines and cost increases during the development process.

One topic that received many comments and did not result in a change to the plan was to move all or some of the funds from non-congregate shelter to rental housing to invest in longer-term solutions.

While we appreciated that perspective, it is important to provide equal opportunity for improvements in shelters, not only rental units. The allocation plan before you shows equal investment in shelter and rental housing; however, we do have a provision that if there are insufficient applications received to full award either the rental or the shelter component, the funds will be shifted to the other category.

Copies of the written public comment are included in attachment A, and the final plan clean copy with staff responses in attachment B.

I am available for any questions.

MR. VASQUEZ: Great. Thank you, Naomi.

Board members or members of the public have comment on this item?

(No response.)

MR. VASQUEZ: It sounds like there was good feedback already.

MS. CANTU: And we welcome that feedback; it creates a stronger plan.

MR. VASQUEZ: Yes, definitely.

MR. WILKINSON: Chairman, one comment?

MR. VASQUEZ: Yes, please.

MR. WILKINSON: Exciting HOME ARP. So much of these additional funds we've gotten from the federal government have been for services, which you serve, you spend it, that's great, but this should have a lasting impact on the homeless infrastructure in the state, and we're excited to get to work on it.

MR. VASQUEZ: Great. Thank you, Bobby, and thank you, Naomi.

We will take a motion on item 10 of the agenda.

MR. BRADEN: Mr. Chair, I move the Board grant the executive director and his designees the authority to submit the HOME American Rescue Plan allocation plan on behalf of the Department, as expressed in the Board action request on this item.

MR. VASQUEZ: Great. Thank you.

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

MR. BATCH: Second, Mr. Chairman.

MR. VASQUEZ: Seconded by Mr. Batch. All those in favor say aye.

(A chorus of ayes.)

MR. VASQUEZ: Any opposed?

(No response.)

MR. VASQUEZ: Hearing none, motion carries. Thank you.

Moving to item 11, Presentation, discussion, and possible action on the reprogramming of Program Year 2021 Community Services Block Grant administrative and discretionary funds, with Mr. De Young making the presentation.

MR. DE YOUNG: Good morning, Chair and members of the Board. I'm Michael De Young, director of Community

Affairs.

Item 11 is an administrative process that we do every year, we bring it before you. We're kind of going back to the previous year's CSBG allocation; we're collecting all the small pots of money that we haven't spent, whether it be subrecipients money or administrative money, and we're bundling it together and awarding it out for direct services to clients across the State of Texas.

As a quick reminder, CSBG, we get the money from the U.S. Department of Health and Human Services, about $36 million a year. We're instructed by federal law to give 90 percent to our subrecipients, the 38 subrecipients across the state, then we have 10 percent left, 5 percent is our admin, 5 percent is discretionary.

We bring a Board item to you to put this money out for Native Americans. We do some intensive training and technical assistance with this, we subsidize some of our Section 8 costs with this 5 percent. At the conclusion of that first year we kind of pool all that money together, take whatever admin we haven't spent from the previous year, put it into one item, and come back to you for approval.

So this year we're presenting this item to you, it's got about $950,000, and these funds are set to expire on September 30 of this year, so we're proposing awards to

24 agencies, and these awards would go out by formula.

There's a formula we use for all of our programs. This one is driven by poverty, so 98 percent of the dollars that you see going to each of these agencies is just driven by poverty, the number of people in their service area that are low income.

These funds are for direct services. These agencies will spend these on families, households that need assistance in addition to what they're receiving from their community action agency.

This process has been pretty much the same way for the last seven or eight years, it is very much an administrative process, and I'd be willing to answer any questions that you might have about this.

MR. VASQUEZ: Great. Thank you, Michael.

Do any Board members have questions for Mr. De Young on this?

(No response.)

MR. VASQUEZ: Again, good to see us trying to use every penny and get it out there.

So hearing no questions, I'll entertain a motion on item 11 of the agenda.

MR. BATCH: Mr. Chairman, I move that the Board approve the reprogramming of the remaining 2021 CSBG funds and grant the executive director and his designees the authority to enter into contracts for these funds with the entities described in this item, all subject to the conditions and limitations as expressed in the Board action request on this item.

MR. VASQUEZ: Thank you.

Motion made by Mr. Batch. Is there a second?

MR. THOMAS: Second, Mr. Chairman.

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

(A chorus of ayes.)

MR. VASQUEZ: Any opposed?

(No response.)

MR. VASQUEZ: Hearing none, motion carries.

Thank you, Michael.

Moving on to 12(a), Presentation, discussion, and possible action regarding an award from the Multifamily Director Loan Program 2021-3 NOFA, as amended.

Mr. Campbell.

MR. CAMPBELL: Good morning. Cody Campbell, director of Multifamily Programs. As always, it is a pleasure to be here.

The next item on your agenda is presentation, discussion, and possible action regarding an award from the Multifamily Direct Loan 2021-3 NOFA, as amended.

Connect South is a 2020 9 percent housing tax credit award which has applied for an award of HOME funds due to increased construction costs. The development proposes the new construction of 77 units that will serve the general population of Houston with one-, two-, and three-bedroom units ranging from 30 percent to 60 percent AMI for the income set-asides. The award of HOME funds will result in 32 of those units being restricted by the direct loan.

The applicant has represented increased construction costs for similar reasons as other requests heard during this cycle. The big one is lumber; it seems like lumber is the perpetual antagonist of our current developments.

Total building costs have increased by $5.03 million; however, this was offset by reduced costs in other areas. The big one was their financing cost. They reduced their permanent loan from Capital One by about a million dollars; that's a million dollars at 5 percent interest, so it resulted in pretty significant savings that help offset that $5.03 million in costs. Because of this, total development costs total out to an increase of about $4.38 million, which is further offset by an increase in funding from the City of Houston's CDBG Disaster Recovery funds.

Staff recommends an award of $3 million in HOME funds. This loan will have an 18-year term at zero percent interest and will be structured as a deferred repayable loan. The federal affordability period will be 20 years, and the state affordability period will be 45 years.

Staff recommends approval, and I'm happy to answer any questions that you have.

MR. VASQUEZ: Thank you, Mr. Campbell.

I have just an overall question. This talks about the increase in the cost. What was the original cost? What kind of percentage increase are we talking that this is?

MR. CAMPBELL: The original total building cost -- give me just a second -- so from the original underwriting report, it looks like the original building cost was right at $8 million, and by the time they turned in all their increases, just the building cost went up to $12.5 million.

MR. VASQUEZ: So over a 50 percent increase in the construction cost.

MR. CAMPBELL: Yes, sir. That's just the building costs. So that was offset in some other areas, some areas did go up just a bit. I've asked the applicant to be here today in case you have any questions about the specifics of the increases, but it was a pretty hefty increase.

MR. VASQUEZ: If people are available to speak,

I'd love to hear how the building cost went up 50 percent.
Again, Mr. Eccles gets upset with me, so we'd like to entertain a motion to accept public comment on this item. Anyone?
MR. MARCHANT: I make a motion to hear public input.
MR. BATCH: Second.
MR. VASQUEZ: Motion made by Mr. Marchant, seconded by Mr. Batch. All in favor say aye.
(A chorus of ayes.)
MR. VASQUEZ: Okay. Please introduce yourself.
MS. ANDRE: Good morning and thank you. My name is Sarah Andre. I'm the owner of Structure Development. We provide consulting and development of services to a variety of clients focused on 9 percent tax credits, 4 percent tax credits, and various other affordable housing solutions. I am the consultant for this project, and I do have the developer here and he'll introduce himself in a moment.
Overall costs have increased 44 percent. If you Google construction cost increases right now, which I invite you to do so, you will see 10, 12, 15, 20, 100 articles on construction cost increases over the past two years.
Many of these, as you are well aware, are due to

commodities pricing. If you just look up lumber commodities pricing, it goes like this, you know, we're just in this valley and trough cycle, unfortunately due to our supply chains and other factors that are beyond our control.

In the construction costs there are several items that went up 300, 500 and 600 percent, and those are primarily concrete and lumber. Other costs are mildly up since the initial application. The development team has worked their tails off to value engineer, seek other solutions, and rebid the project.

So these are items that are, unfortunately, endemic to our industry right now, and I fear that this is going to be one of the early applicants that you're going to see, and this is going to become kind of a broken record for you.

During this meeting alone, I received an email from another client who said, Help, we're right about to close, and our prices have gone up; what's available; can we apply for MFDL? So I'm sorry; you'll probably be seeing my face quite a bit.

Anyway, I'd like to introduce Richard Sciortino. He's the developer.

MR. SCIORTINO: Good morning, Mr. Chairman, Mr. Director, Board members. Thank you for having me here and thank you for the opportunity to explain why we're here. I'm the principal at Brinshore Development, founded the company about 30 years ago. We have over 20 projects under construction in 11 different states right now.

And I reached out to all of our general contractors in all of those places -- and these are major markets from Denver and Salt Lake City and Chicago and Washington, D.C., and smaller ones like Flagstaff, Arizona and Omaha and Milwaukee -- and we use third-party general contractors in almost all of those places.

And we're hearing on the low side 35 percent, on the low side, to as much as 60 percent in Omaha which has a very small contracting field. So 44 percent this is a two-year period, the national average is somewhere right around that amount, and Houston has been very difficult.

I will say that we estimated this in-house, we estimated this with a third-party contractor initially. We bid it competitively, and the construction costs have been incredibly volatile; it's almost impossible to predict where they'll be.

Using professional estimators and whatnot, it is changing so quickly that even three months it's difficult to predict what the construction costs will be. So I will say that it's a problem that we're seeing nationally, not just in this market, and it's unfortunate, but right now what we're seeing is people building in inflation expectations going forward, so the pricing is anticipating that there are going to be further increases.

We're hearing from suppliers that manufacturers are not living up to their end of the agreements, and so suppliers are building in a contingency. And so it's just sort of multiplying through the chain until it reaches us, at which point we see these incredible price increases.

I've been doing this for 30 years now, and I've never seen volatility like this, nothing like this. It's really an unprecedented time. I don't want to be here standing in front of you asking for money any more than you want to see me here, but unfortunately, that's just where we are.

MR. VASQUEZ: Okay. Thank you.

I don't know who can answer this. The write-up says that the City of Houston is adding some additional funds from their CDBG funds. How much are they stepping up additionally for?

MS. ANDRE: Correct. They're stepping up $2 million. Their initial commitment in our initial application was $7- and we're at $9.5 million with them now, so $2.5 million.

MR. VASQUEZ: So they've approved another $2.5- as well.

MS. ANDRE: Yes, and they have the lion's share of the subsidy on this deal in terms of the $9.5 million.

MR. VASQUEZ: Okay. Anyone have any other questions? Mr. Marchant.

MR. MARCHANT: This is a question that I have been wanting to ask but have not asked yet. When you come in for the increased funding, what part of the development fee and what part of the financial ownership structure goes up or stays the same or is going down? I mean, in the private sector if you underbid a project, I mean, some projects are break-even. Have you ever had a break-even project in your 30 years?

MR. SCIORTINO: Right now we've used up our entire developer fee, is all I can say.

MR. MARCHANT: And that's the question I have. So are you finding -- maybe this question is for our staff: Are we finding that everybody is just trying to get out of this mess and all future projects that you bring will have all this baked in?

MS. ANDRE: Speaking as someone who touches a number of different deals and works with a number of different developers, I would hope so.

Unfortunately, we thought we baked it in last year, you know, but we thought we were coming out of COVID, we thought supply chain issues would start freeing up, we thought labor shortages would start freeing up, and they've only gotten maybe worse. So we are trying to bake that in most definitely, and we're not always successful.

With regard to the developer fee, affordable housing is no different than market rate in that that developer fee, while it is penciled higher in terms of the percentage, it is really the backstop for your investors and your lenders.

They do not release that fee until you have provided the development that you've promised, and so it can look very large on paper, but it is most often your sort of contingency, your third contingency, if you will, after the contractor's contingency and the owner's contingency.

And in this deal specifically there was no change in the fee; it stayed the exact same dollar amount and no increase whatsoever to the owners.

MR. MARCHANT: I appreciate that explanation. Thank you, Mr. Chairman.

MR. VASQUEZ: Thank you.

Any other questions to staff or the applicant?

MR. THOMAS: I did have one question, Mr. Chairman, and this is for Cody.

Cody, on the $3 million that's being requested, it's structured in a second lien position loan with zero interest and no amortization. Is that customary for these types of things?

MR. CAMPBELL: So we got the 18-year term on it because we have to match the term of the superior lender, so yes, this is matching the requirements of the NOFA. Yes, sir.

MR. THOMAS: Okay. Thank you.

MR. VASQUEZ: And being that this is an actual repayable note, I'm better with that.

MR. THOMAS: Right.

MR. CAMPBELL: Yes, sir. It will come back to us.

MR. VASQUEZ: Okay. The chair would entertain a motion on item 12(a) of the agenda.

MR. BATCH: Mr. Chairman, I move that the Board approve the 2021-3 NOFA application for Connect South Apartments, subject to the conditions and limitations as expressed in the Board action request on this item.

MR. VASQUEZ: Motion made by Mr. Batch. Is there a second?

MR. BRADEN: Second.

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

(A chorus of ayes.)

MR. VASQUEZ: Any opposed?

(No response.)

MR. VASQUEZ: Hearing none, motion carries.

Item 12(b), Presentation, discussion, and possible action regarding a waiver of 10 TAC Section 13.8(b)(6)(A) for Balcones Terrace, project #21513.

Mr. Campbell, you're still up.

MR. CAMPBELL: The next item on your agenda concerns a possible waiver of the provision of the Multifamily Direct Loan Rule, which requires that applicants have at least 10 percent equity in the development when a direct loan is the only source of permanent Department funding in the development.

Balcones Terrace is a 2021 direct loan application which proposes 123 supportive housing units in Austin. The most recent information submitted by the applicant indicates a total development cost of approximately $24 million, with owner equity of about $2.1 million, which is 9 percent, so short of the 10 percent.

The applicant has submitted a request for the Department to waive the equity requirement entirely, so in other words, they're not asking to just be able to have 9 percent; they're asking to be able to have no equity in the deal.

Ordinarily, waivers must meet the requirements of 10 TAC 11.207, which establishes that waivers must demonstrate that the need for the request is either outside of the applicant's control or due to an overwhelming need and that granting the waiver would better serve the Department's policies and purposes. Those are the waiver criteria that we talk about at almost every meeting, it seems like.

However, the multifamily direct loan specifically exempts waiver requests related to equity from this requirement and instead requires that they must specify that the proposed equity that will be provided and why that reduced level of equity will be sufficient to provide reasonable assurance that the owner will be able to complete and stabilize in a timely fashion.

The applicant proposes that the equity will be reduced after closing by sourcing other funding and has indicated that most or all of the equity may be replaced by other sources.

So in other words, at closing they're still going to have their 9 percent, but then they're going to find other sources to fill that back in with so that they can pay themselves back.

The request indicates that the development has received approximately $16 million in funding from the City of Austin. In addition, the developer is acting as the guarantor for the project and is therefore able to fund front load funds into the project if necessary.

Staff has reviewed the request and is reasonably assured that the owner will be able to complete construction and stabilize timely due to the additional funding from the City of Austin and due to the developer acting as the guarantor on the project. Because of this, staff recommends approval of the waiver, and I'm happy to take any questions.

MR. VASQUEZ: So can you clarify who is the owner and who is the developer?

MR. CAMPBELL: So it's Foundation Communities in this case, and they have asked for this waiver to free up that 9 percent that they would have invested in to the project to do other nonprofit work.

MR. VASQUEZ: But they're still providing a guarantee of the project.

MR. CAMPBELL: Yes, sir, that is correct.

MR. VASQUEZ: Well, at least we know they're going to be around for guaranteeing.

MR. CAMPBELL: Sure.

MR. VASQUEZ: Are there any other sources of kind of near equity or equity substitutes?

MR. CAMPBELL: So they have the $16 million that's coming in from the City of Austin that will be a loan, and what they've told me is that by the time they finish replacing all this money, they should end up with about $200,000 in equity that will be remaining.

I believe that, yes, we have somebody here from Foundation Communities who might be able to give you more specifics of their long term plan, but that is funding that is going into the development as of now.

MR. VASQUEZ: Okay. Maybe we could have the Foundation Communities representative give us a little more background on how we're at this position.

MR. CAMPBELL: Certainly.

MR. VASQUEZ: And please introduce yourself.

MR. MARCHANT: I make a motion that we accept public input.

MR. VASQUEZ: Thank you, Mr. Marchant.

Is there a second?

MR. BATCH: Second.

MR. VASQUEZ: Mr. Batch seconds. All those in favor say aye.

(A chorus of ayes.)

MR. VASQUEZ: Any opposed?

(No response.)

MR. VASQUEZ: Mr. Eccles's motion carries.

MS. BUTLER: Good morning, y'all. Sabrina Butler, director of real estate development for Foundation Communities. Thank you for considering our waiver today.

So the plan with Balcones Terrace, this is one of the hotel conversions in the City of Austin you may have heard about. We purchased the hotel with City of Austin funding, and we will be converting it to housing for folks coming out of homelessness.

We're very grateful to be applying for MFDL funds to support the cost of the rehab; the city covered the cost of the acquisition itself.

So as you heard on the last item of the agenda, costs have gone up. We were hoping that the $6 million we requested in MFDL funds would be enough to cover both the hard costs and the soft costs of the rehab, but costs have gone up, so in our application we're showing $2 million in gap funds.

We're fortunate as a nonprofit to have some funds that we have out of past projects that we use as sort of a revolving fund to help projects get started, while we apply for other gap funding sources when we end up in a situation like this that are available uniquely to nonprofits like us, so we have a pending application already for Federal Capital Magnet Fund dollars.

We have not yet heard if we'll receive that funding. We'll be applying this spring for Federal Home Loan Bank Affordable Housing Program dollars.

Those dollars, when we receive them, will have to go in as direct loans with their own loan agreement to the project, and so what we would like to do is replace that $2 million in Foundation Communities money with, for example, if we get a million dollars from the Capital Magnet Fund, we would be able to repay ourselves a million dollars that we put into our next project.

So we are a nonprofit. I think in looking at the rule, my guess is I believe it's based in some federal rules, but wanting to see some owner equity, we call it owner equity in our applications because that's the TDHCA term but we're not a for-profit. It's not really equity; we're just using our internal revolving loan fund, and we need to get that money back in order to keep building future projects. So I'm happy to answer any specific questions about the source of funding.

As Cody mentioned, we do have some grant funds that will remain in the project kind of through Foundation Communities, but we're hoping that we get down to that kind of $200,000 level and these other funding sources replace the rest.

We also are likely to apply to the City of Austin. When we worked with the City of Austin on this partnership, this deal is in partnership with the City of Austin. They agreed we're doing this together, and so if we ended up with a gap, you know, hopefully they're helping us to cover it, so if other funding sources don't come through, we'd go to the city and ask them to come help us cover that gap, again so that we can pull our $2 million back out and recycle that.

But we are here as guarantor, as we all on all of our projects, so should we be in construction, if we have to close that gap and find ourselves with a new gap, we will absolutely be on the hook, and we'll fund that and make sure we get the project done.

MR. VASQUEZ: Okay, great.

Any Board members have any other questions?

Mr. Marchant, go ahead.

MR. MARCHANT: So the fact that you're a guarantor, are there assets to back up being a guarantor?

MS. BUTLER: Yeah. So the cash that we would pull out, we have a revolving loan fund. I think we are required to demonstrate to TDHCA when we start a new project that we've got sufficient liquidity in the bank, but yes, absolutely. We do have funds in the bank. We just eventually will not be able to do new deals if we aren't able to recycle those funds back out to another deal.

MR. MARCHANT: Thank you.

MR. VASQUEZ: Okay, great. Thank you.

Anything else to add, Cody?

MR. CAMPBELL: No, sir.
MR. VASQUEZ: Okay. So on item 12(b) of the agenda, we'll entertain a motion.
MR. BRADEN: Mr. Chair, I move the Board grant the requested waiver of 10 TAC Section 13.8(b)(6)(A)(I) regarding the equity requirement for application #21513 Balcones Terrace.
MR. VASQUEZ: Great. Motion made by Mr. Braden. Is there a second?
MR. THOMAS: Second, Mr. Chairman.
MR. VASQUEZ: Seconded by Mr. Thomas. All those in favor say aye.
(A chorus of ayes.)
MR. VASQUEZ: Any opposed?
(No response)
MR. VASQUEZ: Hearing none, motion carries.
MR. CAMPBELL: Great.
MR. VASQUEZ: 12(c), Presentation, discussion, and possible action regarding a waiver of 10 Section 11.1002 of the 2022 QAP related to the program calendar for supplemental housing tax credits for Canal Lofts, project #20011 in Houston.
MR. CAMPBELL: The next item on your agenda concerns a possible waiver of 11.1022 related to the program calendar for supplemental tax credits for Canal

Lofts in Houston. Canal Lofts is a 2020 awardee of housing tax credit funds for the construction of 150 multifamily units in Houston.

The 2022 QAP allows for developments which received awards of competitive tax credits in 2019 or 2020 to request additional supplemental credits if the applicants can demonstrate increased construction costs resulting from the COVID-19 pandemic.

The QAP -- and this is critical to this item -- establishes a deadline of December 10, 2021 to submit these requests. The applicant for Canal Lofts timely filed a request for supplemental credits requesting $105,000 in supplemental credits, which is 7 percent of the initial award.

The request did not comply with the requirements of the QAP which requires that the total and eligible developer fees not be increased and that the deferred developer fee not be decreased from the amount published in the underwriting report for the original application.

Mr. Marchant, I think that speaks somewhat to what you were just asking about.

The Department's Real Estate Analysis Division issued the underwriting report for the supplemental request on February 4 of 2022. After adjusting the developer fee to meet the requirements of the rule, the recommended supplemental credit amount in the report was approximately $47,000, and remember they asked for $105,000 up front.

The applicant appealed to this underwriting report on February 10 of 2022, and as part of this appeal submitted an additional contract change order totaling approximately $296,000 for costs related to the property's access system, gates, camera, Wi-Fi and electrical systems.

The appeal indicates that these costs were contemplated in the original design of the development but had mistakenly been omitted from the construction contract and therefore not included in the request for supplemental credits.

When including these costs, the development supports a supplemental allocation of approximately $78,000 so we're still south of 7 percent so that's not the issue in question here.

Since the additional costs were submitted after the deadline for the request, the Department cannot include them without a waiver of the program calendar established in 11.1002, and the Department has not allowed any other applicants with supplemental requests to submit additional documentation after the deadline except those which were granted waivers to the 7 percent cap at previous meetings.

Waiver request requirements are established in 11.207 of the QAP and include that the request for the waiver must be outside of the owner's control or due to an overwhelming need.

The costs in question were omitted by mistake from the original request, and therefore staff is unable to conclude that the need for the waiver was beyond the applicant's control. Accordingly, staff recommends denial of this waiver request, and I'm happy to take any questions.

MR. VASQUEZ: There are all kinds of components of this request that are just really irritating.

Do any Board members have questions for Mr. Campbell on this? I believe we have a representative of the developer that can also answer questions.

MR. MARCHANT: Mr. Chairman, just a process question. We have to vote on denials? They can't be done administratively, or is there a process where they take it above the staff?

MR. WILKINSON: Staff denied, I denied, and now he's appealing to the Board.

MR. MARCHANT: Okay.

MR. VASQUEZ: So there are multiple steps to get to where we are here, and we have the option to approve or deny.

Mr. Braden.

MR. BRADEN: I have a question, and maybe it's for you to answer. So applications were due in December of 2021.

MR. CAMPBELL: Yes, sir.

MR. BRADEN: And the application that was made did these incorrect things with respect to developer fees.

MR. CAMPBELL: Yes, sir.

MR. BRADEN: Then the applicant appeals and shows up with a January 20, 2022, letter that shows an increase in the cost and that's the real reason they really want to increase this.

Is there any explanation how if your application is due in December, how is it a January 2022 change order gives you justification for an increase in December?

MR. VASQUEZ: Well, it's worse than that, because then in February there were additional amounts that were brought to the Board.

MR. CAMPBELL: It's all the same change order, so the change order was dated in January and provided to us in February in response to the underwriting report.

MR. BRADEN: So I understand that you're not able to answer that; that's okay.

MR. CAMPBELL: I think there's somebody behind me that might be able to answer that.

MR. VASQUEZ: So Mr. Marchant makes a motion --

MR. MARCHANT: I make a motion that we allow public input.

MR. BATCH: Second.

MR. VASQUEZ: And Mr. Batch seconds. All in favor say aye.

(A chorus of ayes.)

MR. VASQUEZ: The Eccles rule has been approved.

MS. ECCLES: It's in statute.

(General talking and laughter.)

MR. KELLEY: Good morning, Chairman Vasquez, members of the Board, and Director Wilkinson. Thank you very much for your time. I'm Nathan Kelley with Blazer speaking on the appeal, and really I'm here to ask that you grant our appeal and direct staff to accept this additional documentation that we provided in support of the $77,950 in supplemental tax credits.

As Mr. Campbell mentioned, on December 9 we timely applied for $105,000 in supplemental credits based on all of the information I had available at that time.

On January 6, 2022, I received notice from our contractor that we were going to be receiving an additional change order. These were costs related to various security measures that he noted, security-related components of the overall property.

Had I known about that change order, obviously I would have included it when I submitted the original application on December 9. There's no moving of chips around or shuffling of shells trying to game the system.

Honestly, I had a change order that I submitted with the application, had I known the other one was forthcoming, I would have obviously included that one in the application as well.

So after receiving staff's initial underwriting report in early February that the recommended allocation was 47,000 and change of supplemental credits, I provided the additional change order documentation to staff, and really because of the post initial award timing of the supplemental credit allocation process, I hoped and asked that it be handled more as a request for information process would as we worked through cost certification applications and other interactions with the Department on a regular basis.

So to be clear, you know, what I'm asking is to substantiate, allow for additional documentation to substantiate the credit request that we initially made but within the scope of that request being below the $105,000, acknowledging that we made the mistake in calculating the difference in developer fee that you noted, Mr. Marchant, and recognizing that that fee be capped at what we originally submitted in our original underwriting package.

So again, asking that the recommended allocation be increased from 47,000 to 77,950, which is simply enough to cover the additional $296,155 change order received January '22, but everything else with respect to the Department's analysis being equal.

So while the change order was in fact submitted after the original application deadline, it doesn't change the fact that it is a real cost to a project that's nearly 80 percent complete but still has a long road to get to completion and stabilization.

And it doesn't change the fact that our supplemental credit application process was intended to aid deals that have experienced significant cost increases.

So as costs continue to rise, I respectfully request that the Board grant our appeal and direct staff to accept the additional documentation in support of the award of $77,950 in supplemental credits.

MR. VASQUEZ: Okay. Well, Mr. Kelley stand by.

I have a question back for Cody. So the Board action request is actually staff is recommending to deny waiver of the calendar?

MR. CAMPBELL: Yes, sir, that is correct.

MR. VASQUEZ: If we were to instead approve that waiver, what is the credit amount that staff would recommend? Is it the 47,000, is it the 77,000?

MR. CAMPBELL: It is the approximately 47,000.

MR. VASQUEZ: 47,269.

MR. CAMPBELL: Yes, sir. That's what they can support without this additional change order.

MR. VASQUEZ: Okay. So the 77,950, which is --

MR. CAMPBELL: Is what they can support with the change order. Yes, sir.

MR. VASQUEZ: I'm sorry. So do the numbers support 47,269?

MR. WILKINSON: So if the Board approves the waiver, it would be 77-.

MR. CAMPBELL: Correct.

MR. VASQUEZ: So the 47,269 is irrelevant.

MR. CAMPBELL: Well, that's what's on the table without the change order. Yes, sir, you are correct.

MR. VASQUEZ: That's a reduced recommended supplemental. I'm sorry; I misread that.

So to satisfy Mr. Kelley, it would be a two step, grant the waiver of the calendar and then a 77,950 supplemental credit.

MR. CAMPBELL: Yes, sir.

MR. VASQUEZ: And are we able to -- is that officially before the Board at this point, or not? I mean, this may be a question to counsel. Can we do both, is what I'm saying, right now?

MR. WILKINSON: Were they already awarded the

47- last month?

MR. VASQUEZ: No. There's no 47-.

MR. CAMPBELL: So between last month and this month, all 36 of our supplemental application requests have been presented to the Board for approval pending underwriting, and so in this particular case we just kind of got the cart before the horse, we're doing the underwriting -- they have looked at the underwriting at this point.

So in granting the waiver we would still look at the approval that has been granted for the supplemental request, and we would set that supplemental allocation at whatever the underwriting can support. And the same process will apply to all of the other developments that have been approved for supplemental credit requests.

MR. VASQUEZ: Okay. So this wasn't part of the prior approvals in prior meetings and then we're hitting the calendar waiver.

MR. CAMPBELL: So this actually would have been approved in February pending underwriting because they didn't seek a waiver of the 7 percent cap, so the only ones that are being presented today are the 13 that got that waiver of the 7 percent cap.

MR. WILKINSON: This will be the last Board action necessary for this development. Right?

MR. CAMPBELL: Correct. That is correct, sir.
MR. BRADEN: So would it be 77- or 47-?
MR. VASQUEZ: 77-
MR. WILKINSON: If you grant the waiver.
MR. CAMPBELL: And if you don't grant the waiver, then it would be the reduced 40-something.
MR. VASQUEZ: But again, just to clarify, we effectively approved last month the 77,950, but then there was the calendar waiver issue, so the 77,950 got set aside? We have some more clarification. Again, I'm just trying to make sure that we're doing this right.
MS. ADAMS: Hello. Jeanna Adams, director of Real Estate Analysis.
So last month you guys conditionally approved their request of $105,000 in supplemental credits. We had issued our underwriting report for the 47,000, and that is what they are appealing.
So you conditionally awarded 105- until we got to underwriting. We underwrote it, so you effectively approved the 47,000 based on our underwriting report. If you grant the waiver then you're waiving the calendar dates and asking staff then to accept additional information, in which case we would then have to add that to our underwriting.
We would re-issue an underwriting report if it

supports the 77,000 they think it will, but we haven't underwrote it, we're working on other things. So that's kind of you approved 105- conditioned on our underwriting, our underwriting says 47,000.

If you do this waiver we would add in his change order and update our underwriting report to the 77-, but it would not have to come back to you.

MR. VASQUEZ: Thank you.

MR. WILKINSON: So even with the waiver we're not going to get back to 105-.

MS. ADAMS: No, because the deferred fees weren't taken into account at the very beginning.

MR. VASQUEZ: Thank you, Jeanna. That's what I wanted to hear.

MR. BRADEN: So if we denied this Board item, they're still not going to end up with the 47,269 because of the calendar issue, or they would?

MS. ADAMS: If you deny this Board item, it means that you're holding them to the same calendar date as every other supplemental application, and our underwriting report that recommends $47,000 in supplemental credits is what they would be awarded. They would still get their 47,000.

MR. BRADEN: Two sixty-nine. Okay, that's helpful.

MR. VASQUEZ: Mr. Cabello.

MR. CABELLO: We've told other developers they could not submit additional information. If we allow this, we're going to open up more people coming forward, so just wanted to put that out there, that possibility.

MR. VASQUEZ: Okay. Thank you for that clarification.

MR. BATCH: Quick question.

MR. VASQUEZ: Mr. Batch, you have a question.

MR. BATCH: So correct me if I'm wrong, but I feel like the issue here is that the developer did not sufficiently factor in security costs measures into the original?

MR. CAMPBELL: They were contemplated in the original design of the development, but those costs were not included in the costs that were provided to us to support their supplemental credit requests.

MR. BATCH: And so I guess the question, how does that happen?

MR. KELLEY: So when our contractor takes a set of plans out to bid, they share it with all of our individual subcontractors. That contract comes back, it's compiled and then executed.

For whatever reason, the subcontractor's bid that included the security measures, door contacts, gate operators and some other things were just not included in that final bid package that got rolled into our initial construction contract.

MR. VASQUEZ: Okay. And then now that you have clarified all this, so right now what we are debating is effectively the difference between 47,000 of supplemental credits versus 78,000 of supplemental credits.

MR. CAMPBELL: Yes, sir.

MR. MARCHANT: Mr. Chairman?

MR. VASQUEZ: Mr. Marchant.

MR. MARCHANT: I think we actually are debating a little bit more than that. And it's not personalities, it's not mistakes, it's if we don't back up our staff, we're going to find ourselves here, like it's been said, this thing is just going to open Pandora's Box.

My overarching question is when is this all going to end? Because when we begin to -- I mean, we send some kind of statement back through this year's awards; we're just not the backstop for every mistake that's been made out there. So a little commentary.

MR. VASQUEZ: Thank you, Mr. Marchant.

MR. BRADEN: And I agree, and I think the whole premise that you just substantiate your original request with something that occurred after the date you filed it just isn't valid.

Part of your comments were, well, we're just sort of backing up what we filed in December, but you're backing it with a change order that came around in January. You're not; you're asking us to waive a deadline.

You made a filing in December because of a real cost that you became aware of in January but you're asking us to make a waiver with respect to that original and allow this sort of post-deadline filing to substantiate a cost. We don't disagree with the cost necessarily. Obviously you incurred it, but we haven't done that.

MR. THOMAS: That's exactly my issue as well, Member Braden.

I feel for you: You got a new cost that you would have included had you known that cost was coming but you only learned about it after the fact. I think every developer would love that if they could just include all their costs when they learn them and bring it forward. I mean, I think deadlines are there for a reason, and you've got to stand behind those deadlines.

MR. VASQUEZ: As I started out the discussion here, there's a lot of -- again, no personal offense intended, but there's a lot of parts about this that are irritating that we're having to have this kind of discussion.

I don't know if there's any final comment you want to add, but at this point I think I sense a consensus on this motion.

MR. KELLEY: I would just say that I appreciate your individual consideration. I understand the perspective that it could open a Pandora's Box.

Obviously this is a fluid process, it's a new process, and we're just trying to do our best to work through the process, understanding fully that we have a fixed application deadline, but real work on the ground as construction continues to progress impacts deals significantly irrespective of a fixed deadline.

So again, appreciate your consideration and just would ask for some consideration of those boots on the ground facts. Thank you.

MR. VASQUEZ: Thank you, Nathan.

Okay. With that, I would like to entertain a motion on item 12(c) of the agenda.

MR. THOMAS: Mr. Chairman, I move the Board accept staff's recommendation and deny the requested waiver of 10 TAC Section 11.1002 regarding the deadline for the requirement to submit complete requests for supplemental housing tax credits for #22969 Canal Lofts.

MR. VASQUEZ: Motion made by Mr. Thomas to accept staff's recommendation to deny the waiver request. Is there a second?

MR. MARCHANT: Second.

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

(A chorus of ayes.)

MR. VASQUEZ: Any opposed?

(No response.)

MR. VASQUEZ: Hearing none, motion carries.

We still have one more here, item 12(d) on the agenda, Presentation, discussion, and possible action regarding approval of supplemental housing tax credit requests for the 2022 competitive housing tax credit application round.

MR. CAMPBELL: Thank you.

This is very similar to an item that the Board heard last month. That item concerned 26 requests, and today's item is for the final 13.

This item includes 13 recommendations for award, all of which were granted a waiver of the 7 percent cap at the February Board meeting. The total of these recommendations is $2,364,230, although the amounts may be reduced through the Department's underwriting process, and as we have seen today, Jeanna and her staff are extraordinarily competent, and I have a high degree of faith in their ability to catch those things.

Additionally, the Department staff may identify individual costs which do not appear to be in line with the intention of Subchapter F -- you heard a few of those at the meeting last month -- and staff will evaluate those on a case-by-case basis.

Included in your Board book is an attachment to this item which outlines all 36 of the supplemental requests that the Department received during this round. Requests which are presented for approval at this meeting can be identified by the highlighted amounts in the credit request column.

All of the other requests were approved by the Board at the February meeting. If the Board approves this item, there will be no remaining supplemental requests to approve at future meetings.

If approved, the developments in question will be treated following the Department's force majeure procedures. This means that the development owners will return the awarded credits and execution of a 2022 carryover allocation agreement will result in a new award and a new placed-in-service deadline of December 31, 2024 for the developments with a new 10 percent test deadline of July 1, 2023. The Board may impose deadlines that are earlier if it so chooses.

Staff recommends that the supplemental requests in this item be approved pending underwriting.

MR. VASQUEZ: Great. Thank you, Mr. Campbell.
Do any Board members have questions on item 12(d)?
(No response.)
MR. VASQUEZ: Hearing none, I'll entertain a motion on 12(d).
MR. BATCH: Mr. Chairman, I move that the Board approve the list of recommended requests for supplemental housing tax credits from the 2022 state competitive housing credit ceiling, subject to the conditions and limitations as expressed in the Board action request on this item.
MR. VASQUEZ: Thank you.
Motion made by Mr. Batch. Is there a second?
MR. BRADEN: Second.
MR. VASQUEZ: Seconded by Mr. Braden. All those in favor say aye.
(A chorus of ayes.)
MR. VASQUEZ: Any opposed?
(No response.)
MR. VASQUEZ: Hearing none, motion carries.
MR. CAMPBELL: Thank you.
MR. VASQUEZ: Thank you, Cody.
So I believe that completes our posted agenda. The Board has addressed the posted agenda items. Now is the time of the meeting when members of the public can

raise issues with the Board on matters of relevance to the Department's business or request that the Board place specific items on future agendas for consideration.

Is there anyone that would like to provide public comment at this time?

(No response.)

MR. VASQUEZ: Hearing none or seeing none, before we actually wrap up, I just want to make a comment or an observation that we try to plow through these at a rapid pace but just letting everyone know there's been lots of work with the staff in consideration of these projects.

But by my count, we've approved monies of $24 million, $84 million, $132 million, and then some, and those were for specific projects or specific programs, all just in this meeting, and we say it really fast, it doesn't seem like it's necessarily that much money, but we're getting a lot of funding out into Texas and getting out where it's needed.

So I kind of applaud staff and all the industry participants and community action agencies and everything for helping us make that happen, the Texas Access to Justice Foundation and the Supreme Court.

These numbers really add up and make a real difference to people in the State of Texas, so even if we flash through it during the meeting, these are real numbers, these are big numbers, and I just applaud everyone for making that happen.

MR. MARCHANT: Mr. Chairman, may I ask Cody a question?

MR. VASQUEZ: Yes, if you turn on your microphone.

MR. MARCHANT: Yes.

Cody, all of the supplementals that we have approved that are subject to your underwriting, all of those people have the legal right to appeal your final decision and bring that to us as a Board?

MR. CAMPBELL: So whenever we issue any type of underwriting report, there is a right to appeal, and that appeal first goes to Bobby. And if Bobby is unable to grant the appeal, then the applicant has the right to request that it be heard at the Board.

MR. MARCHANT: How big is that universe right now?

MR. CAMPBELL: So it's 36 total applications for supplemental credits that are going to be underwritten. I believe Underwriting has about ten of those left to get through, and then in the 9 percent round we have a total of 127 applications. Not all of those will make it to Underwriting. We have the full list of 127 and we identify which of those are going to be priority and are likely to be approved.

MR. MARCHANT: But those are new projects.

MR. CAMPBELL: Yes.

MR. MARCHANT: The universe I'm talking about are the pandemic --

MR. VASQUEZ: The supplemental requests.

MR. MARCHANT: The supplemental. How big is that universe?

MR. CAMPBELL: Thirty-six requests.

MR. MARCHANT: Okay. Thank you.

MR. CAMPBELL: Certainly.

MR. BRADEN: And to follow up on Mr. Marchant's question, when we took this final action by the Board today, I was going to make the comment now we're done with the supplementals, but you're indicating that there might still be appeals that are coming as part of the underwriting process?

MR. CAMPBELL: It could be possible, yes, sir.

MR. BRADEN: So I thought we were done with it.

(General laughter.)

MR. VASQUEZ: Almost there, we might be there.

Okay. Well, with that, thanks, Cody. And thank you to everyone for participating today.

The next scheduled meeting of the Board is Thursday, April 14 at this same location. Stay tuned for the actual start time. Depending on the length of the agenda, it will be 9:00 a.m. or 10:00 a.m.; we will make that public.

So it is now 12:12 p.m., and the meeting stands adjourned.

(Whereupon, at 12:12 p.m., the meeting was adjourned.)

C E R T I F I C A T E

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: March 10, 2022

I do hereby certify that the foregoing pages, numbers 1 through 107108, 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: March 16, 2022

____
(Transcriber)

On the Record Reporting
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