



TDHCA Governing Board Rules Committee Meeting Transcript*

***2:00 p.m.
September 3, 2025***

***Dewitt C. Greer State Highway Building,
Williamson Board Room***

125 E. 11th Street, Austin, TX 78701

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BOARD MEMBERS:

KENNY MARCHANT, CHAIR

LEO VASQUEZ III, VICE CHAIR

HOLLAND HARPER

ANNA MARIA FARIAS

AJAY THOMAS

CINDY CONROY

SPEAKERS:

Cody Campbell

Bobby Wilkinson

Kathryn Saar

Alexis Sheehy

Robbye Meyer

Emily Abeln

Walter Moreau

Audrey Martin

Sarah Anderson

Janine Sisak

Tanya Lavelle

Erin Hahn

Zachary Krochtengel

Jeanna Adams

Cynthia Bast

Alan Knoll

Perica Bell

Karsten Lowe

Blake Hopkins

Tim Smith

Beau Eccles

Khayree Duckett

1 **Kenny Marchant (0:04:55):**

2 Okay. This meeting of the subcommittee on rules will
3 come to order. And I will call the roll. Kenny
4 Marchant. I am present. Leo Vasquez, Chairman.

5

6 **Leo Vasquez III (0:05:05):**

7 Present. Here.

8

9 **Kenny Marchant (0:05:07):**

10 And Holland Harper.

11

12 **Holland Harper (0:05:08):**

13 Here.

14

15 **Kenny Marchant (0:05:09):**

16 We're also privileged to be joined by two other members
17 of the committee. Thank you for coming. Okay. Just
18 the function of today is pretty simple. This is what we
19 used to call a listening session. So we'll have
20 presentations by the staff about the upcoming QAP and
21 its contents, and then we will hear from all of the
22 audience that would like to speak on it. If you're
23 going to speak, it'd probably be helpful if you'll come

24 up and sit in the first two or three rows. And are we
25 doing the sign-ins as well?

26

27 **Leo Vasquez III (0:05:52):**

28 Yeah.

29

30 **Unidentified Speaker (0:05:52):**

31 We got sign out sheets up front and then when you sign
32 in. Yeah.

33

34 **Leo Vasquez III (0:05:56):**

35 (Indiscernible). Yes, they have to.

36

37 **Kenny Marchant (0:05:56):**

38 And when they comment.

39

40 **Leo Vasquez III (0:05:58):**

41 Yeah.

42

43 **Kenny Marchant (0:05:58):**

44 Okay. Okay. And I guess we'll live by the same rules.

45 Is five minutes...

46

47 **Unidentified Speaker (0:06:04):**

48 Three.

49

50 **Bobby Wilkinson (0:06:04):**

51 Three.

52

53 **Kenny Marchant (0:06:04):**

54 Three? Okay. All right. And so, Cody, would you like

55 to start?

56

57 **Cody Campbell (0:06:13):**

58 Sure.

59

60 **Kenny Marchant (0:06:14):**

61 Welcome.

62

63 **Cody Campbell (0:06:18):**

64 Thank you. Mr. Marchant, my name is Cody Campbell. I'm

65 the director of Multifamily Programs for the department.

66 And I'd like to thank all of you for being here today.

67 I think I'm the only person who enjoys these things.

68 But the actual date will be helpful to helping us craft

69 policy. What we're going to be discussing today is the

70 2026 Qualified Allocation Plan. You should have a
71 version of the proposed 2026 QAP committee available
72 within the review materials.

73

74 That version will be presented for a vote at tomorrow's
75 meeting. Once that's approved, it will be published in
76 the Texas Register for formal public comment. That
77 period lasts about 30 days. Once we have that comment,
78 we will put it together, we will create responses, we
79 will make necessary changes, and then we will bring the
80 QAP back for final approval at the November board
81 meeting, after which it goes to the Office of the
82 Governor for final signature.

83

84 The QAP you have in front of you is the result of a
85 pretty robust development process. We've had one Rules
86 Committee meeting earlier this year. We had several
87 roundtables, and then last month we released an initial
88 staff draft of the QAP, which we do every year to
89 provide the industry with some notice of what we're
90 thinking about doing and allowing for an extra informal
91 comment period.

92

93 I don't think that the 2026 QAP is, compared to other
94 years, I don't think this is a particularly
95 controversial update. I do think there are a handful of
96 changes in here though that we are going to get
97 significant comments on. And I think the most sensible
98 way for me to go through the changes is, I've tried to
99 identify changes that I don't believe there will be a
100 significant amount of public comments on that I would
101 like to inform the committee about. And then I
102 separated out about six issues that I know were going to
103 hear public comments on. So I was thinking I could go
104 over the noncontroversial ones, maybe we could open the
105 floor to see if anybody would like to discuss those, and
106 if not, then we can move on and go one by one through
107 the ones that I'm certainly expecting comments on then.

108

109 **Kenny Marchant (0:08:19):**

110 Okay. So how we'll do it is we'll let you lay out those
111 items that you think may not be controversial and then
112 take comment on that.

113

114 **Cody Campbell (0:08:30):**

115 Sure.

116

117 **Kenny Marchant (0:08:31):**

118 Then the more controversial ones take comment on that.

119

120 **Cody Campbell (0:08:34):**

121 Sure.

122

123 **Kenny Marchant (0:08:35):**

124 And then should we have a thing at the end where just

125 general comments that don't fit in those two categories?

126

127 **Cody Campbell (0:08:43):**

128 I think that'd be a great idea because otherwise those

129 get shoehorned into other discussions.

130

131 **Kenny Marchant (0:08:47):**

132 So the last will not be a rehashing of the first two

133 parts.

134

135 **Cody Campbell (0:08:51):**

136 Hopefully so, yeah.

137

138

139 **Kenny Marchant (0:08:51):**

140 It'll be something new or something like that. Okay.

141 All right.

142

143 **Cody Campbell (0:08:56):**

144 Great. I appreciate it.

145

146 **Kenny Marchant (0:08:57):**

147 Thank you.

148

149 **Cody Campbell (0:08:58):**

150 I do have page numbers for you as I'm going through
151 these changes. That page number refers to the page
152 number at the bottom of the PDF. It's actually printed
153 on the page, not necessarily the page number in the PDF
154 file that you're looking at. And the first of these is
155 on page 49, is the QAP. Previously, for all the
156 subregions, we had a limitation of 50 percent, that no
157 more than 50 percent of the credits available in a
158 subregion could go towards developments that proposed
159 rehabilitation.

160

161 In other words, we wanted at least 50 percent of the

162 credits in every region to be going towards new
163 construction. It was a well-intentioned policy, but the
164 practical effect of this had has been that many
165 subregions, the smaller ones, that can't support a new
166 construction development with the amount of credits that
167 are available, have not seen an application. I'm sorry.
168 Is there a radio on?

169

170 **Leo Vasquez III (0:09:58):**

171 Is someone out with a...

172

173 **Cody Campbell (0:10:00):**

174 I'm sorry. Thank you. That's all I can hear. Okay.
175 So the intention of the previous policy was that at
176 least 50 percent of the credits available in a region
177 would go towards new construction. Again, the practical
178 effect of this has been that a lot of smaller subregions
179 have gone without having application over the past
180 couple of rounds because the number of credits that have
181 been available in that region were not sufficient to
182 support a new construction deal.

183

184 And so because of that, staff is proposing that we

185 eliminate this policy from the QAP. It's only been in
186 the QAP a couple years. This isn't a long-standing
187 policy and we added it in 2023, and we are hoping that
188 this will result in more subregions getting
189 applications, especially those smaller ones.

190

191 **Kenny Marchant (0:10:47):**

192 So it just didn't meet the goal.

193

194 **Cody Campbell (0:10:50):**

195 Correct.

196

197 **Kenny Marchant (0:10:50):**

198 I mean, it just didn't have the effect...

199

200 **Cody Campbell (0:10:52):**

201 We tried and it didn't work. That's correct. The next
202 one is a change that I believe pretty much everybody in
203 this room will be happy about and it is on page 53 of
204 the QAP, and that is that we have added an option for
205 force majeure for short-term extensions due to
206 unforeseen delays. So that if somebody has an award,
207 they don't get their permits in time and they don't

208 close them, running out of time, something like that,
209 and it just needs six months, that staff will be able to
210 approve that administratively without having to come to
211 the Board.

212

213 They can only request that once. So you can't come in
214 and get six months and then come in and get another six
215 months. They would have to be in front of this board if
216 they needed that. But we're really hopeful that this is
217 going to significantly cut down on the number of force
218 majeurees that are presented to the Board. It does
219 require good cause. It's not just a rubber stamp thing.
220 But we are again hopeful it's going to really limit the
221 number that you have to hear.

222

223 **Kenny Marchant (0:11:48):**

224 So they'll request that six months under the force
225 majeure definition, or just only when they bring it to
226 the Board, is it a force majeure?

227

228 **Cody Campbell (0:11:57):**

229 So this is a new process. It is a separate but very
230 similar process. So if they just need six months from

231 their initial date, they come in, staff approves it, no
232 harm, no foul. If they need additional time beyond
233 that, then they would need to come in front of the Board
234 and the same force majeure rules will be in place that
235 exists now. We're very excited about this. On page 55,
236 we have made some kind of quality-of-life improvements
237 to the tiebreaker.

238

239 As you know, know, the tiebreaker awards priority based
240 on proximity to desirable local amenities like a public
241 park, and a school attendance. The changes that we've
242 made here are, we've added some clarifying language to
243 the definition of a park. Mr. Harper, I believe that
244 this was kind of your suggestion. We've done our best
245 to, I think it's great language. It's going to really
246 solve the problems that we've had over the last couple
247 years of identifying what a park is.

248

249 Essentially, it says it has to be functioning as a park.
250 It can't just be dedicated as parkland. An empty field
251 that has been dedicated as a park by a city would no
252 longer count unless it has an intentional use like a
253 hiking area or a bird watching area or something like

254 that. So we're very excited about the inclusion of this
255 language. And then we had changed the requirements for
256 the school. Previously we were looking at the closest
257 elementary school of attendance, and now we're just
258 looking at the closest public schools, and we loop in
259 middle schools and high schools as well. Again, we're
260 very excited about that.

261

262 It is important to make some kind of tweak to the
263 tiebreaker at least every couple of years, otherwise
264 people go to the same sites over and over and over
265 again. Because obviously elementary schools and grocery
266 stores don't move all that frequently. And so I think
267 this is a good way to kind of scatter the map and get
268 some new real estate to be competitive. So again, we're
269 very excited about that. I'm burning two things. Okay.
270 I (indiscernible).

271

272 **Kenny Marchant (0:13:45):**

273 Can I ask you a question about that? You're using the
274 word public.

275

276

277 **Cody Campbell (0:13:50):**

278 Yes, sir.

279

280 **Kenny Marchant (0:13:50):**

281 And school.

282

283 **Cody Campbell (0:13:50):**

284 Yes, sir.

285

286 **Kenny Marchant (0:13:51):**

287 So they would not include a private institution.

288

289 **Cody Campbell (0:13:55):**

290 That's exactly correct.

291

292 **Kenny Marchant (0:13:57):**

293 Okay.

294

295 **Cody Campbell (0:13:57):**

296 No. But we can make that change. If the Board directed

297 us to but as written it will be public school.

298

299

300 **Kenny Marchant (0:14:00):**

301 Yeah. I don't know about your area, but in our area,
302 they're closing elementary schools.

303

304 **Cody Campbell (0:14:09):**

305 You don't say, okay.

306

307 **Kenny Marchant (0:14:10):**

308 And if an elementary school closes after a person has
309 made their application, what will be the status of the
310 application?

311

312 **Cody Campbell (0:14:24):**

313 That's a great question. So this is a point in time
314 analysis as of the date that the applications are due.
315 So if the applications come in on March 1st, April 18th,
316 we find out an elementary school is closing, that does
317 not negatively affect the application.

318

319 **Kenny Marchant (0:14:38):**

320 Okay.

321

322

323 **Leo Vasquez III (0:14:40):**

324 So what if they had already announced the school will be
325 closing...

326

327 **Cody Campbell (0:14:44):**

328 That's a great question.

329

330 **Leo Vasquez III (0:14:45):**

331 But it was open at the time of the application?

332

333 **Kenny Marchant (0:14:48):**

334 Yeah. It's usually (overlapping conversation) 0:14:49.

335

336 **Leo Vasquez III (0:14:49):**

337 Well, they should notify you. Yeah.

338

339 **Cody Campbell (0:14:52):**

340 That is a great question. And I don't believe people
341 commented that and I don't think it's come up. We can
342 certainly add some language in here to address that
343 though.

344

345

346 **Kenny Marchant (0:15:02):**

347 How many schools are you, they're closing two in my
348 hometown, but...

349

350 **Cody Campbell (0:15:07):**

351 Sure.

352

353 **Kenny Marchant (0:15:08):**

354 So they use, and they do announce a year ahead.

355 Excellent point. You're going to put something in
356 there.

357

358 **Leo Vasquez III (0:15:21):**

359 This is precisely why the QAP is so long.

360

361 **Kenny Marchant (0:15:24):**

362 Yeah.

363

364 **Cody Campbell (0:15:27):**

365 We can address it, though. No problem. All righty.

366 Moving on to page 62. Again, some changes that we're

367 pretty excited about. This concerns the, what's called

368 sponsorship characteristics scoring item. This scoring

369 item awards points to applications based on
370 characteristics of the applicant. Historically, those
371 points have been available to applicants that partner
372 with a nonprofit organization or what's called a
373 historically underutilized business in order to complete
374 the application.

375

376 We have added for historically underutilized businesses
377 in particular, that if a, they're called HUBs, if a HUB
378 has participated in 10 applications that have gone
379 through the entire development process of through cost
380 certification and getting their 8609s, in other words,
381 they got an award and took that award from start to
382 being fully operational and claiming credit. Once you
383 hit 10 developments, that HUB is no longer eligible to
384 claim points under this scoring item. And the intention
385 behind that is to encourage capacity building. So do we
386 want new organizations coming into the program, and we
387 feel like once you've hit 10, you're experienced, you no
388 longer need to be awarded for being part of an
389 application. They can still participate in the program,
390 of course, but they wouldn't be eligible for points.

391

392 And then the other change that we've made is on the
393 following page. We have added a new scoring item that I
394 do believe is necessary called property tax status. So
395 this is a scoring category under that same sponsorship
396 characteristic scoring item, and that awards points to
397 developments that intend to fully pay their ad valorem
398 real estate taxes with no abatements or reductions. And
399 that would be for the 15-year compliance period. So for
400 15 years they are certifying that they will not apply
401 for a tax reduction or abatement and they would get
402 points for doing that.

403

404 **Kenny Marchant (0:17:27):**

405 Or what? Or what?

406

407 **Cody Campbell (0:17:31):**

408 That's a really good question. So most property tax
409 exemptions are attained by bringing in a nonprofit or a
410 housing finance corporation, and those types of
411 ownership changes have to be approved by the Department,
412 and you just don't approve the ownership change.

413

414

415 **Kenny Marchant (0:17:47):**

416 Okay.

417

418 **Leo Vasquez III (0:17:49):**

419 So this is just giving bonus points, two points to an

420 application that says we won't apply for a tax

421 exemption...

422

423 **Cody Campbell (0:18:02):**

424 That's correct.

425

426 **Leo Vasquez III (0:18:02):**

427 Or convert to a tax-exempt status.

428

429 **Cody Campbell (0:18:04):**

430 That is correct. And that is on equal pairing, or it's

431 on equal footing with having a nonprofit or a HUB, they

432 are all worth two points.

433

434 **Leo Vasquez III (0:18:13):**

435 Okay. But if someone is tax exempt...

436

437

438 **Cody Campbell (0:18:17):**

439 Then they...

440

441 **Leo Vasquez III (0:18:18):**

442 There's no penalty, but, so even if it's upfront,

443 applying as a tax exempt, so Houston Housing Authority

444 is a partner in whatever development, by partnering with

445 the tax authority, thus being a tax exempt.

446

447 **Cody Campbell (0:18:41):**

448 Sure.

449

450 **Leo Vasquez III (0:18:43):**

451 And Marchant Development is applying, and you all are

452 pretty much two even applications. If Marchant pays

453 taxes, he's going to get two extra points versus the

454 housing authority project.

455

456 **Cody Campbell (0:19:00):**

457 So what the Housing Authority would need to do in that

458 case is what they've always done historically, which is

459 either partner with a nonprofit or partner with a HUB.

460 And that will put them on equal footing as the tax

461 paying entity.

462

463 **Leo Vasquez III (0:19:14):**

464 Because they'll get the extra two points.

465

466 **Cody Campbell (0:19:16):**

467 Correct. Because all those things are worth the same

468 two points. And you can only get a maximum of two

469 points in that category, so you can't do three of them

470 and come in and get six.

471

472 **Leo Vasquez III (0:19:25):**

473 So even the, whatever housing finance authority is going

474 to have to partner with a nonprofit...

475

476 **Kenny Marchant (0:19:34):**

477 Or a HUB...

478

479 **Leo Vasquez III (0:19:35):**

480 Or a HUB under 10 projects.

481

482 **Cody Campbell (0:19:38):**

483 Which is what they've always had to do to get these

484 points. It's just now there's a third option, which is
485 being a tax-paying development. So we had originally
486 written in here an option that contemplated getting the
487 same number of points to housing finance corporations of
488 reserve cities, entities to use some housing
489 development.

490

491 And then we got a significant amount of comment asking
492 us to also include the housing authorities and public
493 facility corporations. And at that point, the concern
494 that staff had was that we would have rendered the
495 scoring item moot, because it's either you pay taxes,
496 unless you don't pay taxes, in which case you get points
497 either way, and so we removed that item. We could add
498 it back in, but it is casting a pretty wide net if we do
499 that.

500

501 **Leo Vasquez III (0:20:23):**

502 Okay. Well, again, I'm just trying to make sure that
503 we're not penalizing the housing authority.

504

505 **Cody Campbell (0:20:30):**

506 Sure.

507

508 **Leo Vasquez III (0:20:34):**

509 But you're saying they have other options on how they
510 have to structure.

511

512 **Cody Campbell (0:20:38):**

513 Yes, sir. They have the exact same options that they've
514 had for years for how to score these two points.

515

516 **Kenny Marchant (0:20:42):**

517 So while they're in the application process, this may be
518 a naive question, but all the applicants are reasonably
519 aware of what the other one's doing?

520

521 **Cody Campbell (0:20:57):**

522 Yes, sir. It's a very sophisticated industry. Yeah.

523

524 **Kenny Marchant (0:20:58):**

525 Okay. So if a person found themselves in a situation
526 like Chairman has outlined, they can shift their
527 ownership strategy and capture the two.

528

529

530 **Cody Campbell (0:21:11):**

531 Sure. So if everyone and as this board has heard before
532 everybody has to go after all of the available points
533 that they have, and everybody submits what's, everybody.
534 Functionally everybody submits what's called a pre-
535 application, which notifies the Department and the
536 public and their competitors of the points that they're
537 planning on looking for. So you see about 3 months
538 ahead of time I'm going to be competing against these 14
539 people, they're claiming these points and then you
540 strategize accordingly.

541

542 **Kenny Marchant (0:21:41):**

543 But we're encouraging people to bring projects in that
544 pay ad valorem taxes.

545

546 **Cody Campbell (0:21:49):**

547 Yes, sir. Yeah. If you do that then you don't have to
548 go out and find a HUB or nonprofit to partner with.

549

550 **Kenny Marchant (0:21:55):**

551 What percentage of the applications would be that kind
552 of entity?

553

554 **Cody Campbell (0:22:00):**

555 That's a great question. So right now functionally 100
556 percent of the applications include a HUB or a nonprofit
557 for the purposes of getting those points, because again,
558 everybody has to. It is difficult to say how many will
559 choose to pay taxes instead until we see what
560 applications come in, but I'm hoping it's greater than 0
561 percent, yeah.

562

563 **Kenny Marchant (0:22:21):**

564 May not work...

565

566 **Cody Campbell (0:22:23):**

567 Exactly. And if they don't want to pay taxes, they have
568 the exact same scoring options that they've had for
569 years.

570

571 **Leo Vasquez III (0:22:29):**

572 Can you remind us, so what percentage participation or
573 ownership does a project have to have of either a
574 nonprofit or a HUB to get the two points?

575

576 **Cody Campbell (0:22:40):**

577 Yeah. So they have to have, and let me make sure I'm
578 reading this correctly to you. They have to have a
579 combination of ownership interest in the general partner
580 of the applicant, cash flow from operations, and
581 developer fee, which taken together is at least 50
582 percent with no less than 5 percent in any category. So
583 they have to have at least 5 percent cash flow, at least
584 5 percent ownership, and at least 5 percent developer
585 fee. And they balance that however works for them to
586 get to 50 percent. So having a HUB or a nonprofit, it
587 does take a lot out of the deal.

588

589 **Leo Vasquez III (0:23:22):**

590 Okay.

591

592 **Kenny Marchant (0:23:26):**

593 So with the changes that the legislature made in
594 limiting the renovations, the kind of floating and this,
595 we may end up with more tax payment. That'd be the,
596 that was our goal, right?

597

598

599 **Cody Campbell (0:23:47):**

600 Yeah, that is the goal. That is correct.

601

602 **Kenny Marchant (0:23:49):**

603 We may not, but at least we're...

604

605 **Cody Campbell (0:23:51):**

606 Sure. And Mr. Vasquez, if you would like to hear from a

607 housing authority perspective, there's at least one

608 person in this room who I know does a lot of deals with

609 the Austin Housing Authority who would probably be happy

610 to tell you that what I'm telling you is bad for them.

611

612 **Leo Vasquez III (0:24:06):**

613 Get one more twist, that we've seen a lot over the last

614 year or so. So how does a special limited partner fit

615 into this as being a substitute for being part of the

616 general partner?

617

618 **Cody Campbell (0:24:19):**

619 Right. So the Board has had to, so the HUB has

620 historically not been able to, be part special limited

621 partner. And I know that the Board has granted a few

622 waivers of that over the last couple of years. And
623 Rosalio, have we made, is Rosalio here? No Rosalio. I
624 don't believe that we have made a responsive change to
625 the QAP based on those waivers. We can certainly do
626 that though. That would be a really easy change to make
627 before tomorrow.

628

629 **Leo Vasquez III (0:24:42):**

630 Well, rather than approving it every single time that
631 someone asks something, why not just put into the rules.
632 I mean, you guys, what do you think?

633

634 **Cody Campbell (0:24:50):**

635 Sure.

636

637 **Bobby Wilkinson (0:24:55):**

638 Well, they'd always be doing that to get a property tax
639 exemption. So I don't know if you'd be as willing to
640 grant it if one of the options is to pay property tax.

641

642 **Leo Vasquez III (0:25:03):**

643 No, I'm saying up front though. They're telling us
644 here's the structure up front rather than coming back to

645 us later and saying, oh, we got it.

646

647 **Bobby Wilkinson (0:25:10):**

648 Okay. So just to allow for that to be an option that's
649 not scored.

650

651 **Cody Campbell (0:25:14):**

652 Yeah.

653

654 **Bobby Wilkinson (0:25:15):**

655 Okay.

656

657 **Cody Campbell (0:25:16):**

658 Well, it would be part of the scoring.

659

660 **Leo Vasquez III (0:25:16):**

661 It fits in that 50 percent.

662

663 **Cody Campbell (0:25:17):**

664 So right now they have to be part of the general
665 partner, but we would be including the special limited
666 partner as an option as well.

667

668 **Leo Vasquez III (0:25:22):**

669 The general partner or special limited partner. Has
670 there ever been a time where we've said no to that
671 request to move it from a GP to a SLP?

672

673 **Cody Campbell (0:25:33):**

674 Not from my memory, no.

675

676 **Leo Vasquez III (0:25:34):**

677 I don't recall one.

678

679 **Kenny Marchant (0:25:42):**

680 That'd be a change to this.

681

682 **Cody Campbell (0:25:45):**

683 Right. So I would, tomorrow prior to the Board taking
684 the final vote on this item, we'll do what we've done in
685 past years, which is that I will read the list of
686 changes the staff has been directed to make and the
687 Board will be voting on the QAP inclusive of those.

688

689 **Kenny Marchant (0:25:58):**

690 And that will be part of that list.

691

692 **Cody Campbell (0:26:00):**

693 It would be tomorrow.

694

695 **Leo Vasquez III (0:26:02):**

696 Yeah. At the end roll.

697

698 **Kenny Marchant (0:26:04):**

699 Okay. So in our public comment, that will be on the

700 list. So if you have a comment on that, please.

701

702 **Cody Campbell (0:26:13):**

703 Sure. Sure. All right. Moving right along to the

704 bottom of page 64. I think the change that staff is

705 proposing that the industry is probably most excited

706 about is the elimination of the quantity of low-income

707 units scoring item. So this was added a few years ago

708 to encourage developers to propose as many units as they

709 could. There was a floor set for how many units had to

710 be provided in order to score these points. We have

711 seen some developments get across the finish line with

712 this number of units, but we've seen far more struggle

713 to hit the benchmarks.

714

715 And in addition to that soft funding that was available
716 as a result of the pandemic has really dried up over the
717 last couple of years. So staff does not believe that
718 this scoring item is workable at this point in time. So
719 we're proposing the elimination of it. If the Board
720 wanted to keep it, we could look at reducing the
721 thresholds. But I do think that getting rid of this
722 scoring item will result in developments placing in
723 service faster, which is not really something that we've
724 seen over the last couple of years. So we're looking
725 forward to seeing the effects of this.

726

727 **Leo Vasquez III (0:27:28):**

728 Can it be kept as a tiebreaker, kind of like the more
729 affordable units are in a project is...

730

731 **Cody Campbell (0:27:33):**

732 Sure.

733

734 **Leo Vasquez III (0:27:34):**

735 We'll go with that one instead of the fewer.

736

737 **Cody Campbell (0:27:36):**

738 Sure. Yes. Staff proposes this idea every couple
739 years. On the staff's side, we love the idea. The
740 industry has a lot of concerns with that. It's
741 frequently called a race to the bottom, and people just
742 build the worst units that they possibly...

743

744 **Leo Vasquez III (0:27:52):**

745 Yeah. We've heard that, yeah.

746

747 **Cody Campbell (0:27:53):**

748 I'm just the messenger here. But yes, it could be added
749 as a tiebreaker, and that is something the staff...

750

751 **Leo Vasquez III (0:28:00):**

752 So it's not a threshold, but...

753

754 **Cody Campbell (0:28:01):**

755 Correct.

756

757 **Leo Vasquez III (0:28:01):**

758 It could be a tiebreaker that helps make our decision a
759 little bit better because we want as many units as

760 possible.

761

762 **Cody Campbell (0:28:07):**

763 Correct.

764

765 **Holland Harper (0:28:09):**

766 I think it's a great idea.

767

768 **Kenny Marchant (0:28:11):**

769 Yeah. We'd like to see that incorporated. A

770 tiebreaker.

771

772 **Cody Campbell (0:28:14):**

773 So a number of units tiebreaker? We can certainly do

774 that.

775

776 **Kenny Marchant (0:28:18):**

777 Yes. But put it as a tiebreaker.

778

779 **Leo Vasquez III (0:28:19):**

780 Yeah. It doesn't have to be a threshold, but...

781

782

783 **Kenny Marchant (0:28:22):**

784 It'll be a score or?

785

786 **Bobby Wilkinson (0:28:23):**

787 And this wasn't a threshold. This was, it's just

788 scoring. But...

789

790 **Leo Vasquez III (0:28:26):**

791 Okay. Well...

792

793 **Bobby Wilkinson (0:28:26):**

794 Scoring can be essentially threshold. Something like,

795 yeah, we propose this. We'll get the same thing.

796 People give us fake numbers of what we're, race to the

797 bottom, all that. And you try...

798

799 **Kenny Marchant (0:28:39):**

800 And we need it to be a walk to the bottom.

801

802 **Bobby Wilkinson (0:28:41):**

803 Yeah.

804

805

806 **Cody Campbell (0:28:42):**

807 Sure. Sure. Yeah.

808

809 **Kenny Marchant (0:28:42):**

810 It's not a race.

811

812 **Cody Campbell (0:28:43):**

813 And the way that would make the most sense mechanically
814 would probably be units per tax credit dollar requested
815 or something like that. Because a greater tax credit
816 request will always have units than the smaller ones, so
817 we would probably want to do it that way. Great. I
818 suspect there will be comments on that. Moving on to
819 page 69. I just have a couple more of these, what I'm
820 saying are noncontroversial ones.

821

822 Under the residents with special housing needs scoring
823 item, there has for the last couple of years been a
824 requirement that developments hold units vacant for
825 referrals from homeless provider organizations. It has
826 been for urban developments 12 months and for rural
827 developments 6 months. We have gotten a significant
828 amount of feedback over the years that this is just not

829 working. Many developments never get any referrals from
830 these organizations. So what we are proposing is
831 reducing it for urban from 12 months to 6 months and for
832 rural from 6 months to 3 months.

833

834 We had initially proposed eliminating the requirement
835 entirely from rural developments, but we did hear from a
836 homeless provider organization that is concerned that if
837 the hold is eliminated entirely that they would have
838 trouble placing their clients in these developments. It
839 is important that they have access to these
840 developments. Low-income housing tax credit
841 developments are required federally to accept housing
842 choice vouchers, and so in many areas, if you have a
843 client who has a voucher, this is going to be your best
844 option for placing them in permanent housing.

845

846 We do believe that these six and three-month hold should
847 be sufficient for getting referrals in and it would also
848 reduce the burden to the development owner of having to
849 hold these units vacant sometimes for as much as a year.

850

851

852 **Kenny Marchant (0:30:40):**

853 This is triggered on the completion and acceptance of
854 the apartments.

855

856 **Cody Campbell (0:30:45):**

857 So the six-month hold is the first year that the
858 development is in service.

859

860 **Kenny Marchant (0:30:49):**

861 Okay.

862

863 **Cody Campbell (0:30:50):**

864 Yeah.

865

866 **Kenny Marchant (0:30:51):**

867 So there's a significant, do we have any data on how
868 many of those units could the holder sit empty?

869

870 **Cody Campbell (0:30:58):**

871 Unfortunately, it's only anecdotal. I will say that in
872 urban areas, the people that I've talked to say that
873 they have better luck with this item. In the rural
874 areas, we have a very limited number of rural housing

875 developers in our portfolio. I think I've talked to
876 most of them about this at this point. And it's just
877 universally they're not getting referrals. So they've
878 got three months. If you can get some money in three
879 months, that's great. And if not, then the owner is
880 actually left to occupy that unit. Great.

881

882 I don't have a specific page number for you on this one.
883 It's reflected throughout the QAP. Legislation passed
884 this year that requires that we eliminate school quality
885 from scoring and threshold, so everywhere that that was
886 in the QAP has been eliminated. We did leave the
887 proximity to public school as a tiebreaker because it's
888 not based on school quality and it's kind of a different
889 animal than what the legislation was talking about. But
890 we didn't just suspend it. It is eliminated from the
891 QAP. And maybe in future years, if the legislation
892 expires, we can look at adding it back in depending on
893 what the effects are of removing it from the QAP.

894

895 **Kenny Marchant (0:32:06):**

896 Do you consider a charter school a public school?

897

898 **Cody Campbell (0:32:09):**

899 I believe that charter school is by definition not a
900 public school, is it not?

901

902 **Bobby Wilkinson (0:32:14):**

903 I think by definition, it is, but we've...

904

905 **Cody Campbell (0:32:15):**

906 Oh, it is. Okay.

907

908 **Bobby Wilkinson (0:32:15):**

909 It's been excluded from the QAP scoring considerations
910 because you wouldn't have guaranteed enrollment from the
911 project.

912

913 **Cody Campbell (0:32:24):**

914 Okay. My mistake.

915

916 **Bobby Wilkinson (0:32:25):**

917 But now we're not looking at school scoring period.

918

919 **Kenny Marchant (0:32:27):**

920 Okay. Yeah. But I'm talking about the definition of

921 public because charter schools can be formed with public
922 money.

923

924 **Bobby Wilkinson (0:32:36):**

925 They are public schools, but we have excluded them from
926 the QAP considerations because you have a STEM charter
927 school next to the development, maybe zero kids from the
928 development go there.

929

930 **Kenny Marchant (0:32:50):**

931 Got you.

932

933 **Bobby Wilkinson (0:32:51):**

934 Yeah. Transportation is also an issue.

935

936 **Cody Campbell (0:32:54):**

937 Thank you, Bobby. All righty. On page 87...

938

939 **Holland Harper (0:33:00):**

940 Mr. Campbell, did you...

941

942 **Cody Campbell (0:33:01):**

943 Yes, sir.

944

945 **Holland Harper (0:33:00):**

946 Eliminate the need for the tutoring with the change in
947 the school grading?

948

949 **Cody Campbell (0:33:06):**

950 Yes, sir. The after-school learning center has been
951 removed from the QAP.

952

953 **Holland Harper (0:33:10):**

954 Thank you.

955

956 **Cody Campbell (0:33:11):**

957 Yes, sir. On page 87, there is a scoring item that
958 relates to the cost of development per square foot. We
959 are by rule required to update this in accordance with
960 the inflation index every year. So we've updated these
961 numbers to reflect, I believe it's the consumer price
962 index that we use to update these numbers. We did get
963 one request on page 88, little roman at ii, which is the
964 second paragraph on that page. That section of the rule
965 allows for a higher cost per square foot for
966 rehabilitation developments that are located in the high

967 opportunity areas.

968

969 I did get one request from somebody to allow for this
970 higher cost per square foot to be available to rehabs
971 regardless of whether they're in a high opportunity area
972 or not. Staff is not proposing that we make that
973 change. We might look at that next year. We only got
974 that request from one person, so we didn't make that
975 change. The big change on here is the adjustment of
976 these numbers in accordance with the consumer price
977 indexes we were required to do.

978

979 Two pages later, on page 89, we have our leveraging
980 scoring item. This scoring item awards points to
981 developments that have a tax credit request that falls
982 below a certain percentage of their total development
983 cost. We have, in response to a significant number of
984 requests from the industry, increased those thresholds
985 in just a little bit.

986

987 And then the last of the noncontroversial ones that I
988 have on my list is on page 91. It is the elimination of
989 subparagraph 8 on that page. This has to do with the

990 scoring item that awarded points to applicants that
991 requested no more than 100 percent of the available
992 funds in the subregion. The issue that we've run into
993 that is that in our smaller subregions we might only
994 have \$900,000 available. We have heard consistently
995 from people that this is not enough money to get a deal
996 done at this point. This is why we're seeing smaller
997 and smaller deals, and so we've eliminated that.

998

999 Again, I don't believe it's going to be controversial,
1000 and I think the rural developers will be very excited to
1001 hear this. And there are some of the urban subregions
1002 very small. That concludes my list of items that I
1003 believe will be mostly noncontroversial. We may want to
1004 take public comments before I move on to the next item
1005 just to make sure that nobody wants to talk about these.

1006

1007 **Kenny Marchant (0:35:40) :**

1008 Yeah. I'd like to see if there's any comments from any
1009 of the board members on any of these items that you'd
1010 like to see changed?

1011

1012

1013 **Leo Vasquez III (0:35:50):**

1014 I think I brought them up as we went along.

1015

1016 **Kenny Marchant (0:35:52):**

1017 Yeah, I think we did. Okay. At this time, everybody's

1018 heard the suggestions that we've made, Cody.

1019

1020 **Cody Campbell (0:36:00):**

1021 Yeah.

1022

1023 **Kenny Marchant (0:36:01):**

1024 So changes in the QAP through page 90.

1025

1026 **Cody Campbell (0:36:06):**

1027 Well...

1028

1029 **Kenny Marchant (0:36:08):**

1030 Are they all...

1031

1032 **Leo Vasquez III (0:36:08):**

1033 No. He skipped a couple.

1034

1035

1036 **Cody Campbell (0:36:10):**

1037 Sure. So there are some that I've pulled out that I
1038 expect significant public comments on.

1039

1040 **Kenny Marchant (0:36:15):**

1041 Okay.

1042

1043 **Cody Campbell (0:36:15):**

1044 Things like ineligibility criteria that we've added,
1045 cashouts, changes to general contractor fees, things
1046 like that.

1047

1048 **Kenny Marchant (0:36:22):**

1049 They're in Chapter Two.

1050

1051 **Cody Campbell (0:36:25):**

1052 They're in Part Two of my presentation. Yes, sir. I
1053 just pulled these out because I don't expect significant
1054 public comments about them, but I did want the Board to
1055 be aware of the changes that staff is proposing.

1056

1057 **Kenny Marchant (0:36:33):**

1058 Okay. Thank you.

1059

1060 **Cody Campbell (0:36:34):**

1061 Sure.

1062

1063 **Kenny Marchant (0:36:36):**

1064 So are we going to have three people speaking on this?

1065

1066 **Leo Vasquez III (0:36:42):**

1067 Others will jump up. Don't worry.

1068

1069 **Kenny Marchant (0:36:44):**

1070 Okay. Okay. All right.

1071

1072 **Leo Vasquez III (0:36:47):**

1073 Beau's going to get mad at you.

1074

1075 **Kenny Marchant (0:36:47):**

1076 You'll give us your name...

1077

1078 **Leo Vasquez III (0:36:49):**

1079 Beau's going to get mad at you.

1080

1081

1082 **Kenny Marchant (0:36:50) :**

1083 And sign in.

1084

1085 **Leo Vasquez III (0:36:51) :**

1086 Beau is going to get mad at you.

1087

1088 **Kenny Marchant (0:36:53) :**

1089 Beau is?

1090

1091 **Leo Vasquez III (0:36:53) :**

1092 Yes.

1093

1094 **Kenny Marchant (0:36:53) :**

1095 Because I'm going to entertain a motion to take public

1096 comment.

1097

1098 **Holland Harper (0:37:00) :**

1099 I make a motion to accept public comment.

1100

1101 **Kenny Marchant (0:37:02) :**

1102 Mr. Harper makes a motion.

1103

1104

1105 **Leo Vasquez III (0:37:04):**

1106 I second.

1107

1108 **Kenny Marchant (0:37:05):**

1109 Mr. Vasquez seconds. And all in favor say aye.

1110

1111 **All Board Members (0:37:09):**

1112 Aye.

1113

1114 **Kenny Marchant (0:37:10):**

1115 And public may now comment.

1116

1117 **Kathryn Saar (0:37:13):**

1118 Hi, Kathryn Saar. I'm with the Brownstone Group out of

1119 Houston. I also am the president elect of the TAP

1120 organization. I think that your staff has done a

1121 wonderful job of bringing this rule out and taking

1122 comment, and we really appreciate a lot of the changes

1123 that they're making. We were very, I think the industry

1124 at large was very excited when we saw that the quantity

1125 of low-income units scoring item was coming out. It

1126 seems like there's maybe some desire to put that back

1127 into tiebreak.

1128

1129 If that does happen, as Bobby was mentioning, it's going
1130 to maintain the same problem that we have now where
1131 people are over promising units because that's what's
1132 required to win allocation, and then they would be
1133 forced to go find soft funding, rejigger their capital
1134 stack and I think we would, I think it would be a better
1135 move to, if this is a desire to think about it for the
1136 '27 QAP, so that we can come up with a more workable
1137 solution that isn't going to continue our problems of
1138 perpetually requesting force majeures.

1139

1140 **Leo Vasquez III (0:38:33):**

1141 So you're saying that developers are going to purposely
1142 knowingly propose projects that they can't make work and
1143 then they're...

1144

1145 **Kathryn Saar (0:38:44):**

1146 I didn't say that.

1147

1148 **Leo Vasquez III (0:38:44):**

1149 Going to just come back and change it after we're asked?

1150

1151 **Kathryn Saar (0:38:46):**

1152 I will tell you that...

1153

1154 **Leo Vasquez III (0:38:47):**

1155 They're going to ask for a change, which...

1156

1157 **Kathryn Saar (0:38:49):**

1158 I will tell you that Brownstone does not put in deals

1159 that we do not believe are feasible upfront. And so in

1160 the 2025 round, we put in two applications, one of which

1161 was awarded, and we're closing on that one that was

1162 awarded in November of this year. We do not play games

1163 where we're overpromising things when we know there's

1164 not soft money to...

1165

1166 **Leo Vasquez III (0:39:11):**

1167 Okay. Well, I'm not saying you, but you just said this

1168 is what's going to happen. Is that how...

1169

1170 **Kathryn Saar (0:39:14):**

1171 Well, it's what's been happening because people, with

1172 the existing quantity of low-income units scoring item,

1173 we're mandated to provide a certain level of units based

1174 on your area. And so if we continue to mandate that
1175 high threshold of unit count, even though there's not
1176 soft funding to pay for those units, then we're just
1177 going to keep perpetuating this slow delivery of units
1178 that we're currently seeing.

1179

1180 **Leo Vasquez III (0:39:44):**

1181 Do you think when the Board votes to not approve a
1182 change in structure or diminishing the number of units
1183 after we already awarded, that that will stop that
1184 process from...

1185

1186 **Kathryn Saar (0:39:58):**

1187 I think it...

1188

1189 **Leo Vasquez III (0:40:00):**

1190 People coming after the fact and saying, oh, I
1191 miscalculated.

1192

1193 **Kathryn Saar (0:40:03):**

1194 I don't have a crystal ball, but I think...

1195

1196

1197 **Leo Vasquez III (0:40:04):**

1198 Well, I mean, just with, you're president-elect of TAP,
1199 what does the organization, do the members, would that
1200 get their attention when we stop approving it?

1201

1202 **Kathryn Saar (0:40:15):**

1203 If units or if an application came back in with a
1204 request to change and you denied it, that would
1205 certainly send a message.

1206

1207 **Kenny Marchant (0:40:27):**

1208 So...

1209

1210 **Leo Vasquez III (0:40:28):**

1211 Go ahead, please.

1212

1213 **Kenny Marchant (0:40:33):**

1214 Just, I'm trying to explore the optics of us removing
1215 the language about low-income housing credits, and we're
1216 giving out low-income housing credits and we're removing
1217 language to encourage renting to low-income families.

1218

1219

1220 **Kathryn Saar (0:40:51):**

1221 We're not removing the language to rent to low-income
1222 units because we have several other scoring items that
1223 mandate that 10 percent of the units have to be at 30
1224 percent. There's a certain percentage, depending on
1225 where you are, that's either 20 or 40 percent of the
1226 units have to be at 50 percent, and then the balance can
1227 be made up of market rate and 60 percent units, or if
1228 you're doing income averaging, you could go up to 80.

1229

1230 **Kenny Marchant (0:41:19):**

1231 So for Cody, because of that, what was the purpose of
1232 this language if it was redundant?

1233

1234 **Cody Campbell (0:41:27):**

1235 So there's two concepts being discussed here. There's
1236 the percentage of the units that have to be restricted
1237 at lower income levels, which is what Kathryn was just
1238 talking about. Separately from that, there's how many
1239 units you have to build. And so what we are
1240 eliminating, or what we're proposing to eliminate is the
1241 language that sets a floor on how many units that you
1242 have to build just to be eligible to apply for an award.

1243

1244 **Kenny Marchant (0:41:55):**

1245 Of those categories.

1246

1247 **Cody Campbell (0:41:56):**

1248 No. Just flatly how many units that you have built and
1249 then separately there's the analysis of X percentage
1250 have to be at this level, X percentage have to be at
1251 this level. The proposal that I believe Mr. Vasquez had
1252 made is that instead of having that as a scoring item,
1253 we move over and just look at it as a tiebreaker. So in
1254 other words, on a per credit basis, who's providing us
1255 with the most units.

1256

1257 **Kenny Marchant (0:42:18):**

1258 But her suggestion was that we think about this until
1259 the next one.

1260

1261 **Cody Campbell (0:42:24):**

1262 That...

1263

1264 **Kenny Marchant (0:42:24):**

1265 Think about what? Think about remove the language and

1266 think about it as a tiebreaker or? What's your

1267 tiebreaker,

1268

1269 **Kathryn Saar (0:42:30):**

1270 No. So my suggestion is that we go with the staff draft

1271 now and remove it and then think about adding it as a

1272 tiebreaker for next year.

1273

1274 **Kenny Marchant (0:42:40):**

1275 And I think we should probably leave the tiebreaker in

1276 for a year and see what the consequence of that is,

1277 because putting something back would be very difficult.

1278

1279 **Leo Vasquez III (0:42:54):**

1280 Yeah. I agree. I don't know if Mr. Harper thinks so.

1281

1282 **Kenny Marchant (0:43:00):**

1283 And we'll be open. If he comes back in a year and says

1284 the same exact thing is happening, and we'll see it

1285 because we'll be looking at that location. But, and

1286 this is...

1287

1288

1289 **Leo Vasquez III (0:43:11):**

1290 But our goal is to get as many units per tax credit as
1291 we can.

1292

1293 **Kathryn Saar (0:43:15):**

1294 That's right. But it's also to put units on the ground.
1295 And if we're delaying the process because we're having
1296 to go out and find money to create these artificial
1297 floors...

1298

1299 **Leo Vasquez III (0:43:27):**

1300 Don't propose it if you can't finance it. If it's not
1301 feasible, why come to us? Why put this forth?

1302

1303 **Kathryn Saar (0:43:33):**

1304 I think that's why you saw a large decrease in the
1305 number of applications that you've seen, because people
1306 can't make these deals work. I usually put in four or
1307 five applications. I only put in two because there was
1308 soft money available for the two.

1309

1310 **Bobby Wilkinson (0:43:54):**

1311 How old are your numbers by the time you close? Like

1312 your numbers that you use for a 9 percent deal. When
1313 your pre-app is in January, are you getting those
1314 numbers in November?

1315

1316 **Kathryn Saar (0:44:03):**

1317 So I think you're really starting to put your app
1318 together after the pre-app. A lot of people, some
1319 people run numbers ahead of time, but some people don't
1320 run their real numbers until they know that they have a
1321 scoring application. So you're really starting to put
1322 your numbers together for the app in late January
1323 through February.

1324

1325 And that's when you're coming up with the unit mix and
1326 sizing everything and there's this whole dance that
1327 we're doing where there's, let's just say we're talking
1328 about Houston, where I have access to \$2 million in
1329 credits. So I see that I have 2 million, I know what my
1330 land cost is because I have it under contract, and I'm
1331 backing into all of these other numbers based on those
1332 factors. And it's really difficult to mandate a floor
1333 of you need to create 104 units or whatever it is, and I
1334 can't remember the, in Houston.

1335

1336 **Leo Vasquez III (0:45:02):**

1337 But we're talking about removing that now. So that's

1338 almost...

1339

1340 **Kathryn Saar (0:45:05):**

1341 Right.

1342

1343 **Leo Vasquez III (0:45:05):**

1344 That's a moot point at this point. So we agree we're

1345 removing that floor.

1346

1347 **Kathryn Saar (0:45:07):**

1348 Okay.

1349

1350 **Leo Vasquez III (0:45:08):**

1351 However, our goal, next goal is how many units can we

1352 get per credit.

1353

1354 **Kathryn Saar (0:45:15):**

1355 Right.

1356

1357

1358 **Leo Vasquez III (0:45:15):**

1359 And that's the discussions like that.

1360

1361 **Kathryn Saar (0:45:17):**

1362 And again, but you're going to have, if you just move it

1363 from a point item to a tie break, it's going to create

1364 the same problem because it's the same construct.

1365 You're mandating a certain number of units, and it

1366 creates problems in a limited capital constrained

1367 environment.

1368

1369 **Kenny Marchant (0:45:37):**

1370 But we're trying to accomplish a goal. So you're saying

1371 we won't get as many units built, or it's harder to

1372 build it, or it's harder to do this because we've made

1373 this a goal.

1374

1375 **Kathryn Saar (0:45:59):**

1376 No. I'm saying that if you allow a deal to be sized

1377 based on the particulars of that deal, then you're going

1378 to get applications that can deliver the units in the

1379 time that's required. Once you start adding additional

1380 things that create problems with the capital stack, the

1381 units that are supposed to be delivered are going to be
1382 delayed into the market.

1383

1384 **Holland Harper (0:46:31):**

1385 This comes down to a tiebreaker. So you have to choose
1386 as the market if you believe you need to put more units
1387 because you don't have a site that meets some of the
1388 objectives of the four things; grocery store, library,
1389 public school, park. Now, we have some work to do to
1390 get that cleaned up, but it goes back to what does my
1391 site look like compared to the other tiebreakers in that
1392 market.

1393

1394 **Kathryn Saar (0:46:54):**

1395 Yeah. So I think there's some question about how we
1396 would put it into the tiebreaker if we're talking about
1397 this, the quantity of low-income units.

1398

1399 **Kenny Marchant (0:47:03):**

1400 We are talking about the...

1401

1402 **Kathryn Saar (0:47:05):**

1403 As a tiebreaker.

1404

1405 **Bobby Wilkinson (0:47:06):**

1406 If it was the first tiebreaker, would be usually
1407 important. It was if it was a second tiebreaker after
1408 the distance to amenities, it would be...

1409

1410 **Kathryn Saar (0:47:13):**

1411 It would be less. You would break more ties with...

1412

1413 **Bobby Wilkinson (0:47:15):**

1414 It might happen one time.

1415

1416 **Kathryn Saar (0:47:16):**

1417 Right.

1418

1419 **Bobby Wilkinson (0:47:17):**

1420 You'd have to have someone exactly equal on two
1421 different sites to the combination of amenities. Do we
1422 have like a to the foot or...

1423

1424 **Holland Harper (0:47:25):**

1425 It's to the foot.

1426

1427 **Kathryn Saar (0:47:25):**

1428 I think it's 100 feet.

1429

1430 **Cody Campbell (0:47:26):**

1431 There's a 100-foot threshold within that.

1432

1433 **Bobby Wilkinson (0:47:28):**

1434 Okay. Okay. So it could be done. It just, it wouldn't

1435 move the needle much.

1436

1437 **Kathryn Saar (0:47:32):**

1438 It does happen.

1439

1440 **Bobby Wilkinson (0:47:34):**

1441 Which is that, they would like that. So then I...

1442

1443 **Kenny Marchant (0:47:36):**

1444 And even if it doesn't work in a year, we'll look at it.

1445 If it begins, if it looks really complicated and we have

1446 evidence that it is complicated and people aren't

1447 delivering the units, then we can certainly look at it

1448 again. Now, Cody, these were the noncontroversial.

1449

1450 **Bobby Wilkinson (0:47:59):**
1451 To be fair to Cody, that was from the Rules Committee.
1452
1453 **Leo Vasquez III (0:48:01):**
1454 I thought we complicated it. (Indiscernible -
1455 simultaneous speech).
1456
1457 **Leo Vasquez III (0:48:02):**
1458 Yeah. We complicated it. Yeah.
1459
1460 **Kenny Marchant (0:48:03):**
1461 Okay. Yeah.
1462
1463 **Holland Harper (0:48:04):**
1464 That was Board, correct?
1465
1466 **Leo Vasquez III (0:48:06):**
1467 My bad. My bad.
1468
1469 **Kenny Marchant (0:48:08):**
1470 Yes, ma'am.
1471
1472

1473 **Alexis Sheehy (0:48:10):**

1474 Hi. Alexis Sheehy, Structure Development. It sounds
1475 like the quantity of units is going to exist in some
1476 form, and I'm just going to suggest that if it is a
1477 tiebreaker, the second tiebreaker, as you know is the
1478 100-foot difference. It doesn't affect a lot of things,
1479 but it does affect things potentially opening it up.

1480

1481 I think originally in QAP it was 300 feet and I think
1482 that would have some significance in, especially like 3U
1483 and 6U areas like that where we do want a lot of units,
1484 or it could be for every unit above your competitor, you
1485 get 10 feet taken off of your total tiebreaker. I just
1486 think there's ways to do it where you're still going to
1487 get very reasonable applications and a decent quantity
1488 of units. So it'll still be something top of mind, but
1489 not exactly you're not just putting together an
1490 unrealistic application just to put a bunch of units in
1491 there because it will be...

1492

1493 **Kenny Marchant (0:49:08):**

1494 So you're arguing for us putting the tiebreaker in and
1495 making it work.

1496

1497 **Alexis Sheehy (0:49:16):**

1498 No. I'm just, I don't think that, I'm reading the room.

1499 I don't think quantity of units is going to be stricken

1500 completely. And so if it does go into the tiebreaker, I

1501 think that, like right now, if you get to a tie, you

1502 measure the distance to the nearest, or in the nearest

1503 deal of the same population. And I think that's pretty

1504 arbitrary. I think this one has a little bit more

1505 meaning to it and it leaves quantity of units in there.

1506

1507 It's still a consideration, but you're not going to end

1508 up in the situation that Kathryn just described. Or

1509 else look at people who submit applications with a

1510 really unrealistic amount of soft money in there, but

1511 that's probably really controversial. So that's all.

1512 Just a suggestion for the tiebreaker to keep it in there

1513 if you have to.

1514

1515 **Kenny Marchant (0:50:08):**

1516 Thank you.

1517

1518

1519 **Robbye Meyer (0:50:27):**

1520 Hi, Robbye Meyer. I'm going to have two different hats
1521 on today. One, I'm going to reiterate, really, and go
1522 along with what Kathryn said. I agree with her and all
1523 her comments. And Mr. Vasquez, and answer to your
1524 question, yes, the applicants will turn in applications
1525 to win. So they will turn in applications that don't
1526 completely pencil. So an answer to your question, yes,
1527 they do. I competed against them last year. I competed
1528 against them again this year, and I can put pencil to
1529 their numbers, and they don't work, so...

1530

1531 **Leo Vasquez III (0:51:04):**

1532 Start spreading the word that the Board is likely to
1533 start frowning upon those types of requests and likely
1534 to start denying those requests for reductions in sizes
1535 and such, unless there's some really extraordinary
1536 circumstance.

1537

1538 **Robbye Meyer (0:51:24):**

1539 Yeah. If you deny those requests. I think it will, I
1540 agree with Kathryn, that will send a message.

1541

1542 **Leo Vasquez III (0:51:30):**

1543 Yeah. And we'll get credits back for the next time,

1544 yeah.

1545

1546 **Robbye Meyer (0:51:32):**

1547 I know deals are struggling, but we have 2020 deals and

1548 '21 deals that are still out there that haven't placed

1549 in service, and I'm tired of it as much as you are. I'm

1550 a minority, so that's all I'm going to say about that.

1551 My Rural Rental Housing hat, I'm going to talk about the

1552 homeless point that was on page 68 that Cody talked

1553 about.

1554

1555 In the staff draft, it applied to urban areas, and rural

1556 was stricken. We thought we had a win there. We've

1557 been asking for this for several years for it not to

1558 apply. And it's not that we don't want to have homeless

1559 in our developments. We accept voucher holders. That's

1560 not the problem. We just don't have the support to have

1561 those in our area, I mean, we don't have the CoC

1562 providers, we don't have nonprofits.

1563

1564 Whichever homeless provider that was asking for that to

1565 be put back in, we would love it if they wanted to put
1566 provide that throughout the state. If they want to do
1567 that for us, we're more than happy to do that. We need
1568 a provider in those areas. We're out in the middle of
1569 nowhere and...

1570

1571 **Bobby Wilkinson (0:52:49):**

1572 Yeah. So Texas Homeless Network is the balance of
1573 state, CoC, and that's who commented. And so we worked
1574 with them in many, many programs, hundreds of vouchers.
1575 And I don't know, maybe we just need to light a fire
1576 under them a little bit to help you out. It's better.

1577

1578 **Robbye Meyer (0:53:03):**

1579 And we need to make sure that they're willing to help in
1580 all the rural areas because we haven't had success with
1581 that. So that's my comment. And we'll continue to keep
1582 after that. It's very difficult in those areas. And
1583 the only other area, if I can just have just a second,
1584 Cody didn't mention anything about it. But on CRPs, we
1585 asked for one add to have opportunity zones added to
1586 CRPs. I think it's an easy add. You have TERS areas,
1587 you have TEF areas. Opportunity zone areas would be an

1588 easy add to that paragraph. It is a Republican agenda,
1589 it's a federal agenda, it's a state legislative agenda,
1590 and I don't think it's really that difficult of an ask
1591 to add that in to the CRPs. I appreciate your time.

1592

1593 **Kenny Marchant (0:54:04):**

1594 Does anybody on the Board have any opposition to that?
1595 Because I was thinking about it, but I didn't know if
1596 the opportunity zone was correlated to an opportunity
1597 zone.

1598

1599 **Holland Harper (0:54:16):**

1600 What page is this?

1601

1602 **Cody Campbell (0:54:19):**

1603 If you could just give me one second, I will find that
1604 for you.

1605

1606 **Kenny Marchant (0:54:21):**

1607 So when we use the word opportunity zone, we're using
1608 the federal definition. Okay.

1609

1610

1611 **Cody Campbell (0:54:27):**

1612 Yes. And they have to be designated by the governor.

1613 Am I saying that correctly? I'm almost positive they

1614 have to. Yes.

1615

1616 **Unidentified Speaker (0:54:33):**

1617 Correct.

1618

1619 **Cody Campbell (0:54:34):**

1620 Thank you. Let me find you CRPs in here. A CRP is a

1621 concerted revitalization plan. Page 85 of the PDF

1622 establishes that you can get up to seven points if your

1623 development is located in an area that is under what's

1624 called a conservative revitalization plan, which is a

1625 revitalization plan published by a municipality.

1626 Opportunity zones are conceptually kind of similar.

1627 They're just done at a higher level with government. We

1628 could certainly add those in if that's something that

1629 the Board is interested in.

1630

1631 **Bobby Wilkinson (0:55:21):**

1632 And so it'd be just for us to consider an opportunity

1633 zone to automatically be the same as a CRP?

1634

1635 **Cody Campbell (0:55:27):**

1636 That's correct. And Josh and I will take maps of the
1637 opportunity zones. They are...

1638

1639 **Holland Harper (0:55:32):**

1640 They're almost on top of each other.

1641

1642 **Kenny Marchant (0:55:34):**

1643 Yeah.

1644

1645 **Cody Campbell (0:55:34):**

1646 I would imagine that they frequently they are on top of
1647 each other. They're published by different units of
1648 government, so I can't guarantee that they're perfectly
1649 overlapping, but they are areas that the governor has
1650 designated and they are areas that need revitalization.
1651 I looked at the ones in West Texas, where I'm from, and
1652 it is the areas that you would expect that really do
1653 need...

1654

1655 **Bobby Wilkinson (0:55:52):**

1656 Supported by the current administration, Secretary

1657 Turner, so I'm fine with that.

1658

1659 **Kenny Marchant (0:55:58):**

1660 Okay. Please incorporate that.

1661

1662 **Cody Campbell (0:56:05):**

1663 It's very easy. Thank you.

1664

1665 **Emily Abeln (0:56:20):**

1666 Good afternoon. My name is Emily Abeln, and I am a
1667 serial optimistic application submitter. Developers are
1668 inherently an optimistic bunch, and particularly when
1669 you are developing in a region that has typically
1670 historically healthy pot of soft sources to dole out to
1671 developments and the municipality invests heavily in
1672 housing developments, it's a roll of the dice that you
1673 are going to be able to access those dollars to support
1674 that development.

1675

1676 I absolutely know going in that I don't have all of the
1677 funding needed to support that project, but I also go in
1678 knowing that I'm going to do everything I can to turn
1679 over every rock and get it done. Sometimes that doesn't

1680 work out. And more and more, it's not working out
1681 because there aren't the soft sources as Bobby was
1682 mentioning previously. So we got so close to getting
1683 ready to moving this over densifying or overbuilding to
1684 what is actually capital subsidy for these units.
1685
1686 We're building affordable units that are not supported
1687 by the tax credits. Moving it to tiebreaker is livable
1688 if it's not in the first position. You will still have
1689 folks that are building, they're promising more units
1690 than they can fund based on credits and traditional debt
1691 sources and maybe a little bit of soft money. So you
1692 still do have this problem of having a gap. You haven't
1693 eliminated it completely, like what would happen with
1694 the elimination from the QAP, the scoring, and the
1695 tiebreaker.
1696
1697 So I get concerned that perfect is the enemy of the
1698 good. And yes, it would be perfect to have a
1699 development that has 100 affordable units, but you could
1700 have two developments of 50 units that are right size
1701 that can get closed by the end of the award year,
1702 whereas that 100-unit development is going to be

1703 languishing because it is so built beyond the eligible
1704 basis. That's all I have to say.

1705

1706 **Kenny Marchant (0:58:51):**

1707 Thank you. Roll the dice, I've never heard that term
1708 used. Go ahead.

1709

1710 **Cody Campbell (0:59:02):**

1711 You want to continue taking...

1712

1713 **Kenny Marchant (0:59:04):**

1714 Yeah.

1715

1716 **Cody Campbell (0:59:44):**

1717 Okay. I'm sorry.

1718

1719 **Kenny Marchant (0:59:05):**

1720 One more or do I add more than one more? Okay.

1721

1722 **Walter Moreau (0:59:10):**

1723 Walter Moreau, the director of Foundation Communities.

1724

1725

1726 **Kenny Marchant (0:59:12):**

1727 Walter, they're going to make you sign that thing. I
1728 don't know exactly why you can't sign it before or
1729 after, but thank you.

1730

1731 **Walter Moreau (0:59:22):**

1732 I have another suggestion to get more units, and I think
1733 Cody's comment about looking at not just units but
1734 credits per unit might be an angle to take.

1735

1736 **Leo Vasquez III (0:59:31):**

1737 I think that's where we're heading right now. It's
1738 credits per unit.

1739

1740 **Walter Moreau (0:59:35):**

1741 What I proposed in the past is every year you fund a few
1742 projects that have an extraordinary amount of credits
1743 per unit, more than double the average. I think it
1744 makes sense, and most states do this, they have a very
1745 upper limit on the amount of credits per unit or bedroom
1746 that you can get. It doesn't mean you can't build a
1747 really, really expensive project. You're just going to
1748 cap out on the amount of credits you get.

1749

1750 If you just capped it at two times the standard
1751 deviation or double the average of the last few years,
1752 you'd get two or three more projects funded, 2- or 300
1753 more units. Every time I've suggested this, Henry
1754 Flores runs up here and says you can't do that because
1755 that's going to be a race to the bottom. That's not
1756 what we're talking about here. It's not a bottom, it's
1757 just an upper, upper limit. Some projects are coming to
1758 you and they're just more rich, more expensive, more
1759 gold plated than it makes sense to overinvest in. So
1760 you're just capping that at a certain amount.

1761

1762 **Kenny Marchant (1:00:40):**

1763 And that would be an alternative to the tiebreaker
1764 language?

1765

1766 **Walter Moreau (1:00:45):**

1767 It could be an alternative or could be an addition to,
1768 that you've got some incentive and tiebreaker that lower
1769 credits per unit or bedroom wins. But I think in
1770 addition to that, you need to look at the last few years
1771 and I think what you'll see is some projects are really

1772 figuring out how to get more credits than...

1773

1774 **Kenny Marchant (1:01:06):**

1775 I think maybe what we're proposing is we try this new

1776 language for a year and we look at all those other

1777 options during the year. And at the time we do the next

1778 QAP, if everybody's prediction is correct, we will

1779 correct. I don't quite understand what you're saying,

1780 to be honest with you.

1781

1782 **Leo Vasquez III (1:01:26):**

1783 Well, correct me if I'm saying what you're saying

1784 incorrectly. But it's like saying we won't award a

1785 project for more than \$500,000 a door or something to

1786 get credits, some astronomical ridiculous number. And

1787 we've seen some over 400, I think, which are just insane

1788 for affordable housing.

1789

1790 **Bobby Wilkinson (1:01:51):**

1791 But you're specifically talking about LIHTC per door,

1792

1793 **Walter Moreau (1:01:55):**

1794 Correct. So you might have an urban project with a

1795 lot...

1796

1797 **Leo Vasquez III (1:01:56):**

1798 Yeah. And LIHTC (indiscernible - simultaneous speech).

1799

1800 **Bobby Wilkinson (1:01:57):**

1801 So not total cost, right?

1802

1803 **Leo Vasquez III (1:01:59):**

1804 No. Yeah. What we are funding just again gets back to

1805 our where we're getting the most units per dollar, per

1806 credit.

1807

1808 **Walter Moreau (1:02:10):**

1809 Exactly. And it's an expensive project, it has lots of

1810 soft money and they can make it work great.

1811

1812 **Leo Vasquez III (1:02:14):**

1813 Yeah. Exactly.

1814

1815 **Walter Moreau (1:02:14):**

1816 But there's so much you're willing to put in at the

1817 highest end. That's the idea.

1818

1819 **Kenny Marchant (1:02:23):**

1820 Okay.

1821

1822 **Leo Vasquez III (1:02:23):**

1823 Thanks.

1824

1825 **Kenny Marchant (1:02:23):**

1826 Thank you very much.

1827

1828 **Cody Campbell (1:02:25):**

1829 Just real quick. I've got six items left and one of
1830 them is an upper limit on the total development cost per
1831 unit.

1832

1833 **Leo Vasquez III (1:02:32):**

1834 Okay. I thought that was in here some place.

1835

1836 **Cody Campbell (1:02:33):**

1837 It is not identical to what Walter was just talking
1838 about, but it is in the ballpark.

1839

1840

1841 **Kenny Marchant (1:02:38):**

1842 Okay.

1843

1844 **Leo Vasquez III (1:02:38):**

1845 Okay.

1846

1847 **Cody Campbell (1:02:38):**

1848 So just know that that is coming. Yeah.

1849

1850 **Kenny Marchant (1:02:43):**

1851 Who wants to speak next?

1852

1853 **Audrey Martin (1:02:46):**

1854 Hello. Audrey Martin with Purple Martin Real Estate. I

1855 also wanted to speak a little bit about the concept

1856 we're talking about with the new tiebreaker. So I

1857 understand the Board's desire to get more production of

1858 low-income units. I guess I wanted to talk a little bit

1859 more about the procedural side. So the details become

1860 really important with anything that goes in the QAP.

1861

1862 I personally I know a lot of people in the room would

1863 agree that we really appreciate seeing the staff draft

1864 early. That's a total courtesy that TDHCA does and
1865 letting us see language, then we can think about it,
1866 give suggestions before it goes out for the formal
1867 public comment period, at which time we tend to be more
1868 limited in the changes that can happen to the final QAP.
1869 So this is kind of a big topic.

1870

1871 Anytime we start talking about the tiebreakers, it's a
1872 big topic. It's important what order the tie breaks
1873 come in. What exactly are we trying to incentivize.
1874 Are we looking at a range of credits per unit or is it
1875 just the lowest number wins? All those details become
1876 super important and can't be changed too much by the
1877 time we get to the final. So in that way, I kind of
1878 support the idea of let's see what is the current data
1879 on what we produce, and maybe we could craft some policy
1880 that ties to what we see at cost certification compared
1881 to application. And that would take time to study and
1882 could perhaps be done in time for a '27 QAP. So there's
1883 the plug for taking a little time to think about it.
1884 The other thing I wanted to...

1885

1886

1887 **Kenny Marchant (1:04:31):**

1888 And then applying that information to remove the
1889 tiebreaker.

1890

1891 **Audrey Martin (1:04:37):**

1892 No. Apply that information to inform what you guys are
1893 trying to incentivize. So if there's a range of credits
1894 per unit that we're seeing at cost certification and you
1895 can clearly see once a deal is built, here's like the
1896 tranches of the upper, 30 percent of deals fall in this
1897 range and then the next is in this range. Maybe the
1898 data shows us something that makes sense and can tell us
1899 what some reasonable numbers are that you can
1900 incentivize. You all have numbers of units you wanted
1901 us to produce, and that was based on what had been
1902 produced prior. So there was some, we used data to
1903 inform kind of the policy correction. So I don't know.
1904 I'm trying to think on the fly about how we could do
1905 this, but...

1906

1907 **Kenny Marchant (1:05:28):**

1908 Well, maybe it'd be better just to put that language
1909 back in there that we struck.

1910

1911 **Audrey Martin (1:05:37):**

1912 Well, and one other thing I was going to say is that it
1913 is helpful for all of us on this side to have a pretty
1914 objective policy direction so we know when we go to
1915 structure a deal what we're trying to do. When we have
1916 tiebreakers that compare us to the proposals of one
1917 another and those aren't things that we can see before
1918 we submit a pre-application, that becomes kind of tough
1919 that, I know you hate the term race to the bottom. But
1920 what I think people mean by it is that we're trying to
1921 guess what the next person is going to do.

1922

1923 So we're trying to structure something feasible while at
1924 the same time knowing that if it can't be competitive
1925 with the next person that we're competing with, there's
1926 not a lot of value in even doing the exercise of giving
1927 you the application. So if we don't know what our
1928 competitors are going to do because it's comparative to
1929 proposals, that becomes tough. So objective criteria
1930 that we know ahead of time it's more helpful. All
1931 right. I'm going to stop, sir. You want to say some
1932 things?

1933

1934 **Kenny Marchant (1:06:43):**

1935 So is everybody more comfortable just putting the
1936 original language back in, not doing the tiebreaker
1937 deal?

1938

1939 **Audrey Martin (1:06:50):**

1940 I should definitely not speak for everyone in the room.
1941 It is objective language. So I don't know. I'm going
1942 to stop my comments there.

1943

1944 **Kenny Marchant (1:07:03):**

1945 Cody, would that be, I know you were trying to help.

1946

1947 **Cody Campbell (1:07:08):**

1948 Sure. Adding back into the QAP is just two right clicks
1949 for me, so I'm the least put out by any of these
1950 changes.

1951

1952 **Kenny Marchant (1:07:16):**

1953 Thank you, okay.

1954

1955

1956 **Cody Campbell (1:07:18):**

1957 Sure.

1958

1959 **Kenny Marchant (1:07:19):**

1960 Okay. Thanks.

1961

1962 **Cody Campbell (1:07:20):**

1963 Sure.

1964

1965 **Sarah Anderson (1:07:23):**

1966 Sarah Anderson, S. Anderson Consulting. So as far as
1967 adding that language back in, that would be a big fat
1968 no. Because as far as the number of units, it has been,
1969 I sat here two years ago, three years ago, when it was
1970 introduced and predicted that it was going to be
1971 problematic that we were being asked to do 20 percent
1972 more units than we were getting funded to build and that
1973 we were going to have problems, and we are now seeing
1974 these problems. Every 75 percent of the deals have not
1975 closed. They're having to come back for amendments.
1976 They are an administrative nightmare for you guys and
1977 for staff. And so I would beg to not have that back in.
1978

1979 This conversation is difficult because it presupposes
1980 that we are somehow not trying to, we're not aligning
1981 with you guys in trying to produce the most number of
1982 units possible, which we are on this side of the table
1983 trying to do it. We just keep hitting financial
1984 realities of limitation of money in needles. We can
1985 build 100 units, but you want us to build 120, and
1986 there's no way to get the money to make up for those 20
1987 extra units, and that's where we've been and we don't
1988 want to go back there.

1989

1990 Now I understand the concept of having a limitation on
1991 the cost per unit. That makes a lot more sense to me.
1992 And I think Audrey's right, let's take some time and
1993 look at the data. I think as a second tiebreaker, it
1994 makes sense. All things being equal, if you're coming
1995 in and the first tiebreaker is basically the same, why
1996 not have a policy point for the second one that says all
1997 things being equal, this is the deal we would prefer?

1998

1999 So if I had to make a choice, I would prefer having the
2000 tiebreaker with some sort of limitation or lowering the
2001 cost, but having us go back and promising to do units

2002 that we can't, somebody said we're optimists, we think
2003 we can do it. We're a year out, we spend a year looking
2004 for it and we're all failing at that, and you're going
2005 to see some amendments tomorrow that are indicative of
2006 that. We're on your side. We're trying to do the same
2007 thing, and I think that doing maybe a little bit more
2008 research and being a little more pointed would be
2009 better. I just don't want to be here in a year with all
2010 of us having tried to do this tiebreaker and we've
2011 overpromised again and now we've stacked...

2012

2013 **Kenny Marchant (1:10:11):**

2014 But you said you'd be okay with it being a second
2015 tiebreaker.

2016

2017 **Sarah Anderson (1:10:14):**

2018 I said it's a second tiebreaker with a limitation that
2019 makes sense, which is based on data. If we've got
2020 outliers that people are \$150 a foot more than somebody
2021 else, I think that outlier should be trimmed. But let's
2022 take a look at, I don't know what the, I don't know, the
2023 devils in the details in this. I don't know what type
2024 of limitation, but I think a little nudge down that

2025 makes sense would make sense.

2026

2027 **Leo Vasquez III (1:10:46):**

2028 Yeah. I think you're conflating two different topics.

2029

2030 **Sarah Anderson (1:10:49):**

2031 Yeah. They've gotten conflated, absolutely.

2032

2033 **Leo Vasquez III (1:10:49):**

2034 I mean the tiebreaker, and we can make it a second

2035 tiebreaker, is just that simple supporting our goal of

2036 having the most, getting the most per our tax credit.

2037

2038 **Sarah Anderson (1:11:04):**

2039 Yes. And I think...

2040

2041 **Leo Vasquez III (1:11:04):**

2042 The maximum tax credits per door is a whole different, I

2043 think that's more of a, I guess we used the term

2044 threshold. There's a maximum at which just don't even

2045 bother...

2046

2047

2048 **Sarah Anderson (1:11:18):**

2049 True. But you are right. They're both conflated.

2050

2051 **Leo Vasquez III (1:11:19):**

2052 Don't bother staff having to try to underwrite this

2053 and...

2054

2055 **Sarah Anderson (1:11:23):**

2056 But I can see...

2057

2058 **Leo Vasquez III (1:11:24):**

2059 So those are different. But for right now, the key

2060 topic, and you can come back up if you want to talk

2061 about the maximum credits per project, but is that we're

2062 agreeing, okay, take out the total number of units, but

2063 put in as a tiebreaker, after the parks and libraries

2064 and all that, that hey, if they're still even, we're

2065 going to go with whoever is giving us the most units.

2066

2067 **Sarah Anderson (1:11:52):**

2068 And I think that's a...

2069

2070

2071 **Leo Vasquez III (1:11:52):**

2072 That's not a...

2073

2074 **Audrey Martin (1:11:53):**

2075 It's a policy and I think that is a policy that makes
2076 sense, personally. I think it's as much as the distance
2077 to the next deal. The only thing I would say is we
2078 don't want, I don't know how you'd implement that
2079 without having people do something that they can't do.

2080

2081 **Leo Vasquez III (1:12:14):**

2082 Again, I can assure you, I would suggest, like I have to
2083 others, start sharing the news that we're not going to
2084 be continuing to, it's likely that we are not going to
2085 continue to let people come back and say, oh we're
2086 knocking out 15 units or 105, because oh, we
2087 miscalculated. Somebody soon is, and it may be in this
2088 next cycle. I don't know. That is going to get hit
2089 with this reality that we're not going to let this, this
2090 isn't COVID anymore. So I think it's going to be a moot
2091 point.

2092

2093

2094 **Sarah Anderson (1:13:00) :**

2095 I completely agree, and hopefully it'll be after
2096 tomorrow.

2097

2098 **Holland Harper (1:13:05) :**

2099 So Mr. Marchant and Mr. Vasquez, you look at point 3 of
2100 tiebreakers, it talks about the last time that was more
2101 than 15 years ago would be the final tiebreaker inside
2102 that, that seemed kind of a weird deal. It looks like a
2103 great place to put this as the most units, most
2104 affordable units would be the final act to make that
2105 happen instead of having this 15-year last time somebody
2106 put credits in. So then you still keep, because
2107 honestly if you're providing grocery and schools and
2108 libraries and parks and you still have a tiebreaker,
2109 then we get to the level, this last point three here,
2110 then it'd be the most number of units would be the most
2111 valuable asset to the Board. Any discussion there?

2112

2113 **Leo Vasquez III (1:13:52) :**

2114 I agree.

2115

2116

2117 **Kenny Marchant (1:13:53):**

2118 Good place.

2119

2120 **Holland Harper (1:13:53):**

2121 And I think we just strike number three and put that in

2122 place as the cleanup and make it work.

2123

2124 **Sarah Anderson (1:13:59):**

2125 Cool. Thank you very much.

2126

2127 **Kathryn Saar (1:14:01):**

2128 So I just, can we get clarification? Are you...

2129

2130 **Kenny Marchant (1:14:03):**

2131 Could you introduce yourself for the record?

2132

2133 **Kathryn Saar (1:14:04):**

2134 Sorry. Kathryn Saar. Your solution that you're

2135 proposing, which sounds good to the people in the room,

2136 is it you're removing the final one, which is currently

2137 distanced to the nearest tax credit deal or you're

2138 adding this in addition to that?

2139

2140 **Holland Harper (1:14:23):**

2141 I would scratch number three that says if the type says
2142 preference will be determined by the final tiebreaker,
2143 applications proposed in the location, the greatest
2144 distance, the nearest tax credit associated. Strike
2145 that and put in the most number of units. Most number
2146 of units.

2147

2148 **Kathryn Saar (1:14:36):**

2149 I think that's a workable solution.

2150

2151 **Holland Harper (1:14:39):**

2152 And so then you're leaving the library, grocery store,
2153 park, and schools and places your previous within 100
2154 feet, which I take it's total 100 feet, not plus or
2155 minus 100 feet, right?

2156

2157 **Cody Campbell (1:14:50):**

2158 It is if the tie is within 100 feet.

2159

2160 **Holland Harper (1:14:53):**

2161 Okay. Then those all push and then we get down to this,
2162 which would be the most value, which is what this board

2163 wants is more units there.

2164

2165 **Kathryn Saar (1:15:00):**

2166 I think that's a workable solution.

2167

2168 **Leo Vasquez III (1:15:05):**

2169 Yeah, I agree. I just want to make sure staff, there

2170 isn't some other reason that we're not considering right

2171 now on why we put in the distance rules. Wasn't there

2172 that within two miles of the...

2173

2174 **Cody Campbell (1:15:18):**

2175 Right now I'm considering it. I just got a free iPad

2176 from somebody.

2177

2178 **Holland Harper (1:15:23):**

2179 That's awesome.

2180

2181 **Leo Vasquez III (1:15:26):**

2182 I just wanted to make sure we're not, by removing this

2183 completely that we're not forgetting about some other

2184 requirement, but HUD said we have to. You can't keep

2185 putting folks...

2186

2187 **Cody Campbell (1:15:38):**

2188 So the distance serves two functions. One is
2189 deconcentration, so spreading out the development. And
2190 the other is that because it's such an odd measurement,
2191 it will always break ties. It is preposterous to think
2192 that there are two developments that are located exactly
2193 to the foot the same distance from the next closest one.
2194 Replacing that with the units per credit tiebreaker that
2195 we're talking about, it's difficult to imagine that that
2196 wouldn't also break all ties.

2197

2198 **Leo Vasquez III (1:16:07):**

2199 Yeah.

2200

2201 **Cody Campbell (1:16:08):**

2202 It's possible you have two 98-unit deals with both
2203 requesting \$2 million, and then we'd have to figure out
2204 what that means there. But that is why it's in there.
2205 That's why it's always been the last tiebreaker. But I
2206 agree it's...

2207

2208

2209 **Leo Vasquez III (1:16:21):**

2210 Okay. Well in that unlikely event that's with, like I
2211 said, two exact same number of unit deals with the exact
2212 same, why not insert it before number three? So these
2213 units per credit is tiebreaker number three, and then
2214 the existing three becomes tiebreaker number four.
2215 Which again, like I said, it's impossible that that
2216 could be exactly the same. You okay with that, Mr.
2217 Holland?

2218

2219 **Holland Harper (1:16:53):**

2220 I don't really, it's fine.

2221

2222 **Kenny Marchant (1:16:56):**

2223 Pay for it...

2224

2225 **Leo Vasquez III (1:16:57):**

2226 Mr. Harper.

2227

2228 **Cody Campbell (1:16:58):**

2229 Can do.

2230

2231

2232 **Kenny Marchant (1:17:01):**

2233 You got what they're saying?

2234

2235 **Cody Campbell (1:17:03):**

2236 I got it right. Yeah.

2237

2238 **Kenny Marchant (1:17:04):**

2239 You're okay with it. It's a very good solutions. Thank

2240 you. Do we have anybody else who wants to speak? So

2241 we're not putting the language back. We're going this

2242 other round.

2243

2244 **Cody Campbell (1:17:17):**

2245 Correct.

2246

2247 **Kenny Marchant (1:17:18):**

2248 Great. Okay.

2249

2250 **Janine Sisak (1:11:29):**

2251 Hi. Janine Sisak, DMA Development Company. Just want a

2252 couple, we're going to move on. I'm sure you guys are

2253 ready to move on. But want to talk about sponsor

2254 characteristics a little bit, particularly with the

2255 changes proposed to the HUB points. I want to point out
2256 that the HUB points are statutory requirement under
2257 2306. And it's my understanding from being in the
2258 program for a really long time that it was...

2259

2260 **Bobby Wilkinson (1:17:45):**

2261 Janine. No.

2262

2263 **Janine Sisak (1:17:47):**

2264 Oh, it's not in 2306?

2265

2266 **Bobby Wilkinson (1:17:48):**

2267 No.

2268

2269 **Janine Sisak (1:17:50):**

2270 All right, well strike that remark, but I don't think it
2271 changes my comments. But the purpose behind those
2272 points was always to give HUBs, historically
2273 underutilized businesses, a competitive advantage. It
2274 was never meant to be capacity building in any way. And
2275 if TDHCA really wants to encourage capacity building at
2276 this point, it seems like that goal is undermined by the
2277 fact that now there's like seven other ways to get the

2278 two points.

2279

2280 With regard to having HUBs essentially not count with
2281 more than 10 deals under their belt. For me, you guys
2282 know that I work for a HUB, DMA. Diana has 30 deals on
2283 her previous participation. We've joint ventured on a
2284 lot of deals as capacity building. I've got 10 deals
2285 under my belt, would also not be eligible for these
2286 points. For our company, which I guess is not real
2287 typical in that it's women-owned and run, we would have
2288 to joint venture with a third HUB to get the points.

2289

2290 So now you have three HUBs to get the points, where
2291 three people have to share the deal instead of one, and
2292 that just seems to fly in the face of the stated goal of
2293 developing capacity. We're just splitting these things
2294 so far down that it just doesn't make sense. And the
2295 way the HUB rule has been over the past couple years,
2296 essentially even though the HUB is getting 50 percent on
2297 paper, the economics often don't follow that. So often
2298 the HUBs are getting 5 percent of cash flow, 5 percent
2299 of developer fee. And I can assure you that 10 deals at
2300 that small percentage of economics does not give you the

2301 financial capacity to do deals on your own.
2302
2303 So I really think we need to look at this and understand
2304 the intent behind it. I don't like where this rule is
2305 today. I really think that it needs to be revert to the
2306 old rule. I mean, without getting into the tax-exempt
2307 stuff. I understand there are other policy objectives
2308 there, so I'm not really speaking on that. But I don't
2309 think the rule as drafted does work in terms of
2310 developing capacities for HUBs. I mean, if you really
2311 want to develop capacities of HUBs, the rule should be
2312 you get the points if you're a HUB, and you take 100
2313 percent of the economics of the deal. That will build
2314 capacity for HUBs. The way it is now is HUBs are
2315 getting such a small percentage of the economics, it's
2316 really not doing anything for any HUB. Thank you.

2317

2318 **Kenny Marchant (1:20:27):**

2319 But your position is that we should be, our policies
2320 should, our main policy is not that objective. Our...

2321

2322 **Janine Sisak (1:20:43):**

2323 I think the policy objective is a competitive advantage

2324 for HUBs, not capacity building for HUBs.

2325

2326 **Kenny Marchant (1:20:50):**

2327 And you're testifying that you want the old rule, you

2328 don't want the...

2329

2330 **Janine Sisak (1:20:54):**

2331 Yeah. I don't think there should be a limit on if

2332 you've done 10 deals, you shouldn't qualify as a HUB. I

2333 think that doesn't...

2334

2335 **Leo Vasquez III (1:21:01):**

2336 And what point should they have qualify as just a

2337 regular competitor with great experience?

2338

2339 **Janine Sisak (1:21:07):**

2340 Well, it's...

2341

2342 **Leo Vasquez III (1:21:09):**

2343 Do they ever graduate? Do they ever graduate?

2344

2345 **Janine Sisak (1:21:10):**

2346 Meant to address a historical problem. And in Texas,

2347 primarily for 100 years, it's been a male-dominated
2348 business. Our industry has a lot of female
2349 representation now, but it's in the consulting HUB role.
2350 There are very few women-owned businesses that take a
2351 majority of the deal. I could probably count them on
2352 one hand, Diana being one of them. So this is my
2353 personal opinion. It might not be shared by my peers or
2354 the people on the dais, but, I would be happy with the
2355 rule as is without the 10-deal limitation because I
2356 think all HUBs should be treated as HUBs regardless of
2357 how many deals they've done.

2358

2359 **Leo Vasquez III (1:22:00):**

2360 Forever and ever.

2361

2362 **Janine Sisak (1:22:02):**

2363 Yeah. Forever and ever.

2364

2365 **Leo Vasquez III (1:22:04):**

2366 Okay. Thanks for your opinion.

2367

2368 **Kenny Marchant (1:22:08):**

2369 Okay.

2370

2371 **Tanya Lavelle (1:22:29):**

2372 Hi. My name is Tanya Lavelle. I am with Disability
2373 Rights Texas. I did want to make a couple of comments
2374 about some of the things that Cody mentioned a minute
2375 ago. So what I imagine is not shocking to most, we
2376 disagree with taking out the lowest income unit
2377 threshold from the QAP. We think a good middle ground
2378 is using it as a tiebreaker as the first one. Using it
2379 as a second one is not going to do much good. I would
2380 love to hear at some point, offline, how many deals
2381 actually go from the tiebreaker measuring parts and
2382 schools and grocery stores and all of those things to
2383 the next level and whether or not we consider it
2384 significant. But I'm pretty sure it's not going to be a
2385 huge number.

2386

2387 And if the goal, like Mr. Marchant mentioned, Mr.
2388 Vasquez, that the goal is to create the most number of
2389 units, it's not just the most number of units, it's the
2390 most number of units for the people who need them, the
2391 people TDHCA is meant to serve through the LIHTC program
2392 and that's low income Texans. And so if we're losing

2393 track of that, really, I just want to make sure we don't
2394 lose track of it because it's tough enough now with
2395 homelessness rates increasing, with people with
2396 disabilities especially losing the number, fewer and
2397 fewer opportunities to actually find a place to go.
2398 I'll talk about that one. But we really don't need to
2399 lose sight of the fact that the goal of this program is
2400 to house low-income Texans in the best way possible with
2401 the most number of units possible targeted for those
2402 populations.

2403

2404 And then I quickly wanted to mention a bit about the
2405 continued care referrals. People with disabilities are
2406 overrepresented in the homeless population already, and
2407 for the first time in a long time, the rate has actually
2408 been increasing lately, which is unfortunate. There is
2409 stigma simply associated with people who are exiting
2410 homelessness. That is not a shocking thing to have to
2411 say. And the units currently held for people referred
2412 to by the CRCs are an invaluable resource to helping
2413 people who are representing homelessness, people with
2414 disabilities actually achieve housing stability. And
2415 I'd say between the increasing rate of homelessness and

2416 our own case logs, we had a 93-page case log on Monday.

2417 I've never seen anything half that high.

2418

2419 So what that is to say is that the number of units is

2420 not the issue. The time that they are there is not the

2421 issue. It is the fact that there is a disconnect

2422 between the people who need them and these units. And

2423 part of the scoring criteria is that people have to be

2424 able to market these units with their CoC, as opposed to

2425 taking them off the market faster by assuming that they

2426 are not needed because they're not getting filled fast

2427 enough. I would suggest that we go ahead and put more

2428 effort behind marketing them, because there's no reason

2429 why we would be getting calls at DRTx constantly by

2430 these massive numbers if there were no need for these

2431 units. That's a disconnect there, and I think taking

2432 them off faster is not going to solve anything. It's

2433 going to make it worse.

2434

2435 **Kenny Marchant (1:25:20) :**

2436 Who would you put the burden of marketing into?

2437

2438

2439 **Tanya Lavelle (1:25:23):**

2440 If I understand correctly, there is something in there
2441 that says that developers have to work with CoCs to
2442 market these units, correct?

2443

2444 **Unidentified Speaker (1:25:30):**

2445 Yes.

2446

2447 **Tanya Lavelle (1:25:31):**

2448 Yeah. Okay.

2449

2450 **Bobby Wilkinson (1:25:31):**

2451 Yeah. So would you want to go back to one year and six
2452 months instead of dropping the six...

2453

2454 **Tanya Lavelle (1:25:36):**

2455 Yeah. Just the original language, not da da da...

2456

2457 **Bobby Wilkinson (1:25:38):**

2458 Okay.

2459

2460 **Kenny Marchant (1:25:39):**

2461 Because you've got a backlog though, right?

2462

2463 **Tanya Lavelle (1:25:41):**

2464 At DRTx?

2465

2466 **Kenny Marchant (1:25:42):**

2467 Yeah.

2468

2469 **Tanya Lavelle (1:25:43):**

2470 Yeah. I don't know if you could call it backlog, we

2471 just have...

2472

2473 **Kenny Marchant (1:25:43):**

2474 But when you became, so why are there units becoming

2475 available that are sitting there a year if there's such

2476 a backlog?

2477

2478 **Tanya Lavelle (1:25:50):**

2479 Yeah. I think there's a disconnect with marketing, not

2480 necessarily a disconnect with the people who need them.

2481

2482 **Kenny Marchant (1:25:53):**

2483 Because you guys don't know that they're available?

2484

2485 **Tanya Lavelle (1:25:56):**

2486 No, no, no. That the people that come to us after they
2487 can't find it. So we don't actually, at DRTx we don't
2488 funnel people through different housing things. We just
2489 help them direct them the best we can. And if people
2490 are coming to us from these populations, people exiting
2491 homelessness, which we do, people are getting shelters,
2492 which we do, these are units that could be there if
2493 we're marketing the way that we should be. Does that
2494 make sense?

2495

2496 **Kenny Marchant (1:26:21):**

2497 Well, how many units are we talking about?

2498

2499 **Cody Campbell (1:26:25):**

2500 It's a very small percentage.

2501

2502 **Kenny Marchant (1:26:26):**

2503 Like 20 in the state?

2504

2505 **Cody Campbell (1:26:28):**

2506 It's not a hard number. It's a percentage, and I

2507 believe that is it 2 percent.

2508

2509 **Holland Harper (1:26:31):**

2510 5 percent?

2511

2512 **Leo Vasquez III (1:26:32):**

2513 What, 2 percent?

2514

2515 **Unidentified Speaker (1:26:33):**

2516 Yes.

2517

2518 **Kenny Marchant (1:26:33):**

2519 Okay.

2520

2521 **Cody Campbell (1:26:34):**

2522 It's 2 percent.

2523

2524 **Leo Vasquez III (1:26:35):**

2525 Are those 2 percent (indiscernible) they have to...

2526

2527 **Kenny Marchant (1:26:37):**

2528 If there is, I believe there's a backlog everywhere, and

2529 I can't believe that the agencies that have these people

2530 in place are not organized enough to know when these

2531 units are coming on.

2532

2533 **Leo Vasquez III (1:26:50):**

2534 Didn't we talk, I'm sorry. Didn't we talk about having
2535 a clearinghouse, kind of a central database of showing
2536 when new units designated for, that reserve come online?

2537

2538 **Cody Campbell (1:27:06):**

2539 Sure. So TDHCA does maintain what's called a Vacancy
2540 Clearinghouse on the website that shows vacancies. It
2541 doesn't have all of the information that some of the
2542 advocacy organizations have asked for. And I believe
2543 that our Housing Resource Center has looked into
2544 enhancing the vacancy clearinghouse, but we do maintain
2545 a database like that. In terms of when brand new units
2546 are added to that database. I'm going to be making up
2547 an answer that I give you. So I can certainly check on
2548 that and let you know when they're added to it. But we
2549 do have a database like what you're talking about.

2550

2551 **Bobby Wilkinson (1:27:36):**

2552 And I don't think we have a marked CoC referral unit or
2553 anything like that.

2554

2555 **Cody Campbell (1:27:40):**

2556 We do not, no.

2557

2558 **Bobby Wilkinson (1:27:40):**

2559 Just the number of bedrooms and the percent AMI.

2560

2561 **Cody Campbell (1:27:44):**

2562 I don't believe it has percent AMI. And I think that's

2563 one the things that the advocates had asked for.

2564

2565 **Bobby Wilkinson (1:27:46):**

2566 Okay. Well, yeah. All right.

2567

2568 **Cody Campbell (1:27:49):**

2569 I don't believe.

2570

2571 **Anna Maria Farias (1:27:51):**

2572 Can I ask a question? My concern is, when I was running

2573 the housing authority, small-town rural communities,

2574 ours was very different because 40 percent of public

2575 housing of the real estate is 40 percent. It's probably

2576 the largest in the country. But even with that, we had

2577 a hard time filling spots for homelessness. And I don't
2578 know if it's because small towns, everybody's related to
2579 each other. So you send them to the cousins or the
2580 aunts or the uncles, whatever.

2581

2582 When we would house them is when they came from the
2583 women's shelter and they got priority. But the thing
2584 about it is as soon as they can get them out of the way
2585 of their perpetrators and then they move them to the big
2586 city, say we would have them for two, three months at
2587 the most, and then you would start the process again.
2588 And when you're talking about the continuum of care and
2589 who can help them, we actually would have somebody that
2590 would come once per week from San Antonio, Texas. And
2591 that really is the reality of rural communities. It's
2592 kind of hard. And then you have to start the ball
2593 rolling all over again.

2594

2595 And the big question is, well, I need a house now, I'm
2596 not homeless, but I'm moving in with the kids, but
2597 you're telling me there's a vacant field, there's a
2598 vacant home, but I can't have it because you have to
2599 keep it open for potential homelessness. And they go,

2600 well, we're homeless right now, and I've got my kids
2601 with me. So that is the constant concern in rural
2602 communities. It's not like the big cities where you can
2603 just go.

2604

2605 And oftentimes we would actually end up filling the spot
2606 by someone that came from the big city to the small
2607 city, to the small town. And that in itself would also
2608 create their own consternation, and before you knew it,
2609 the guy says, I don't belong in a little town. I'm out
2610 of here. And I think I dealt with that over and over
2611 again. It's this complete cycle. We tried to make it
2612 work, but it's just a problem that's always there and we
2613 tried the best we could. But as far as rural
2614 communities, they have a hard time filling those spots.

2615

2616 **Kenny Marchant (1:30:14):**

2617 Do you think that this three months, six months will
2618 heavily impact, adversely impact that situation?

2619

2620 **Anna Maria Farias (1:30:22):**

2621 No. Because if you have a family that needs housing,
2622 let's say the mother or the father lost a job, and all

2623 of a sudden you have a mom with kids, says, I have one
2624 job, I need a house. You have an empty apartment, but
2625 you're telling me that you can't give it to me because
2626 you're worrying for a homeless person. So then the mom
2627 says, guess what? I'm homeless right now, and I'll be
2628 staying here for a few years, not three months.

2629

2630 And so that is the constant headache of anyone that's
2631 running a housing authority, trying to work with
2632 nonprofits. It's just what do you do? 601 and 6, but
2633 you've dealt with that, you know what I'm talking about.
2634 Okay.

2635

2636 **Cody Campbell (1:31:05):**

2637 Just real quick, I pulled up our clearinghouse. It does
2638 now show specifically 30 percent units. It doesn't have
2639 all the income bands. And I believe that was the
2640 request that we got last year, so well done Housing
2641 Resource Center.

2642

2643 **Bobby Wilkinson (1:31:15):**

2644 Yeah. I was looking. It has 30s, it has number of
2645 811s.

2646

2647 **Cody Campbell (1:31:17):**

2648 Yeah.

2649

2650 **Bobby Wilkinson (1:31:18):**

2651 I don't know if we could do CoC referral units because

2652 it's a temporary aspect, but anyway.

2653

2654 **Leo Vasquez III (1:31:24):**

2655 And I'm sorry, just one last question on this topic

2656 here. Okay. Or how long does it take a developer who

2657 has, a new development comes online, the units become

2658 available. How long does it typically take for that use

2659 to be put onto the clearinghouse, that database?

2660

2661 **Cody Campbell (1:31:53):**

2662 That's a great question.

2663

2664 **Leo Vasquez III (1:31:53):**

2665 Does it take four months before it gets uploaded onto

2666 the system?

2667

2668

2669 **Cody Campbell (1:31:56):**

2670 That is a really great question.

2671

2672 **Leo Vasquez III (1:31:57):**

2673 If that's...

2674

2675 **Cody Campbell (1:31:58):**

2676 I'm going to have to check on that.

2677

2678 **Leo Vasquez III (1:31:58):**

2679 Well, then six months is probably too short to say you

2680 can remove them after six months, but it takes four

2681 months for the word to get to get to Ms. Lavelle.

2682

2683 **Cody Campbell (1:32:07):**

2684 I believe that the clearinghouse pulls from our central

2685 database. I would have to double check with our IS

2686 folks to confirm that this is true. And if that's the

2687 case, it should be reflected in the vacancy

2688 clearinghouse once it's added to that database. And you

2689 know what I'm going to do? I'm going to sit down and

2690 look at what got awarded this year and see if it's on

2691 there already.

2692

2693 **Kenny Marchant (1:32:22):**

2694 Okay. Yeah.

2695

2696 **Leo Vasquez III (1:32:24):**

2697 Yeah. I just...

2698

2699 **Kenny Marchant (1:32:24):**

2700 So there's not a huge lag.

2701

2702 **Leo Vasquez III (1:32:26):**

2703 Well, I want to make sure that there's enough time for

2704 the referrals to kind of get there if there's a short

2705 window, and then by the time disability rights gets to

2706 their person and say, come look at it, it's already off

2707 the market because the six months has expired. I'm just

2708 concerned. Let's just make sure we don't make it where

2709 it's impossible for the advocacy community to get people

2710 referred before they get pulled off the market.

2711

2712 **Kenny Marchant (1:33:01):**

2713 So what we're really looking at actually is the lag time

2714 between...

2715

2716 **Leo Vasquez III (1:33:04):**

2717 Yeah.

2718

2719 **Kenny Marchant (1:33:04):**

2720 When you get units, you guys approve units, right? And

2721 you guys start day one when they can start filling them

2722 up, right?

2723

2724 **Cody Campbell (1:33:15):**

2725 That is when the whole period starts, yeah.

2726

2727 **Kenny Marchant (1:33:16):**

2728 Okay. So the question is how much of a lag time it is

2729 between that decision and putting it on the website.

2730

2731 **Tanya Lavelle (1:33:24):**

2732 Okay. Yeah. Thanks. I appreciate the conversation.

2733

2734 **Kenny Marchant (1:33:28):**

2735 Thank you. Okay. We're drawing near to the

2736 uncontroversial part of the program. Yes, ma'am.

2737

2738 **Erin Hahn (1:33:38) :**

2739 Hello, my name is Erin Hahn. I'm with Texas Housers.

2740 And I'll start on, we have comments on, brief comments
2741 on a couple items, but I'll start with CoC hold periods.

2742 We oppose the proposed changes to holding period

2743 agreements reserved for tenants referred by homeless

2744 organizations and support maintaining a 6-month rural

2745 and 12-month urban CoC of hold periods. My colleagues

2746 have been in touch with Eric at Texas Homeless Network

2747 during this meeting, and he's very eager to work more

2748 closely with developers to get those units filled. And

2749 we'll move on to sponsor characteristics, specifically

2750 tax exemptions.

2751

2752 First, we understand and agree with the Board's concern

2753 about layering property tax exemptions with housing tax

2754 credits and how this layering of financial incentives

2755 doesn't guarantee greater public benefit from these

2756 deals. We don't want to give away something for

2757 nothing, especially the taxpayer dollars. But instead

2758 of combining deals with tax rates across the board, we

2759 recommend including a two-point option for deals with

2760 property tax examples exemptions that agree to provide

2761 additional benefits.

2762

2763 We recommend that they should have to report to TDHCA on
2764 the additional affordability that they are providing by
2765 layering in the tax exemption. And these properties
2766 should also be required to provide certain tenant
2767 protections that are not always included at LIHTC-type
2768 properties, including requiring eviction prevention
2769 plans, tenants' rights to organize, any acceptance of
2770 partial rent payments. And so this approach would
2771 ensure that Texas get something in return for layering
2772 incentives rather than simply discouraging and
2773 penalizing these deals.

2774

2775 The goal here should be to make these tax exemptions,
2776 not to make these tax exemptions go away, but rather to
2777 make sure that they are providing meaningful additional
2778 affordability and providing additional protections for
2779 residents. And lastly, regarding the tiebreaker, we
2780 want to recommend that the Board consider replacing the
2781 linear distance tiebreaker altogether with an
2782 affordability focused tiebreaker. So this draft of
2783 course removes the quantity of loan components for an

2784 item.

2785

2786 And then we recommend replacing the current linear

2787 distance tiebreaker with one that prioritizes both

2788 deeper affordability and more units overall.

2789 Specifically, we've recommended in past QAP cycles, a

2790 weighted formula that gives the most points for units

2791 affordable at 30 percent AMI, some points for units at

2792 50 and 60 percent AMI, and fewer points for 80 percent

2793 AMI. And so this approach would strike a balance by

2794 addressing the greatest need for housing at extremely

2795 low-income levels while still encouraging as many

2796 affordable units as possible. Thank you for your

2797 consideration.

2798

2799 **Kenny Marchant (1:36:30):**

2800 Thank you very much. Okay. Cody, act two.

2801

2802 **Cody Campbell (1:36:39):**

2803 Sure. Thank you. Okay. On page 49 and I think this

2804 one should be real quick.

2805

2806

2807 **Kenny Marchant (1:36:50) :**

2808 Did you say 49 or...

2809

2810 **Cody Campbell (1:36:52) :**

2811 Yes, sir. 49, yep. So under our award methodology this
2812 is, I'm looking a little roman at iv, there is an option
2813 available because an automatic award to the highest
2814 scoring development in a subregion that agrees to
2815 provide a high-quality Pre-K. To help put a little bit
2816 of a guardrail around this, we had added, and I'm not
2817 sure that we hit the mark for this, we had added a
2818 requirement that the automatic award not be available
2819 in, hi Ms. Conroy.

2820

2821 **Cindy Conroy (1:37:30) :**

2822 Hi.

2823

2824 **Cody Campbell (1:37:31) :**

2825 That they not be available in fourth quartile census
2826 tracts by income for the subregion. In other words, you
2827 can't go to the poorest part of town and get an
2828 automatic award to build a Pre-K. We got some pushback
2829 on that, and I think it's pretty valid that often these

2830 are the neighborhoods that need high-quality Pre-Ks the
2831 most because they're the lowest income parts of any
2832 given city or subregion.

2833

2834 I got a really good suggestion that instead of having
2835 that hard limitation on the fourth quartile for income,
2836 that instead we require that the automatic award gets a
2837 resolution support from the city. So in other words,
2838 instead of just saying no fourth quartile, that the city
2839 would have to come in and say yes, this is a good place
2840 to build this development and we support it going there.

2841

2842 **Holland Harper (1:38:27):**

2843 Only if it's in the fourth quartile.

2844

2845 **Cody Campbell (1:38:30):**

2846 Sure.

2847

2848 **Holland Harper (1:38:31):**

2849 Okay.

2850

2851 **Cody Campbell (1:38:31):**

2852 We can do that way.

2853

2854 **Holland Harper (1:38:32):**

2855 All right.

2856

2857 **Cody Campbell (1:38:35):**

2858 Yeah. That solves the problem.

2859

2860 **Leo Vasquez III (1:38:35):**

2861 And it's understood.

2862

2863 **Kenny Marchant (1:38:36):**

2864 Cody, we have Ms. Conroy with us. Thank you for joining

2865 us. The way we're doing this hearing is we had, in

2866 Cody's definition, the least controversial amendments

2867 first in your testimony. Now we're going to begin to

2868 look at the more controversial amendments, and that's

2869 the stage we're in. Thank you.

2870

2871 **Cindy Conroy (1:39:01):**

2872 Well, glad my plane was on time.

2873

2874 **Kenny Marchant (1:39:03):**

2875 That is good. Yeah, thanks.

2876

2877 **Cody Campbell (1:39:06):**

2878 The suggestion of requiring a city resolution if it's in
2879 the fourth quartile, solves the problem of staff was
2880 trying to address. I think it's a great idea and,
2881 frankly, I would recommend that the Board adopt it.
2882 Sounds like we've got one person who'd like to speak on
2883 this. Yeah.

2884

2885 **Kenny Marchant (1:39:24):**

2886 So you're proposing different language than this or what
2887 the...

2888

2889 **Cody Campbell (1:39:27):**

2890 That is correct. So what we've written here was just
2891 the prohibition on the automatic award for developments
2892 with the Pre-K in fourth quartile census tracks. And I
2893 do think it better idea instead of having an outright
2894 prohibition to say that they have to have a resolution
2895 of support from the city. So in other words, the city
2896 is signing off and saying this is good for the citizens,
2897 and we would like to see this happen.

2898

2899 **Kenny Marchant (1:39:54):**

2900 And that's a council resolution or just the city manager
2901 or?

2902

2903 **Cody Campbell (1:39:58):**

2904 It would be a resolution from the city council or the
2905 county commissioners.

2906

2907 **Kenny Marchant (1:40:01):**

2908 Okay.

2909

2910 **Zachary Krochtengel (1:40:03):**

2911 Zach Krochtengel. I think it should be just for every
2912 application that wants to get this Pre-K prioritization
2913 because then it gives the city a say in what that
2914 development could or couldn't be in terms of placement,
2915 et cetera. I'm very opposed to automatic awards in
2916 general. I've spoken against pretty much every single
2917 one of them. But if we're going to have them, I do
2918 think there needs to be greater guardrails.

2919

2920 I would love to see something like a minimum score
2921 because if you're actually the only person that puts in

2922 a pre-app for a Pre-K in a region, you literally could
2923 just go down to whatever score you want to and
2924 automatically be awarded. And so all of these policy
2925 issues that we are putting into the QAP to try and do
2926 things and make things better in certain ways, can
2927 completely be ignored because of this automatic award.

2928

2929 So I think that one, it should be a resolution from the
2930 city or the county that identifies that this application
2931 is going to qualify for that prioritization. And two, I
2932 think that there should be a minimum score for something
2933 like that as well so that they actually have to meet
2934 some of the requirements that other competitive
2935 applications would normally have to meet.

2936

2937 **Kenny Marchant (1:41:24):**

2938 And Cody, how would you incorporate that?

2939

2940 **Cody Campbell (1:41:29):**

2941 Yeah. That's a really great question. So I have an
2942 item a little bit further down.

2943

2944

2945 **Kenny Marchant (1:41:32):**

2946 Thank you. I didn't mean to cut you off, but if you
2947 got...

2948

2949 **Cody Campbell (1:41:38):**

2950 I have an item a little bit further down that does
2951 propose, not a minimum score, but a specific scoring
2952 category that you would have to score points in in order
2953 to be eligible. It doesn't completely get us where I
2954 believe Zach wanted to go, but it does partially address
2955 that.

2956

2957 **Leo Vasquez III (1:41:54):**

2958 There's not some all-encompassing minimum score of 120
2959 or something that...

2960

2961 **Cody Campbell (1:42:03):**

2962 We could certainly do that. There's nothing in the QAP
2963 as it stands right now.

2964

2965 **Kenny Marchant (1:42:08):**

2966 You're not proposing any particular number, you're just
2967 proposing that they have a number.

2968

2969 **Zachary Krochtengel (1:42:13):**

2970 I am someone who had a deal that was going to get
2971 awarded no matter what. So I scored a 54 once. I don't
2972 necessarily think it was the greatest thing in the
2973 world, but it's what happened.

2974

2975 **Cody Campbell (1:42:27):**

2976 Truthfully, staff would be delighted to have a minimum
2977 score. We didn't include one. We instead chose that
2978 minimum...

2979

2980 **Kenny Marchant (1:42:34):**

2981 How would you incorporate that in? Would you put it in
2982 here or...

2983

2984 **Cody Campbell (1:42:38):**

2985 What would we do is probably...

2986

2987 **Leo Vasquez III (1:42:39):**

2988 Well, it's for the automatic awards.

2989

2990

2991 **Cody Campbell (1:42:41):**

2992 We would probably put that in the section that discusses
2993 ineligible applications. That just as you're just
2994 flatly not eligible if you don't meet whatever criteria.
2995

2996 **Kenny Marchant (1:42:42):**

2997 Have you given thought to what that number would be?
2998

2999 **Cody Campbell (1:42:55):**

3000 It would need to be different in urban and rural. We
3001 could look at the lower scores from the last couple of,
3002 and we can do all this before tomorrow. This is not a
3003 problem. But we can look at where it should be and we
3004 can come with a suggestion tomorrow.
3005

3006 **Kenny Marchant (1:43:12):**

3007 Because I completely agree with this.
3008

3009 **Cody Campbell (1:43:05):**

3010 Great.
3011

3012 **Kenny Marchant (1:43:16):**

3013 Never heard of this issue raised. But is there any

3014 pushback on it?

3015

3016 **Cody Campbell (1:43:26):**

3017 And then for the resolution that is required if you want

3018 to get an automatic reward, I see both arguments. I

3019 think staff's position is with the fourth quartile, but

3020 having it for the, regardless of where it is also would

3021 be a workable solution to the Board, or the Committee.

3022

3023 **Kenny Marchant (1:43:41):**

3024 So you could incorporate that in this change.

3025

3026 **Cody Campbell (1:43:44):**

3027 Easily, yes.

3028

3029 **Kenny Marchant (1:43:46):**

3030 Okay.

3031

3032 **Bobby Wilkinson (1:43:47):**

3033 I guess he's asking, because we were talking about

3034 having the city council resolution only be required if

3035 they're in fourth quartile. Zach says you should just

3036 require it, period, to allow them to get the automatic

3037 award with the high-quality Pre-K that delegates a lot
3038 of kingmaking to a level city government. But I'm being
3039 gnostic, whatever you want to do. But kingmaking was
3040 loaded.

3041

3042 **Kenny Marchant (1:44:12):**

3043 We don't have enough kings. I get your point. So you
3044 would suggest that we don't have it on every Pre-K.

3045

3046 **Bobby Wilkinson (1:44:27):**

3047 So yeah, we're just talking about, this is bracketed
3048 for, you know, urban counties. We have it where if they
3049 have a high-quality Pre-K that meets a bunch of
3050 criteria, they get an automatic award. Staff thought,
3051 we should X out fourth quartile incomes from that.

3052 And then the counter argument was why don't you get a
3053 city council resolution? So do we want the resolution
3054 for fourth quarter income to allow them or just X out
3055 fourth quarter income totally or require a city council
3056 resolution for any automatic Pre-K development? This is
3057 like five counties, four counties, I don't know.

3058

3059

3060 **Cody Campbell (1:45:09):**

3061 Yeah. It's counties with...

3062

3063 **Leo Vasquez III (1:45:10):**

3064 I think over a million.

3065

3066 **Cody Campbell (1:45:11):**

3067 Is it over a million, I believe.

3068

3069 **Leo Vasquez III (1:45:12):**

3070 Yeah.

3071

3072 **Kenny Marchant (1:45:13):**

3073 But if you incorporate this low-score thing, that's

3074 another barrier, right?

3075

3076 **Bobby Wilkinson (1:45:18):**

3077 Yeah. That's another suggestion that...

3078

3079 **Leo Vasquez III (1:45:20):**

3080 It's another threshold. I don't think it's a barrier as

3081 much as just,

3082

3083 **Kenny Marchant (1:45:24) :**

3084 Well, it keeps the 54s out.

3085

3086 **Zachary Krochtengel (1:45:29) :**

3087 And I think the bigger issue is that those counties are

3088 all two-mile same year rural counties as well. So when

3089 you're saying kingmaking, they already are practicing

3090 kingmaking when there's two deals that are within two

3091 miles of each other. So I think that this way it allows

3092 for the city to have a decision and if one has a Pre-K

3093 and one doesn't, then they get to make that decision

3094 that they would normally make if neither of them had a

3095 Pre-K or if both of them had a Pre-K.

3096

3097 **Kenny Marchant (1:46:04) :**

3098 I don't know. The Board have any input on that? I'm

3099 usually for getting the county demand, especially for

3100 tax exemptions. I think I'm agnostic on this one too.

3101

3102 **Leo Vasquez III (1:46:31) :**

3103 Helicam can see both sides.

3104

3105

3106 **Cody Campbell (1:46:31):**

3107 So if we want with the, you have to get the resolution
3108 no matter which quartile. The advantage is that it
3109 gives cities or counties the ability to selectively
3110 locate Pre-Ks. Because right now if you have the
3111 highest scoring Pre-K, you get that automatic award no
3112 matter where in the city, and it may be somewhere that
3113 the city doesn't want to have a Pre-K.

3114

3115 Bobby is absolutely correct that if you've got four
3116 developments involved opposing a Pre-K and you have to
3117 get that resolution to get an automatic award. You get
3118 that resolution. The city just picks which one of those
3119 wins. Maybe that's a bad thing, maybe it's not. But it
3120 is absolutely a consequence, he's accurate there.

3121

3122 **Kenny Marchant (1:47:18):**

3123 As opposed to who makes the decision.

3124

3125 **Cody Campbell (1:47:23):**

3126 Well, right now they don't have to get into resolutions.
3127 So it's just whoever show up with the highest scoring
3128 application that has a Pre-K component with it.

3129

3130 **Holland Harper (1:47:34):**

3131 For anybody that's ever gotten a Pre-K through city and
3132 through the fire marshal and through all those things,
3133 that's enough pain and suffering to get that one thing.
3134 I think we'd let it roll.

3135

3136 **Cody Campbell (1:47:43):**

3137 Okay.

3138

3139 **Holland Harper (1:47:44):**

3140 That's my suggestion to the Board. And not add the
3141 resolution from the city council because it just gives
3142 another hoop to run through. And when you're trying to
3143 get a Pre-K, there's a lot of rules in Pre-Ks,
3144 specifically, just to get one through Planning and
3145 Zoning.

3146

3147 **Kenny Marchant (1:47:57):**

3148 And we're adding that they can't be a low-scoring unit.

3149

3150 **Holland Harper (1:48:02):**

3151 And we're adding minimum score.

3152

3153 **Leo Vasquez III (1:48:02):**

3154 Yeah. Another point.

3155

3156 **Kenny Marchant (1:48:04):**

3157 Yeah.

3158

3159 **Leo Vasquez III (1:48:05):**

3160 But what about in the fourth quartile?

3161

3162 **Holland Harper (1:48:12):**

3163 What was the intent of the fourth quartile?

3164

3165 **Cody Campbell (1:48:14):**

3166 Sure. So that is generally the least desirable real

3167 estate in any given subregion. It's where we would

3168 typically not want to see a lot of awards going to. And

3169 this is where you get some maybe real estate that

3170 wouldn't be great and you fast track your way into a tax

3171 credit award because you're including a Pre-K component.

3172 But again, the counterargument to that is, well, those

3173 are the neighborhoods that need Pre-Ks and so that might

3174 not actually be a bad thing.

3175

3176 **Holland Harper (1:48:40):**

3177 I mean I would think that if you're in the poorest
3178 region and you're trying to put a high-quality Pre-K in
3179 there and the developer's taking on that risk and
3180 there's plenty of risk just running a Pre-K to begin
3181 with. You've got enough hair on you already to not make
3182 it more complicated. Board members, do you have any
3183 suggestions?

3184

3185 **Kenny Marchant (1:49:02):**

3186 So you were not for adding the city council.

3187

3188 **Holland Harper (1:49:07):**

3189 I am just amazingly no, I'm not for adding city council
3190 to these million people.

3191

3192 **Kenny Marchant (1:49:13):**

3193 Yeah, I mean...

3194

3195 **Leo Vasquez III (1:49:14):**

3196 And we're excluding the fourth quartile because that's
3197 the areas that on the one hand need the investment the

3198 most.

3199

3200 **Holland Harper (1:49:23) :**

3201 I think that those, now, I'm probably not thinking of
3202 all the terrible things that I'm putting there. But if
3203 you're already in a poor region, that's what that is,
3204 and you're putting a high performance Pre-K in there and
3205 you're going to go through all the development to have
3206 the hand washing stations and the little tiny toilets
3207 and all the grab rails and all the things you're
3208 supposed to do to get those things done, I think you're
3209 asking, the developers, now we've got a minimum score
3210 that we want in there and that number needs to be above
3211 average to get to that level. I think we let it ride
3212 and see how it goes for a year.

3213

3214 **Leo Vasquez III (1:49:59) :**

3215 So not put in the exclusion of the fourth quartile. And
3216 I'm kind of leaning that way now myself.

3217

3218 **Holland Harper (1:50:07) :**

3219 I don't live in a million-person town, but I do live in
3220 a town that's not super profitable, I mean, it's pretty

3221 poor. And those poorer parts of towns need the same
3222 performance school that the better part of town needs.
3223 So why are we going to make it harder to make that
3224 happen?

3225

3226 **Kenny Marchant (1:50:27):**

3227 Okay. So that means leave it alone.

3228

3229 **Holland Harper (1:50:32):**

3230 Actually, it means strike the...

3231

3232 **Cody Campbell (1:50:33):**

3233 That's exactly correct.

3234

3235 **Leo Vasquez III (1:50:33):**

3236 Please don't put in the same.

3237

3238 **Holland Harper (1:50:34):**

3239 Strikes the red part.

3240

3241 **Cody Campbell (1:50:34):**

3242 So take it back to what it was.

3243

3244 **Kenny Marchant (1:50:36):**

3245 Okay.

3246

3247 **Leo Vasquez III (1:50:36):**

3248 Great. Yes.

3249

3250 **Kenny Marchant (1:50:37):**

3251 Back to when it was...

3252

3253 **Holland Harper (1:50:37):**

3254 Except we're going to add a minimum score that you're

3255 going to put a number that's reasonable to keep

3256 something silly from happening.

3257

3258 **Bobby Wilkinson (1:50:45):**

3259 And to be clear, are we talking about minimum score

3260 across the Board for all applications?

3261

3262 **Holland Harper (1:50:52):**

3263 Yes.

3264

3265 **Bobby Wilkinson (1:50:52):**

3266 To avoid any last minute 54s, right?

3267

3268 **Ajay Thomas (1:50:55):**

3269 Correct.

3270

3271 **Bobby Wilkinson (1:50:55):**

3272 Okay.

3273

3274 **Cody Campbell (1:50:58):**

3275 Fantastic. All right. Next on the list, this is

3276 another pretty easy one. As it stands right now, the

3277 QAP has a scoring incentive for deals that are historic

3278 in nature. So these are deals that have gotten historic

3279 tax credits. I'm looking at page 90 when I talk to

3280 this, and you're already pretty close to it.

3281 Historically, the scoring advantage that has scored

3282 deals have gotten is five points, which is massive.

3283

3284 We have seen a significant number of historic deals.

3285 The trend has been increasing over the last couple years

3286 in terms of how many historic deals that we're doing.

3287 The issue that we run into with historic deals is that

3288 they are very expensive, they take a lot of time. And

3289 while they are important deals, staff does have concerns

3290 that they will be more and more of our award list as
3291 time goes on. So we are recommending cutting the point
3292 incident from five points to two. It still a
3293 significant point advantage, but it's not quite as big
3294 as it is now.

3295

3296 **Kenny Marchant (1:52:04):**

3297 We do see a lot of problems from them.

3298

3299 **Cody Campbell (1:52:09):**

3300 When they get done, they're some of the coolest deals
3301 the TDHCA can put their stamp on, but they are very
3302 difficult and very expensive.

3303

3304 **Kenny Marchant (1:52:16):**

3305 So, Ms. Conroy, doesn't El Paso have some of that, does
3306 El Paso have some units there that fell under that that
3307 haven't been completed or?

3308

3309 **Cindy Conroy (1:52:26):**

3310 I would be (indiscernible).

3311

3312

3313 **Kenny Marchant (1:52:26):**

3314 I know we've got Amarillo and...

3315

3316 **Holland Harper (1:52:30):**

3317 Texarkana.

3318

3319 **Cody Campbell (1:52:31):**

3320 Yeah. There's the Grim hotel, there's that milk factory

3321 that you were concerned about last year, they would

3322 stick in all the people in the milk factory is what I

3323 think you said. We've got that. There's Lone Star Gas

3324 Lofts in Dallas. We do a pretty good number of them.

3325 And even they would still have a scoring advantage. It

3326 just wouldn't be five points. It would be two.

3327

3328 **Kenny Marchant (1:52:52):**

3329 Well, let's hear from the, that's one that we might want

3330 to hear from, some input on.

3331

3332 **Cody Campbell (1:52:58):**

3333 Sure.

3334

3335

3336 **Kenny Marchant (1:52:59) :**

3337 Is there anybody here that has any input on that
3338 particular change?

3339

3340 **Alan Knoll (1:53:19) :**

3341 Alan Knoll. So I don't think we need any point
3342 advantage for historic deals. Often these are in random
3343 parts of town that really don't equate to all of the
3344 goals that we've talked about in the tiebreakers. And
3345 one-point advantage is enough to kick people out. So
3346 whether it's a one-point advantage or 100-point
3347 advantage, it doesn't really matter if there's an
3348 advantage. I just think all the historic deals should
3349 compete just like everything else.

3350

3351 I'm a big believer in new units. As we've seen over and
3352 over, these historic deals cost more. The cities
3353 already can incentivize them in different ways if they
3354 really want to do it. But just so many of these tiny
3355 deals, if a two-point advantage is given, they're still
3356 going to outscore everybody else. So it's my two cents.

3357

3358

3359 **Kenny Marchant (1:54:18):**

3360 Okay. Thank you. Thank you.

3361

3362 **Cody Campbell (1:54:22):**

3363 I just want to add Alan's comments are totally

3364 reasonable, as they always are. We are required by

3365 federal statute to have a scoring incentive for historic

3366 projects.

3367

3368 **Kenny Marchant (1:54:31):**

3369 So we're required to have some scoring advantage.

3370

3371 **Cody Campbell (1:54:32):**

3372 Some. Yeah. It doesn't have to be five, but we're

3373 required to have some.

3374

3375 **Bobby Wilkinson (1:54:36):**

3376 Also in 2306, I believe it's both.

3377

3378 **Cody Campbell (1:54:38):**

3379 I believe it is.

3380

3381

3382 **Bobby Wilkinson (1:54:38):**

3383 Yeah.

3384

3385 **Unidentified Speaker (1:54:39):**

3386 State. It's State.

3387

3388 **Cody Campbell (1:54:40):**

3389 The state is it, not Section 42?

3390

3391 **Unidentified Speaker (1:54:41):**

3392 The state. No. It's state.

3393

3394 **Cody Campbell (1:54:43):**

3395 Okay. It's fine.

3396

3397 **Kenny Marchant (1:54:45):**

3398 Going to start the, so we enter. We could put it to

3399 one.

3400

3401 **Bobby Wilkinson (1:54:49):**

3402 You could put it on a menu with something else to where

3403 it is a possible incentive, which is what you could do

3404 with a lot of things.

3405

3406 **Leo Vasquez III (1:54:58):**

3407 But at the same time, we know by experience the historic
3408 deals so frequently come back with all kinds of
3409 problems. Well, but these are, and this is even worse
3410 than a regular rehab. If it's historic, there's all
3411 these other hoops that you got to jump through and then
3412 we have to accommodate. Whereas an irregular rehab
3413 could get done a lot faster and get those units back
3414 out. And I don't hear a lot of uproar about dropping
3415 the points from five to two. I think it's reasonable
3416 from my side.

3417

3418 **Kenny Marchant (1:55:41):**

3419 We,

3420

3421 **Holland Harper (1:55:42):**

3422 I think we just leave it from five to two. I think
3423 there's a value in historic deals because I think it
3424 fixes it incentivizes taking assets and put it back to
3425 work.

3426

3427 **Cindy Conroy (1:55:53):**

3428 I agree.

3429

3430 **Kenny Marchant (1:55:54) :**

3431 Yeah. Well let's just see. All righty.

3432

3433 **Cody Campbell (1:56:01) :**

3434 This next one I think we'll get a decent amount of
3435 comment on and it covers new ineligibility criteria that
3436 we've added in the QAP, and there are two sections that
3437 I'm going to be talking about because we've added just a
3438 couple of ineligibility criteria. But first, I'm
3439 looking at page 103, and this covers ineligibility of
3440 specific applications. There's a separate section that
3441 covers ineligibility of applicants, and I'll discuss
3442 that here in just a second. But for specific
3443 applications, we have added three ineligibility
3444 criteria.

3445

3446 The first is that for a competitive 9 percent tax credit
3447 application, it would not be eligible if it placed in
3448 service on or after January 1 of 2006. And we discussed
3449 this at our earlier Rules Committee meeting. We have
3450 developments that come in and resyndicate the get a new

3451 allocation of credits. And they rehab at year 15, 16,
3452 17. Staff is not convinced that this is a good use of
3453 public resources. So we're adding that minimum age that
3454 they have to be at least 20 years old before they come
3455 in and get a new allocation of 9 percent credits.

3456

3457 This prohibition would not apply to 4 percent credits.
3458 There's less of a concern there because that is not a
3459 limited resource in the same way 9 percent credits are.
3460 The second that we've added is a prohibition on an
3461 application that represents a total housing development
3462 cost of \$500,000 or more per unit. That is a pretty
3463 high limit. It really only catches about one deal per
3464 year, but every year we have about one outlier that is
3465 significantly higher than the rest of the group. And
3466 staff is not convinced that this is a good use of public
3467 resources.

3468

3469 One of the most damaging things that happens to the
3470 reputation of affordable housing, is every now and then
3471 you'll see an article that comes out of California or
3472 Illinois or New York about some project where people are
3473 spending a million and a half dollars per affordable

3474 unit, and it's just impossible to explain to people how
3475 that math could work. So we're proposing this limit of
3476 500,000. What is different from, you may remember
3477 Walter earlier proposed a limitation on the number of
3478 tax credits per door that the Board would approve, this
3479 a little bit different conceptually than that, because
3480 we were just looking at the total project costs,
3481 dividing that by the number of units, and if that number
3482 exceeds 500,000, then project would not be eligible.

3483

3484 **Bobby Wilkinson (1:58:29):**

3485 Yeah. So could include state and federal historic money
3486 from the city, a bunch of different things. Maybe we're
3487 only giving them the same we give someone else. But
3488 just the idea is like, do you want to be part of these
3489 kind of more expensive per-door developments? And
3490 there's arguments on both sides. We could also look at
3491 the Walter approach, where we're just thinking about tax
3492 credits per unit and just what we're putting in. Yeah.

3493

3494 **Leo Vasquez III (1:58:55):**

3495 And that was going to be my question. So are we saying,
3496 so if it's a mixed income development and there's some

3497 chunk of 80 percent AMI units, but there's an equal size
3498 chunk of market rate units, so the total per door for
3499 the development is 510,000, that means they wouldn't be
3500 eligible even if we're only giving, I'm trying to figure
3501 out how this scenario would work. So we're not just
3502 saying the tax credits awarded for the low-income units
3503 being under 500, we're saying the development cost
3504 because then you're allocating between them and all that
3505 stuff. I understand that.

3506

3507 **Kenny Marchant (1:59:49):**

3508 It's your allocation. And you can monkey with the
3509 allocation.

3510

3511 **Leo Vasquez III (1:59:51):**

3512 Yeah. You can easily say, all right, the market rate
3513 units are...

3514

3515 **Kenny Marchant (1:59:55):**

3516 I think we may have an extra problem.

3517

3518 **Leo Vasquez III (1:59:56):**

3519 600, 700,000. And then how do we figure out when, if

3520 there's a hotel involved or if there's retail space or I
3521 mean all those things that, so yeah. 10 retail boxes,
3522 but that increases the cost by some huge astronomical
3523 number, so how do we handle that?

3524

3525 **Kenny Marchant (2:00:25):**

3526 But the developer will figure out a way to not go over
3527 that 500, probably. But anybody develop in that realm
3528 that would like to speak on it.

3529

3530 **Leo Vasquez III (2:00:41):**

3531 I want to say Walter has more to say.

3532

3533 **Jeanna Adams (2:00:50):**

3534 Jeanna Adams, Director of Real Estate Analysis. I just
3535 want to say whenever we're looking at a deal and we're
3536 doing it on a development cost per unit, the tax credit
3537 units and the market rate units, they got to be equal.
3538 So the cost per door and stuff doesn't matter whether
3539 it's a tax credit or market rate unit.

3540

3541 **Leo Vasquez III (2:01:09):**

3542 Okay. So even if they try to allocate it, saying, well,

3543 these are smaller units...

3544

3545 **Jeanna Adams (2:01:11):**

3546 Right. Because they have to be built the same way, you
3547 can't build them differently. And then also whenever
3548 people are building any sort of retail or commercial, we
3549 don't underwrite that income because these tax credit
3550 deals have to survive on their own. And what they
3551 usually do is they'll include the cost to do like a
3552 white box finish out. And then you triple net lease it,
3553 and so you're not taking on more debt to pay for the
3554 tenant build out. The tenant does that themselves.

3555

3556 That's kind of how we usually see things underwritten
3557 here. And so there's not a lot of, if there is a big
3558 retail or commercial component, most of that buildout
3559 cost is not in the tax credit application because you're
3560 just building a white box finish and then the tenant
3561 pays for their own finish out. So it doesn't skew the
3562 numbers very much.

3563

3564 **Leo Vasquez III (2:01:53):**

3565 But even the white box will...

3566

3567 **Jeanna Adams (2:01:54) :**

3568 There's money.

3569

3570 **Leo Vasquez III (2:01:55) :**

3571 In that?

3572

3573 **Jeanna Adams (2:01:55) :**

3574 It does cost. Yeah.

3575

3576 **Leo Vasquez III (2:01:57) :**

3577 Okay. What if someone's building an affordable Pre-K

3578 unit facility inside their development?

3579

3580 **Jeanna Adams (2:02:03) :**

3581 And if that's part of our requirement and if it's

3582 included in the cost of it and it's serving our

3583 property, then those are included, but we're running it.

3584 So that might make a difference compared to a normal

3585 retail which we usually see on wrap deals, is there'll

3586 be a small retail component on the first floor or an

3587 office or something and you do a white box finish out so

3588 it doesn't over inflate that development cost so much.

3589

3590 **Leo Vasquez III (2:02:29):**

3591 And then one more question. And just note that I am
3592 totally on board with having a maximum per unit cost
3593 because I think the numbers, I think it should be
3594 400,000. Okay. But that would probably impact a lot
3595 more people. What about if there's a truly fully
3596 supportive wraparound, where you're building out
3597 commercial kitchens and stuff as part of the services
3598 offered. How do we manage that?

3599

3600 **Bobby Wilkinson (2:03:00):**

3601 They do scale larger. Yeah. Yeah.

3602

3603 **Jeanna Adams (2:03:02):**

3604 Yeah. That is usually in support of housing. We've
3605 done one deal where there was commercial kitchens it was
3606 for persons living with HIV, and nutrition is a very big
3607 part of their success. And they usually involve a lot
3608 of donations and soft money from other nonprofits and
3609 stuff but on...

3610

3611 **Leo Vasquez III (2:03:17):**

3612 Or senior development where they have a hospital or a
3613 clinic built in.

3614

3615 **Jeanna Adams (2:03:19):**

3616 Sure. But specifically, like the kitchen, a really
3617 expensive build out. We've done that once it was
3618 serving a specific population, it was part of the
3619 supportive service and it gets wrapped in into that on
3620 those very specific deals, which are usually supportive
3621 housing that has that type stuff.

3622

3623 **Leo Vasquez III (2:03:34):**

3624 So would we have, or should we build into this some sort
3625 of, again, I'm all on favor of this topic, but...

3626

3627 **Jeanna Adams (2:03:41):**

3628 Even though supportive housing deals, those supportive
3629 housing deals have not been over \$500,000 a unit, in my
3630 recollection, and I underwrote them for six years
3631 straight. I think we're okay on that one. But we could
3632 fill something else and...

3633

3634 **Leo Vasquez III (2:03:51):**

3635 Okay. All right. As long as you all think that's safe.

3636

3637 **Cody Campbell (2:03:56) :**

3638 I don't know if the Board will like this solution, but

3639 this not being a scoring item, there will be nothing to

3640 prohibit somebody with a development that has some kind

3641 of extraordinary circumstances, prior to submitting the

3642 application asking for waiver of that limit and the

3643 Board can grant it on the front end. What we have right

3644 now because there is no limit is there's not a rule that

3645 is violated whenever we see one of these, let's say,

3646 outliers.

3647

3648 And so staff's hands are kind of tied with what we can

3649 recommend the Board to do. It wouldn't really be

3650 appropriate for us to come say hey, this met all the

3651 rules but we still think you should say no because we're

3652 just being arbitrary at that point. One possible

3653 solution would require you hearing waivers whenever

3654 somebody wants to propose one of these very expensive

3655 developments, but at least you have the opportunity on

3656 the front end to say yes, we're okay with this, or no,

3657 we are not interested in getting involved in this

3658 transaction.

3659

3660 **Bobby Wilkinson (2:04:53):**

3661 Then Cody, did you lay out Roman at x, the score no
3662 points under 10 TAC 11.9 C1, C2.

3663

3664 **Cody Campbell (2:05:02):**

3665 Yeah. If y'all would like, I can finish going through
3666 the new ineligibility. Let's do that. So number 10 on
3667 that page makes an application ineligible if it doesn't
3668 score under, and there's a citation. And specifically
3669 what that is the additional rent and income
3670 restrictions. So if you do nothing else in terms of
3671 getting your school, you come in, you get your 54 or
3672 whatever it is, at the minimum, you have to have those
3673 additional rent and occupancy restrictions.

3674

3675 It sounds like the Board is more interested in having a
3676 minimum score, which would replace that. We wouldn't
3677 have that in the minimum score. So by tomorrow I'll
3678 have your suggestion of what you might want to consider
3679 as a minimum score, so that might just be...

3680

3681

3682 **Kenny Marchant (2:05:44):**

3683 It will replace 10.

3684

3685 **Cody Campbell (2:05:44):**

3686 Yes, that is correct. So that would just be kind of a
3687 placeholder for now. And then the final ineligibility
3688 criteria that we added is on page 134, and this is an
3689 applicant level ineligibility. So the previous three
3690 that we discussed makes a single application ineligible.
3691 The one that we're about to discuss makes the applicant
3692 ineligible to submit any applications. And it is
3693 subparagraph O.

3694

3695 And what we've added is a requirement, it's not a
3696 requirement, it's a prohibition, that if you control a
3697 single tax credit development, and you have requested
3698 force majeure two or more times and had that approved
3699 for that development, you are ineligible to come back
3700 in, as I believe we said, the applicant, all these apply
3701 to the applicant guarantor or developer. You are
3702 ineligible to come in as an applicant developer or
3703 guarantor on a new application until that development

3704 has gotten force majeure approved places in service.

3705

3706 **Kenny Marchant (2:06:51):**

3707 So if you miss that, you can't do a pre-app, you can't

3708 do an application, you're prohibited from filing an

3709 application.

3710

3711 **Cody Campbell (2:07:01):**

3712 Right. And so you can't be the applicant developer or

3713 guarantor.

3714

3715 **Kenny Marchant (2:07:03):**

3716 In that year or in the following year or?

3717

3718 **Cody Campbell (2:07:06):**

3719 Just until the development in question places in

3720 service, which means it's ready for occupancy.

3721

3722 **Kenny Marchant (2:07:08):**

3723 And if it goes over into March or April, past the

3724 deadlines and you're out that year and...

3725

3726 **Cody Campbell (2:07:16):**

3727 That is correct.

3728

3729 **Kenny Marchant (2:07:16):**

3730 Okay.

3731

3732 **Leo Vasquez III (2:07:18):**

3733 You can submit an application in anticipation that

3734 you're going to get the force majeure development in

3735 place before the award process, right?

3736

3737 **Cody Campbell (2:07:33):**

3738 So you would be...

3739

3740 **Leo Vasquez III (2:07:34):**

3741 Well, I'm saying, why not? I mean, if they're going to

3742 be put in service.

3743

3744 **Holland Harper (2:07:40):**

3745 If they get their CO, they'll be clean. If they don't

3746 get their CO, they won't be clean.

3747

3748 **Leo Vasquez III (2:07:44):**

3749 Yeah, yeah. But...

3750

3751 **Kenny Marchant (2:07:48):**

3752 So right, you want to prohibit them up front or let them
3753 get a standby situation.

3754

3755 **Cody Campbell (2:07:55):**

3756 So we can certainly adjust this language to what was
3757 just discussed. No problem. It would take 10 seconds
3758 on our end. The way that it's written now is it's
3759 similar to the store or the school closing. It is a
3760 point in time check as of when you submit the
3761 application, if you're ineligible, if you're not
3762 ineligible. I suppose you can become ineligible after
3763 you submit an application, which I see Beau nodding his
3764 head that we kind of saw that this year. I can't say...

3765

3766 **Leo Vasquez III (2:08:23):**

3767 Yeah. I guess I'm okay with the point in time also.

3768

3769 **Cody Campbell (2:08:25):**

3770 Sure.

3771

3772 **Kenny Marchant (2:08:26):**

3773 Point in time. If the point in time came at the wrong
3774 time, it could just knock you out of here, right?

3775

3776 **Cody Campbell (2:08:33):**

3777 So we could say very easily under this, that has not yet
3778 placed in service as of the meeting at which awards are
3779 made. So you've got an application in March, you're
3780 ready to submit, you've got your development that's
3781 making you ineligible, but you know it's going to place
3782 in service in May.

3783

3784 You submit that, your development places in service,
3785 you're no longer ineligible as of July, you're good to
3786 go. You're taking a risk there, because if that
3787 development runs behind and doesn't place in service,
3788 then you've spent all this money on this application.
3789 But that's a really good carrot on a stick for you to
3790 get it done.

3791

3792 **Leo Vasquez III (2:09:11):**

3793 And that's the point. Yeah. That's the whole...

3794

3795 **Kenny Marchant (2:09:13):**

3796 The only thing is it's taking our time up, but it's
3797 costing a lot of money.

3798

3799 **Holland Harper (2:09:17):**

3800 Also, cost them money.

3801

3802 **Kenny Marchant (2:09:17):**

3803 Yeah. Yeah. I think that I'm comfortable with wording
3804 it that way.

3805

3806 **Cody Campbell (2:09:24):**

3807 Okay.

3808

3809 **Leo Vasquez III (2:09:24):**

3810 Yeah, I agree. Now, I have one more twist on this,
3811 though.

3812

3813 **Cody Campbell (2:09:28):**

3814 Sure.

3815

3816 **Leo Vasquez III (2:09:29):**

3817 So this says if you have force majeure, two force
3818 majeure events on the same development?

3819

3820 **Cody Campbell (2:09:39):**

3821 That is correct.

3822

3823 **Leo Vasquez III (2:09:41):**

3824 So if you have two or three different developments where

3825 you have force majeure.

3826

3827 **Cody Campbell (2:09:50):**

3828 But just one time.

3829

3830 **Leo Vasquez III (2:09:51):**

3831 But just one on each.

3832

3833 **Cody Campbell (2:09:53):**

3834 Right. As written, you would not be ineligible. But

3835 again, we could very easily change that.

3836

3837 **Leo Vasquez III (2:09:59):**

3838 Yeah. Part of my concern, if we have a developer that's

3839 come to us and they say, oh, we did our math wrong, our

3840 financing fell through, our GC quit and walked off, it

3841 snowed in Houston. When they come, and I think we've

3842 had this where we've had people come to us, developers
3843 come to us with the same force majeure issue related to
3844 financing and their financing stack blowing up on three
3845 different ones. To me, if you don't have your financing
3846 figured out for three existing deals, why are we
3847 awarding you more tax credits for, so how are you going
3848 to do that one better.

3849

3850 **Holland Harper (2:10:53):**

3851 But, Chairman, to be in defense of the developers. If
3852 you're developing in Houston and Houston gets hit with a
3853 hurricane and they have two deals at the same time,
3854 three deals in Houston, then they would be in default
3855 over a purely force majeure issue. So I want to be, the
3856 whole goal is, is that we want to be tough on people
3857 that are coming with force majeure.

3858

3859 **Leo Vasquez III (2:11:18):**

3860 For ostensibly self-imposed, self-inflicted force
3861 majeures. I agree on the, if you have a couple of an
3862 incident like that, hurricane wipes out part of Houston
3863 again or Beaumont or Corpus or whatever, that to me is a
3864 true force majeure. It's these things that keep coming

3865 before us every time saying, oh, my GC left, walked the
3866 job, and the financing I thought I was going to have
3867 from this bank, oh, now they've walked away from it, so
3868 I don't know how I'm going to finance it. We have been
3869 historically awarding, being...

3870

3871 **Holland Harper (2:12:03):**

3872 We've been very accommodating.

3873

3874 **Leo Vasquez III (2:12:03):**

3875 Very accommodating, and maybe we just quit approving
3876 those force majeures.

3877

3878 **Kenny Marchant (2:12:13):**

3879 I mean, we can just say no. We can just say no more.

3880

3881 **Leo Vasquez III (2:12:16):**

3882 And for those types of, again, hurricanes, natural
3883 disasters, those types of things, pandemic where
3884 everything's shaken. But so then maybe my concern isn't
3885 this. I'm just irritated when we see a developer with
3886 multiple force majeures so they can't get their existing
3887 projects moving forward and there's another application

3888 comes in front of us. You got to be kidding me. Get
3889 your house in order first, get done what you've already
3890 committed to get done and then you can come back.

3891

3892 **Kenny Marchant (2:12:56):**

3893 And one of the biggest surprises to me when I first got
3894 on the Board was force majeure was you lost your
3895 financing or your contractor walked off the job.

3896

3897 **Leo Vasquez III (2:13:10):**

3898 Interest rates went up.

3899

3900 **Kenny Marchant (2:13:12):**

3901 To me, that didn't fit the definition of force majeure,
3902 but.

3903

3904 **Cody Campbell (2:13:18):**

3905 Sure. Also I just want to let you know as written, the
3906 proposed six-month extension that would be granted by
3907 staff would not count as one of these two.

3908

3909 **Holland Harper (2:13:28):**

3910 Yeah. That makes it a little interesting, doesn't it?

3911

3912 **Cody Campbell (2:13:30):**

3913 Sure. We can change that.

3914

3915 **Kenny Marchant (2:13:36):**

3916 It doesn't count towards this number.

3917

3918 **Cody Campbell (2:13:39):**

3919 Two on the same development that would make you

3920 ineligible.

3921

3922 **Kenny Marchant (2:13:42):**

3923 So you could be a three. You be the one plus the two,

3924 or?

3925

3926 **Cody Campbell (2:13:49):**

3927 So the staff extension is called something other than

3928 force majeure. It's a staff extension due to unseen

3929 force, short-term delays or something like that. We

3930 could very easily write in here though, that if you take

3931 that six months and then you get a force majeure on top

3932 of that, then that would trigger ineligibility.

3933

3934

3935 **Holland Harper (2:14:05):**

3936 I think that you're going to have to do that. Otherwise
3937 it's to me, get out of jail free cards.

3938

3939 **Cody Campbell (2:14:08):**

3940 Sure.

3941

3942 **Kenny Marchant (2:14:09):**

3943 Yeah. Okay. I think we need to take some public
3944 comment now, Cody. Anybody like to speak?

3945

3946 **Walter Moreau (2:14:30):**

3947 Walter Moreau, the director of Foundation Communities.

3948 I wanted to speak to the cap on the cost per unit. One
3949 of the things I'm passionate about is our 30 communities
3950 are really beautiful. We've invested a lot in green
3951 building, licensed childcare centers, supportive
3952 housing. We're built in Austin, so it's not cheap. And
3953 I think our supportive housing projects are up over
3954 300,000 a unit, family properties, over 400,000 a unit.
3955 But they're built to a standard where our residents are
3956 really proud of where they live. We're really proud of

3957 these communities.

3958

3959 We raise a lot of private fundraising from Michael &
3960 Susan Dell Foundation, St. David's Foundation, the City
3961 of Austin, and it shows in the design standards that we
3962 follow. So I'm a little bit nervous about just a
3963 \$500,000 or whatever number you choose cap on a per-unit
3964 basis. I think the bigger problem you have is you're
3965 giving \$2 million in credits and some projects are 50 or
3966 60 units and some are 100 units and you've got some
3967 outliers on individual projects that are getting a huge
3968 investment from just your dollars per unit. I think
3969 that's the bigger issue. Those happened, but maybe also
3970 be the projects with really also on high end per
3971 project. I hope that makes sense.

3972

3973 **Kenny Marchant (2:15:52):**

3974 Yeah. So you're uncomfortable with the number 500 or
3975 just any cap at all.

3976

3977 **Walter Moreau (2:15:58):**

3978 I think our pledges are still under 500 a unit. I think
3979 the bigger problem...

3980

3981 **Kenny Marchant (2:16:06) :**

3982 So we can adjust that if the circumstances change in the
3983 future years. That number is easily changed.

3984

3985 **Leo Vasquez III (2:16:17) :**

3986 It's not unreasonable now for a first number. It's much
3987 more palatable than 400,000, right?

3988

3989 **Walter Moreau (2:16:25) :**

3990 Yes. 400 would be a problem. And maybe there's a
3991 waiver or something for exceptions. If there's somebody
3992 who can...

3993

3994 **Leo Vasquez III (2:16:32) :**

3995 I think that's what we discussed, there's some major,
3996 like a medical clinic or something. It needs to be
3997 because it's a senior population. Yeah, I don't know.

3998

3999 **Kenny Marchant (2:16:42) :**

4000 So do some of the housing units here in Austin, with
4001 transitional housing, and there's a, some of those get
4002 way up there, don't they?

4003

4004 **Walter Moreau (2:16:55):**

4005 It's 10 years ago, but we built Capitol Studios, which
4006 is just across the street from the Department, and it's
4007 a beautiful community, views of the Capitol, supportive
4008 housing for folks who've been homeless at risk.

4009 Downtown Austin, so the dirt was, actually, the dirt was
4010 cheap, but we had to build a parking structure, parking
4011 garage that added the cost. I think our cost per unit
4012 10 years ago was 230,000 a unit. It wasn't cheap, but
4013 it's a beautiful community for high-need folks in a
4014 remarkable location that will never sell. And I'm
4015 really proud of it. I don't consider it to be gold
4016 plated or unjustified.

4017

4018 **Leo Vasquez III (2:17:37):**

4019 But you can live with 500 for this first level to see...

4020

4021 **Walter Moreau (2:17:43):**

4022 Right now, yes.

4023

4024 **Leo Vasquez III (2:17:43):**

4025 And it's easy to revisit.

4026

4027 **Walter Moreau (2:17:44):**

4028 And adjust in future years. That probably needs to be
4029 evaluated. I think the bigger opportunity is to get
4030 more units. If you also have some very high cap on the
4031 number of credits that you'll tolerate per unit as well.
4032 Those two concepts could work together. Thanks.

4033

4034 **Janine Sisak (2:18:09):**

4035 Hi, Janine again. I agree with Walter that credit per
4036 unit is a better governor, but have no problem with the
4037 \$500,000 cap per unit either, but I really like Walter's
4038 ideas about credit per unit. Really quickly. I know we
4039 talked about sponsor characteristics. I have an idea
4040 since I sat down that I want to run by you that I just
4041 want in the public record. And that would be for
4042 sponsor characteristic having the two points for an
4043 experienced HUB where they have 100 percent of the deal.

4044

4045 And then the second would be two points for a non-HUB
4046 who joint ventures with an inexperienced HUB. I think
4047 that would solve my problem if anybody's interested in
4048 doing that, because I just don't think HUBs should have

4049 to joint venture with HUBs. I just don't get that. On
4050 this particular force majeure issue. I strongly
4051 encourage you not to use placed in service as the
4052 trigger, because as an example, a non-LIHTC deal that
4053 I'm doing in Plano, I finished construction in December
4054 and we still don't have COs.

4055

4056 Right now, the reason the City of Plano is telling me
4057 that I can't get permanent COS is because I installed a
4058 yaupon holly instead of a Texas pistachio bush. I'm not
4059 joking. That is what is holding up my TCOs, my COs,
4060 sorry, in the City of Plano. So I would propose that
4061 the trigger be like 50 or 75 percent construction
4062 completion. Because quite frankly, once you close your
4063 financing and you're under construction, you're going to
4064 deliver those units.

4065

4066 And that milestone we have some control over. We don't
4067 have control over the weather or a contractor walking
4068 with off the job or a labor strike or whatever, but at
4069 least we have control over that once you get placed in
4070 service and TCOs, we have very little control over city
4071 inspectors. So I would strongly encourage you all to

4072 please consider some sort of construction milestone
4073 instead of placed in service. Thank you.

4074

4075 **Kenny Marchant (2:20:25):**

4076 So when we talk about placed in service, we mean when
4077 the...

4078

4079 **Janine Sisak (2:20:30):**

4080 TCO.

4081

4082 **Kenny Marchant (2:20:30):**

4083 Agency signs off on it. Are those different?

4084

4085 **Janine Sisak (2:20:33):**

4086 No. No, no, no. It's when the city signs off on the
4087 temporary certificate of occupancy, the jurisdiction.

4088

4089 **Kenny Marchant (2:20:39):**

4090 Then you guys say sign off on it at that point?

4091

4092 **Leo Vasquez III (2:20:43):**

4093 No, it's...

4094

4095

4096 **Kenny Marchant (2:20:44):**

4097 No?

4098

4099 **Cody Campbell (2:20:45):**

4100 At that point, they're not done with us yet. We're

4101 going to ring them till they're sick of us.

4102

4103 **Kenny Marchant (2:20:49):**

4104 Okay. So it's a longer period.

4105

4106 **Cody Campbell (2:20:51):**

4107 But after they get their temporary certificates of

4108 occupancy, they occupy, that's when they move on the

4109 phase that they do their cost certification, so they get

4110 all their costs and they submit them to us. But we in

4111 terms of confirming that a development has placed in

4112 service and is ready for occupancy, that is handled by

4113 the city or the county.

4114

4115 **Kenny Marchant (2:21:12):**

4116 Yeah. Wow. Okay. The TxDOT has informed us that at 5

4117 o'clock we're done. So, Cody, how much more?

4118

4119 **Leo Vasquez III (2:21:26):**

4120 I think they've got a couple of more comments.

4121

4122 **Kenny Marchant (2:21:27):**

4123 We're not going to limit the presentation. I just want

4124 to know how many more you've got.

4125

4126 **Cody Campbell (2:21:32):**

4127 So there's the rest of the comment on this, and then we

4128 have three topics left, and it sounds like it may need

4129 to spill into tomorrow. There are proposed changes that

4130 we made to accessibility standards. There are issues is

4131 the prohibition on cash-out refinances. And then there

4132 is a proposed change that we made to general contractor

4133 fees and especially, well, actually really all three of

4134 them. I'm expecting quite a bit of public comments on.

4135

4136 **Kenny Marchant (2:25:05):**

4137 Okay, okay. So you hear what's ahead, please modulate.

4138

4139 **Cynthia Bast (2:22:14):**

4140 Sure thing. Cynthia Bast of BakerHostetler. I am here

4141 to speak about the force majeure issue. But before I
4142 do, I think Janine's point is wonderful with regard to
4143 the HUBs, and I would second that suggestion. We
4144 represent a variety of HUBs that are doing very good
4145 work and they own 100 percent of their deals, and I
4146 think that is a great solution. On the force majeure, I
4147 want to offer a couple things. First of all, there is a
4148 difference in the force majeure world between a
4149 presidentially declared disaster and the TDHCA force
4150 majeure reasons.

4151

4152 So one thing I think you could do if you have a concern,
4153 Mr. Harper, about hurricanes and things like that, is
4154 you could exclude force majeure that has been granted
4155 under a presidential declared disaster, so that we're
4156 just talking about the QAP rule. Another thing that I
4157 would second Janine on is I believe we need to use the
4158 commencement of construction as that trigger rather than
4159 placement in service, in part for some of the reasons
4160 she described. What I've seen in Texas in the last five
4161 years is unlike what I saw in the 25 years before. It
4162 has really been a very difficult environment out there
4163 for everyone.

4164

4165 And developers don't, they don't want to seek force
4166 majeure. I know they tell you this. And I know that
4167 you sometimes lack confidence in their preparation of
4168 their applications and such, and I understand that. But
4169 they don't want to do force majeure. Why? Because they
4170 get paid when the deal closes. So at least they get
4171 partially paid, and they get reimbursed for the hundreds
4172 of thousands of dollars they have put into the deal. So
4173 they have every incentive to get it financed and started
4174 as soon as they can. And I agree that, and if we
4175 prohibit them from staying in the program, then that
4176 just exacerbates the financial problems.

4177

4178 So I agree that if they have started, then they've done
4179 what you need them to do. You're concerned about them
4180 wandering around with the development at the city and
4181 the financing and all of that, but if they've started,
4182 they've got it together and they're going down that
4183 path, so now let them start down the path again with
4184 another transaction. And I think that meets your goal
4185 so of making sure that the units get on the ground
4186 because that's what we need to do. So thank you.

4187

4188 **Kenny Marchant (2:25:04):**

4189 Thanks.

4190

4191 **Alan Knoll (2:25:11):**

4192 Alan Knoll. We have an exact situation like Cynthia
4193 described. We started three deals during the COVID era.
4194 We haven't applied, we've been working hard. We've got
4195 all three of them under construction now. The vast
4196 majority of the deals I've seen that have been force
4197 majeure request are failure to start. So if we tied
4198 this to start of construction, not the completion, I
4199 think that most ones that have problems are the historic
4200 deals, like someone mentioned before, that get in
4201 trouble during construction. But from our experience,
4202 once you start construction, and get all the financing
4203 lined up. That's the key.

4204

4205 So I think it would achieve the goal without over
4206 punishing folks, because it has been really hard. We
4207 got started in this right in the middle of the COVID
4208 ramp up in cost, and it's been difficult, but we got
4209 every one of them under construction now and don't see

4210 any problems. But this would prevent us until these
4211 things get COs, and someone else said it's a bit out of
4212 your control when you're dealing with cities. So we
4213 fought with the City of Mesquite over all kinds of crazy
4214 things, and that caused one of our force majeures just
4215 that's the only way you can extend them.

4216

4217 **Kenny Marchant (2:26:48):**

4218 Would you be okay with being allowed to continue to make
4219 applications? But you're saying that you might still
4220 have three projects that are under construction that you
4221 had force majeure on would knock you out of filing
4222 another application?

4223

4224 **Alan Knoll (2:27:06):**

4225 Yes.

4226

4227 **Kenny Marchant (2:27:07):**

4228 Because it's not complete.

4229

4230 **Alan Knoll (2:27:09):**

4231 Yes.

4232

4233

4234 **Kenny Marchant (2:27:09) :**

4235 And how else would we impose that penalty?

4236

4237 **Holland Harper (2:27:15) :**

4238 So if I was a developer, I would not take the six months

4239 with the staff. I come before the Board. If you had an

4240 extenuating circumstance like the change in drainage on

4241 Mesquite if I'm correct, and say, hey, listen, this

4242 asset right here had a significant change from the

4243 original design plans and then you would not be in your

4244 two limit problem.

4245

4246 **Alan Knoll (2:27:44) :**

4247 Well, we've already done that. We've been before the

4248 Board already. So all I'm saying is I think the idea is

4249 great idea. We've had a self-imposed hiatus for the

4250 last couple of years, but now we've got our projects are

4251 under construction. So I'm just saying if you tied it

4252 to the start of construction rather than the completion

4253 most of the problems that people run into where they

4254 need force majeure or closing on the construction and

4255 getting it started.

4256

4257 **Kenny Marchant (2:28:19):**

4258 Cody, how would you accomplish both of their concerns?

4259

4260 **Cody Campbell (2:28:24):**

4261 Yeah. So placement in service is a specifically defined

4262 concept in the tax credit program. It's when you get

4263 your certificates of occupancy. We could tie it to

4264 substantial completion of construction, which I don't

4265 believe you have to do a certificate of occupancy to

4266 demonstrate.

4267

4268 **Kenny Marchant (2:28:43):**

4269 But that wouldn't apply to any of Alan's problems?

4270

4271 **Cody Campbell (2:28:46):**

4272 That would not solve Alan's problem, no. I think...

4273

4274 **Kenny Marchant (2:28:52):**

4275 It's just, is there any kind of, because we have just

4276 gone through the COVID. Whether it was COVID problems

4277 or not, COVID got blamed on it. It was going to be

4278 COVID's problem. Going forward, is there a way to

4279 grandfather situations that are currently in place and
4280 go forward with the policy?

4281

4282 **Cody Campbell (2:29:15):**

4283 Oh, we can absolutely do that very easily. I'd have to
4284 think about exactly how to phrase the language, but...

4285

4286 **Kenny Marchant (2:29:21):**

4287 Does anybody, is that viable to you?

4288

4289 **Beau Eccles (2:29:36):**

4290 I mean you can always have a go forward policy. It's
4291 just that it would have no effect on the next
4292 application round. So nobody who's received serial
4293 force majeure would be affected.

4294

4295 **Cody Campbell (2:29:50):**

4296 We could take, I believe, it's Janine's suggestion of
4297 tying it to 50 percent construction completion.
4298 Commencement of construction is...

4299

4300 **Kenny Marchant (2:30:01):**

4301 It's been appalling, the number of people that haven't

4302 even started the construction and maybe not even on the
4303 land yet.

4304

4305 **Holland Harper (2:30:17):**

4306 If we leave it the way it is, it's going to drive
4307 velocity. I know that it's not popular out there behind
4308 you, but what we're trying to do is drive velocity and
4309 get things accomplished. Now, it's not easy to build,
4310 and it's not easy to be a developer, but we're trying to
4311 get things finished.

4312

4313 **Cody Campbell (2:30:34):**

4314 Sure.

4315

4316 **Kenny Marchant (2:30:41):**

4317 I don't think we have consensus on that right this
4318 minute. I know we've got a couple of very heated things
4319 coming before us. Is there anybody else like to speak
4320 on this?

4321

4322 **Cody Campbell (2:30:52):**

4323 I believe somebody wants to speak about that \$500,000
4324 limit. I could be wrong.

4325

4326 **Zachary Krochtengel (2:30:56):**

4327 (Indiscernible) but why not. It's an honor to have a
4328 rule named after me, even if it's informal.

4329

4330 **Leo Vasquez III (2:31:05):**

4331 Can you identify yourself, please, sir?

4332

4333 **Zachary Krochtengel (2:31:06):**

4334 Zachary Krochtengel. Cody did confirm that I'm the only
4335 one who's broken 500,000 a unit, and it just is what it
4336 is. I buy really beat up historic properties in Dallas,
4337 and downtown Dallas is full of them. And the city of
4338 Dallas is willing to fund the revitalization of downtown
4339 Dallas using soft money dollars that are in a TIF zone.
4340 I am taking advantage of that and putting in low-income
4341 housing tax units.

4342

4343 Right now we're working on the Magnolia building, which
4344 used to be the tallest building in Texas, has a big red
4345 Pegasus on top of it, and we're combining it with a
4346 Hilton hotel and affordable housing. To fight with
4347 Hilton and their representatives to get them to

4348 understand that it'd be a great thing to have a Hilton
4349 hotel and affordable housing in the same building took a
4350 lot of effort. They've come around to that and I think
4351 it's just a really transformative project. But it will
4352 be over \$500,000 per unit. We're asking for \$72 million
4353 from the City of Dallas into funding.

4354

4355 It's a \$200 million project, and I think it's a great
4356 thing that TDHCA units are in that property, and its
4357 actually affordable units with 30s, 50s, 60s, 80s and
4358 market rate. There are three other people asking for
4359 TEF awards in that same TEF that are not including real
4360 deep affordability, and they're asking for 100, 200 and
4361 \$300 million. I think that it's a real missed
4362 opportunity to kind of take that away with that kind of
4363 limitation when these projects that people are doing,
4364 the projects that I'm doing, I could build the same
4365 capital stack without LIHTC and have all of the units be
4366 market rate. But I really believe in having
4367 affordability in unique projects, and I would like to
4368 see TDHCA units in those kinds of properties and those
4369 kinds of projects. So that's kind of...

4370

4371

4372 **Kenny Marchant (2:33:10) :**

4373 So you would be okay with some waiver language?

4374

4375 **Zachary Krochtengel (2:33:15) :**

4376 Sure, sure. 100 percent. I don't think that what I'm
4377 doing is a misuse of funds or a miscarriage of what this
4378 program is. I think it's, I'm looking at low-income
4379 housing tax credits as an economic driver to put into
4380 projects that could happen without any affordability.
4381 And I think that that'd be a real sad solution to this
4382 because I'm sure I could go find \$20 million of equity
4383 and have full market rate units in that project. It's
4384 an iconic building, and I think that I make my life
4385 harder, not easier, by trying to have affordable units
4386 in these projects.

4387

4388 **Kenny Marchant (2:33:55) :**

4389 But if we keep the cap at 500, but a waiver, it's not
4390 going to...

4391

4392 **Zachary Krochtengel (2:34:03) :**

4393 Yeah. I would like to see a carve out for historic.

4394 And not all historic is the same. A lot of people are
4395 saying all these historic deals are small and low unit
4396 counts. Everything I've done, I think I've had the
4397 largest unit count project in the 9 percent application
4398 round in like four of the past five years. And that
4399 includes in historic deals. And when it's a large
4400 structure, you're not doing wood frame, you're doing
4401 steel, like gauge steel, everything is more expensive.
4402 HVAC is more expensive, electrical is more expensive.
4403 They have to run it differently. And the prices just go
4404 up.

4405

4406 And when you're doing things in downtown Dallas, our
4407 West End deal, which is a deal that breaks that \$500,000
4408 per unit mark, they're having us put in \$4 million of
4409 new Encore vaults. That's over \$35,000 per unit on that
4410 deal alone in just Encore work. And when you take that,
4411 add it to high land cost, high acquisition cost, you're
4412 not going to be able to build that kind of property.

4413

4414 **Kenny Marchant (2:35:06):**

4415 But if we put waiver language in there, it won't
4416 discourage you to continue...

4417

4418 **Zachary Krochtengel (2:35:08) :**

4419 Sure. It would not discourage me, that is correct.

4420

4421 **Kenny Marchant (2:35:12) :**

4422 And, Cody, will you...

4423

4424 **Leo Vasquez III (2:35:15) :**

4425 These are rules, it's not statute. Everything can be

4426 appealed or, the problem is...

4427

4428 **Kenny Marchant (2:35:21) :**

4429 Well, it wouldn't...

4430

4431 **Leo Vasquez III (2:35:22) :**

4432 But these are the rules we're starting.

4433

4434 **Zachary Krochtengel (2:35:25) :**

4435 True. And it just makes...

4436

4437 **Leo Vasquez III (2:35:26) :**

4438 No point in, and if there's some extraordinarily good

4439 reason and background and like you've convinced us to

4440 give you more time on different things before and others
4441 have as well.

4442

4443 **Zachary Krochtengel (2:35:40) :**

4444 Yeah. I have gotten, I think one force majeure, maybe
4445 two. And honestly, I was going to talk about force
4446 majeure really quickly, and I see my time ran out. But
4447 I've actually, the Magnolia project that got awarded
4448 last month, we've already turned in for permits. We're
4449 in well over \$1 million. We are trying to not have to
4450 do force majeure on something historic, which I mean I'm
4451 already looking at the timeline and saying even if I
4452 close, which our timeline is to close by January,
4453 because of how Encore is operating in downtown Dallas,
4454 I'm still going to have to ask for a force majeure.

4455

4456 **Kenny Marchant (2:36:20) :**

4457 But you can get the six months without asking for that.

4458

4459 **Zachary Krochtengel (2:36:24) :**

4460 That's true, but even it would probably almost go longer
4461 than six months because they're at 110 to 112 weeks to
4462 install a vault and electrify it. And once that vault

4463 is fully electrified, your projects not done. Your
4464 contractor still needs to do things once the electrical
4465 service is actually up and running. And I don't know
4466 how you get around that.

4467

4468 You're not allowed to buy the transformers yourself,
4469 you're not allowed to build the vault yourself, you're
4470 not allowed to do the work yourself. You're at the
4471 mercy of Encore and their pricing and their timeline,
4472 and we're really trying to avoid that. So we literally
4473 gave the go ahead before awards to get a permit set
4474 ready and we turned in four permits in the beginning of
4475 August, and I still don't see a way to avoid because of
4476 Encore force majeure, which I find baffling as well.

4477

4478 **Kenny Marchant (2:37:19):**

4479 I think we're going to put a waiver in there that some
4480 money, and I don't think that...

4481

4482 **Zachary Krochtengel (2:37:25):**

4483 It's because you want to see me more.

4484

4485 **Kenny Marchant (2:37:27):**

4486 I just think that we, Chairman, in the last two years
4487 we've seen such weak force majeure that had nothing
4488 backing them up.

4489

4490 **Zachary Krochtengel (2:37:39):**

4491 I agree.

4492

4493 **Kenny Marchant (2:37:42):**

4494 Don't even have a 101.

4495

4496 **Zachary Krochtengel (2:37:45):**

4497 100 percent. And I do agree with that. But there's
4498 also the realities of developing certain places versus
4499 others that it's unavoidable.

4500

4501 **Kenny Marchant (2:37:52):**

4502 Yeah. I think as a...

4503

4504 **Zachary Krochtengel (2:37:55):**

4505 Thank you.

4506

4507 **Kenny Marchant (2:37:55):**

4508 I'm speaking to Chairman. But as a board, this 500,000

4509 is kind of a symbolic number for some.

4510

4511 **Anna Maria Farias (2:38:03):**

4512 Mr. Chairman, in Dallas, in light of the fact that

4513 Dallas is probably going to become the financial capital

4514 of the world as New York, Wall Street is leaving in

4515 droves and going to Dallas, how is that going to affect

4516 affordable housing?

4517

4518 **Zachary Krochtengel (2:38:20):**

4519 It's just going to be harder to build it for sure,

4520 and...

4521

4522 **Anna Maria Farias (2:38:23):**

4523 It's going to, keep 500,000 mark for the units, okay.

4524

4525 **Zachary Krochtengel (2:38:27):**

4526 Yeah.

4527

4528 **Kenny Marchant (2:38:28):**

4529 Affordable house would be on the Red River. That's

4530 could be an hour and over.

4531

4532

4533 **Bobby Wilkinson (2:38:34):**

4534 What about a tax credit per affordable unit kind of

4535 look, would that be easier?

4536

4537 **Zachary Krochtengel (2:38:38):**

4538 I think if you measured what I'm doing to what everybody

4539 else is doing, I think I fall in the normal range. It's

4540 just that I'm doing a lot of extra market rate units.

4541 I've been a proponent of having market rate units count

4542 for something for years because I think that when you

4543 have unrestricted market rate units, those are units

4544 that are not at the top of the price point in the

4545 market.

4546

4547 I'm never going to be able to get the number one rent in

4548 that submarket. So I think that you're creating housing

4549 that's below market still when you have affordable

4550 units. And I will tell you, it's very hard to create

4551 affordable units and market-rate units at the same time.

4552 There's a lot of syndicators that don't believe in

4553 mixed-income deals. But the last three deals we've done

4554 have been 40 percent affordable and 60 percent market.

4555 And pretty much every study shows that those kinds of
4556 units are more valuable for the tenants because they're
4557 a mixed-income community versus a community that's 100
4558 percent affordable.

4559

4560 **Beau Eccles (2:39:37):**

4561 Mr. Chairman?

4562

4563 **Kenny Marchant (2:39:39):**

4564 Yeah.

4565

4566 **Beau Eccles (2:39:39):**

4567 Just to be clear, when you were talking about adding
4568 waiver language. There's no statutory cap. It's only
4569 this rule's basis. So the general waiver rules would
4570 apply to this, and that would mean before the
4571 application, you need to file your waiver. When you see
4572 that this is going to go over that \$500,000 mark, file
4573 your waiver then...

4574

4575 **Zachary Krochtengel (2:40:03):**

4576 Okay.

4577

4578

4579 **Beau Eccles (2:40:04):**

4580 At the same time or before the application gets filed.

4581

4582 **Kenny Marchant (2:40:08):**

4583 Okay. Thank you.

4584

4585 **Zachary Krochtengel (2:40:09):**

4586 Thank you.

4587

4588 **Leo Vasquez III (2:40:12):**

4589 Okay. Cody, so no more awarding any projects in Dallas

4590 or Mesquite.

4591

4592 **Cody Campbell (1:40:16):**

4593 I'll do my best. We'll see how it goes.

4594

4595 **Kenny Marchant (2:40:19):**

4596 Plano. You missed Plano.

4597

4598 **Leo Vasquez III (2:40:21):**

4599 Oh, Plano, same thing.

4600

4601

4602 **Kenny Marchant (2:40:23) :**

4603 The Yopon Valley...

4604

4605 **Leo Vasquez III (2:40:25) :**

4606 Coppell?

4607

4608 **Kenny Marchant (2:40:26) :**

4609 Chinese expansion,

4610

4611 **Leo Vasquez III (2:40:26) :**

4612 Coppell.

4613

4614 **Kenny Marchant (2:40:27) :**

4615 I think.

4616

4617 **Leo Vasquez III (2:40:28) :**

4618 Encore or region. Let's say that okay.

4619

4620 **Kenny Marchant (2:40:31) :**

4621 That's a real problem, and I can't see Plano doing cash

4622 outs.

4623

4624

4625 **Cody Campbell (2:40:35):**

4626 I think we have, we'll see how it goes. The next one...

4627

4628 **Kenny Marchant (2:40:40):**

4629 Actually, let's talk about the cash out.

4630

4631 **Cody Campbell (2:40:41):**

4632 Oh, please. You want to get the cash out today?

4633

4634 **Kenny Marchant (2:40:43):**

4635 Yeah.

4636

4637 **Cody Campbell (2:40:43):**

4638 Okay. Certainly. So on page...

4639

4640 **Kenny Marchant (2:40:46):**

4641 Because if nobody's against that rule, we'll just, well,

4642 and Mr. Chairman, it's been only controversial.

4643

4644 **Leo Vasquez III (2:40:03):**

4645 The young lady over here wanted to, you came up to

4646 speak. Okay, perfect. Perfect.

4647

4648 **Cody Campbell (2:40:59):**

4649 Okay. So on page 172 of the QAP in front of you, the
4650 Department has added language that prohibits certain
4651 types of cash out payments at the time that a related
4652 party transaction is closed. So if you own a
4653 development and you were selling it to another affiliate
4654 that you happen to be involved with, historically there
4655 has not been a limit on cashing out the equity at the
4656 time you close that.

4657

4658 What we have written in here it's a pretty restrictive
4659 policy. I think a lot of the room is here specifically
4660 for this, what this says is that you basically cannot
4661 pull any equity out whenever you close on that re-
4662 syndication. So you can pay off any unrelated third-
4663 party name debt, but any cash that would otherwise be
4664 owing to you must remain in the deal, it must be paid on
4665 a cash flow basis, there can be no DCR requirements of
4666 that, and that it would pay out over time as cash is
4667 available to pay out that equity.

4668

4669 The comments that we have gotten from the development

4670 community have requested that we allow certain things to
4671 be repayable at the closing table. Those would include
4672 things like capital expenditures for the developers
4673 incurred over the last couple of years. Let's say the
4674 developer had to replace the air conditioners two years
4675 ago, and now they're re-syndicating, they're closing.
4676 They put money into the deal to replace all those air
4677 conditioners. They're now closing and would for that
4678 money to be repaid. Again, this is about as restrictive
4679 of a policy as can exist, and so you're going to hear
4680 from people that say this is too restrictive, and they
4681 might have a point, but it is a starting point of
4682 negotiation. I happy to answer any questions you have.

4683

4684 **Kenny Marchant (2:42:54):**

4685 Give us just a real brief common day example of what
4686 could happen that we're prohibiting.

4687

4688 **Cody Campbell (2:43:02):**

4689 Sure. I own a \$6 million property that I bought, let's
4690 say I paid \$6 million for it 10 years ago. I'm now re-
4691 syndicating, so I'm closing that deal into a new
4692 partnership. It's worth \$10 million now. So there's \$4

4693 million in equity there, probably more because you've
4694 paid off something about \$6 million. Let's just say you
4695 haven't. It's just gained, just you're closing. As it
4696 stands right now, you can cash that \$4 million out of
4697 that transaction whenever you close the deal. The
4698 development then must take on debt to cover that payout
4699 of that \$4 million, which means that the deal is more
4700 cash-strapped than it would have been.

4701

4702 The proposed rule says that you have to leave that \$4
4703 million in the transaction. It is a note that the deal
4704 owes to you, and that note pays out contingent upon cash
4705 flow. So whenever there's excess money coming in,
4706 you've paid all your other obligations, you got an extra
4707 \$100,000 at the end of the year, that can pay towards
4708 that equity that you otherwise would have cashed out but
4709 you can't just take the entire \$4 million at the closing
4710 table.

4711

4712 **Kenny Marchant (2:44:09) :**

4713 And when you say you, who is you? The developer, the
4714 owner, who?

4715

4716

4717 **Cody Campbell (2:44:15):**

4718 It would be...

4719

4720 **Kenny Marchant (2:44:16):**

4721 The ownership group?

4722

4723 **Cody Campbell (2:44:18):**

4724 This really only applies to related party transactions.

4725 So whoever it is who would have been taking that

4726 account. I've got partnership A, I've got partnership

4727 B. I'm transferring this property from partnership A to

4728 partnership B as part of that re-syndication. And so it

4729 could be an individual. We do have some individual

4730 property owners. It would be generally whoever, though,

4731 would legally take out that equity payment at the

4732 closing.

4733

4734 **Kenny Marchant (2:54:51):**

4735 Let me ask Beau a question. Beau, this is rule?

4736

4737 **Beau Eccles (2:44:57):**

4738 Yes.

4739

4740 **Kenny Marchant (2:44:57):**

4741 We're rule, not statute, rule. And so if a person
4742 disagrees with this, is there court action? Can
4743 somebody come in and sue that we passed this restrictive
4744 rule, or.

4745

4746 **Bobby Wilkinson (2:45:16):**

4747 Lobbyists use screwing up your face. No.

4748

4749 **Kenny Marchant (2:45:20):**

4750 No?

4751

4752 **Bobby Wilkinson (2:45:23):**

4753 Yeah. I'm just listening. People can file suit, but...

4754

4755 **Beau Eccles (2:45:26):**

4756 Yeah. I mean, that...

4757

4758 **Kenny Marchant (2:45:33):**

4759 Let me ask you that. Are we inviting lawsuit? We're
4760 telling people what they can do with their money of
4761 appreciation. But that's because we're giving them tax

4762 credit, right?

4763

4764 **Cody Campbell (2:45:53):**

4765 That's right.

4766

4767 **Kenny Marchant (2:45:53):**

4768 And we control and continue to control the situation.

4769 Okay.

4770

4771 **Bobby Wilkinson (2:45:58):**

4772 I mean, we're like 15 and 0 since I got the job. We get

4773 free representation from the attorney general.

4774

4775 **Kenny Marchant (2:46:02):**

4776 No, I understand. I'm not (indiscernible - simultaneous
4777 speech).

4778

4779 **Bobby Wilkinson (2:46:05):**

4780 Everyone just gets kicked out of court right away.

4781 Yeah.

4782

4783 **Kenny Marchant (2:46:07):**

4784 Okay.

4785

4786 **Bobby Wilkinson (2:46:07):**

4787 All right.

4788

4789 **Kenny Marchant (2:46:13):**

4790 I'm actually for this, but I'm just trying to see if

4791 there are pitfalls.

4792

4793 **Cody Campbell (2:46:20):**

4794 I completely understand.

4795

4796 **Kenny Marchant (2:46:21):**

4797 Do you want to, okay. I think we need to hear from the

4798 public, and this will probably be...

4799

4800 **Leo Vasquez III (2:46:28):**

4801 And actually, well, before we get the public. So are we

4802 making any distinction between a 9 percent refinance and

4803 cash out versus a 4 percent refinance and cash out?

4804

4805 **Cody Campbell (2:46:46):**

4806 No. I actually don't believe anywhere in our

4807 underwriting policies is there a distinction between

4808 four and nines. And I'm going to confirm that with

4809 Jeanna, we...

4810

4811 Jeanna:(Indiscernible).

4812

4813 **Cody Campbell (2:46:56):**

4814 That's it. Yeah. In general, underwriting rules apply

4815 portfolio wide.

4816

4817 **Bobby Wilkinson (2:47:01):**

4818 That actually was a request by some in the industry. We

4819 couldn't think of a reason, a rationale to separate the

4820 two. And some of the deals that have been brought up by

4821 the Board and talked about have been 4 percent in the

4822 past few couple years.

4823

4824 **Leo Vasquez III (2:47:17):**

4825 Okay. Well, let's go ahead.

4826

4827 **Kenny Marchant (2:47:19):**

4828 Yeah.

4829

4830 **Perica Bell (2:47:33):**

4831 Good afternoon. Thank you so much for your time. My
4832 name is Perica Bell. I am Head of Preservation at April
4833 Housing. In Texas, our portfolio includes 73
4834 communities with over 13,000 units serving over 50,000
4835 residents. All of these units were originally developed
4836 under TDHCA's LIHTC program with other developers and
4837 GPs.

4838

4839 Since 2024, April Housing has delivered on the
4840 commitment to preserve the affordability for our
4841 residents by re-syndicating eight properties, now just
4842 under 2,000 units, extending the low-income rent
4843 restrictive covenants for each property for another 30
4844 years. This guideline would prove particularly punitive
4845 for April Housing, and the reason is that we're not the
4846 original owner of the developments and did not receive
4847 the benefit of that original tax credit allocation over
4848 20 years ago. So we acquired this portfolio as a part
4849 of a national purchase of affordable housing assets
4850 totaling over 90,000 units. And we purchased that at
4851 risk, without a guaranteed preservation pathway. We put
4852 real equity into purchase all of these developments.

4853

4854 So a cash out isn't purely profit for us. It really is
4855 releasing the equity in those deals that we already
4856 have. And so again, it's 2025 now, the whole portfolio
4857 purchase happened in 2021. So for us that it wasn't 15
4858 years, it's 4. In our re-syndication efforts, we've
4859 sought no public subsidy. We instead leave real equity
4860 in these deals. Over the eight re-syndications that
4861 we've done, the amount of equity that we've left in the
4862 deals has range from 7 million to \$21 million. And
4863 without the ability to generate proceeds for the
4864 sellers, which are both providing that incentive to keep
4865 those affordable, these transactions aren't feasible for
4866 the owners and they really are not feasible for the
4867 projects because what we're leaving in is real gap
4868 filler.

4869

4870 I just want to mention that expiring rent restrictions
4871 are a looming challenge in Texas. According to 2025
4872 Yardi Rent Matrix data, 9,179 units will completely
4873 expire in Texas in the next 13 years, more than any
4874 other state. April Housing our portfolio within Texas,
4875 just 30 more seconds, if you will. Our portfolio in
4876 Texas alone, within the next 10 years, 7,000 of our

4877 units will expire out of the tax credit program, meaning
4878 year 30, that final year. And because of that, we
4879 really strongly urge you all to look at this provision,
4880 to keep this as an incentive, looking at other ways,
4881 such as really maybe putting some more controls on the
4882 appraisal process, restricting this provision to the 9
4883 percent program, where your resources are very, very
4884 scarce.

4885

4886 The 4 percent program has been a boon in terms of
4887 preserving affordable housing units within the state,
4888 within and in many cases because of this seller
4889 carryback note and that strategy being able to do so
4890 without any additional public funds. Thank you. I
4891 really appreciate your time and this process. Thank
4892 you.

4893

4894 **Kenny Marchant (2:51:40):**

4895 Thank you.

4896

4897 **Karsten Lowe (2:51:56):**

4898 Good afternoon, Board members. Karsten Lowe with JPI
4899 and TAAHPS, chair of our QAP committee. And Perica

4900 brought up a lot of great points from the preservation
4901 side. But what I wanted more specifically address is
4902 what does this mean for the developer that brings the
4903 project into the program in the first place. So
4904 oftentimes these groups are the ones that are making the
4905 initial effort, that are building the political
4906 connections to work with these cities to build the
4907 housing that matters, and to get those new units on the
4908 ground.

4909

4910 And so what this is indirectly incentivizing is for the,
4911 at the end of that 15-year initial compliance period to
4912 really sell the asset. There's no restrictions on what
4913 you do by selling the asset. And so when you're
4914 evaluating that of should the current owner of the real
4915 estate that first brought it into the program reap the
4916 benefit of the appreciation and reinvestment of the
4917 asset or would it be better sold to another group?

4918

4919 And so when you couple this with the other policy that's
4920 looking to cap the age of reinvestment in these
4921 projects, what you bump up against is a little bit of
4922 challenge here. Because on the 9 percent side, and

4923 TAAHP is supportive of the cap for only 9 percent deals,
4924 but when you're looking at restricting the age that
4925 these assets can be reinvested in and re-syndicated
4926 through the program, and you couple that with a
4927 prohibition against what you can or can't do with the
4928 asset, the incentive alignment is now geared towards the
4929 disposition of that asset outright. And so as we think
4930 through that dynamic, it poses some challenges.

4931

4932 And so as you think about the seller note, I think Cody
4933 had brought up the point that industry has addressed.
4934 And largely speaking, should capital investments be
4935 made, I think overwhelming voice of the industry has
4936 been that there should be, you should be able to realize
4937 returns on those assets. For that investment you've
4938 made, realize what that money could have been used by
4939 being put to work in market or otherwise, you're
4940 investing in your asset and helping the long-term
4941 sustainability and success of that project. And so we
4942 do believe that should be captured should there be a
4943 seller note in general. So I realize I'm running out of
4944 time, but thank you guys again and more than happy to
4945 answer any questions. And I know we have a handful of

4946 others that would probably like to speak on this matter
4947 as well.

4948

4949 **Kenny Marchant (2:54:11):**

4950 Thank you.

4951

4952 **Audrey Martin (2:54:22):**

4953 Hello again, Audrey Martin with Purple Martin Real
4954 Estate. So I wanted to support all of the comments that
4955 Perica and Karsten just made and then just bring up a
4956 couple of potential pitfalls to your earlier question,
4957 Mr. Marchant. So if you are an owner of an affordable
4958 housing development, when it comes time to reposition
4959 that asset, you do have a couple of choices. You can
4960 bring it back into the program yourself and re-
4961 syndicate, or you can sell it to another affordable
4962 housing operator who is unrelated, or you can wait for
4963 the affordability restrictions to expire and then sell
4964 it as an unrestricted asset.

4965

4966 And so what I fear will happen here is that because we
4967 are not allowing the existing owners to realize any
4968 appreciation of their asset or any reasonable return on

4969 their asset, that the smart choices that are left are to
4970 let the affordability expire and sell as an unrestricted
4971 asset or to sell to an unrelated buyer who's less
4972 familiar with that asset and who hasn't been running it
4973 for that period of time.

4974

4975 So that's a potential pitfall. I did also want to
4976 address one thing that Cody mentioned, which was the
4977 debt-related piece of all of this. So the concern being
4978 that if an owner is getting cash out of the development
4979 at the closing table, that debt has to be carried to
4980 cover that. With this proposed rule, basically owners
4981 will be required to leave a seller note in the
4982 development, but there's no relief from our requirement
4983 on the debt coverage ratio. So for all of these deals,
4984 we have to propose a financing structure that results in
4985 a debt coverage ratio of a 115 to a 135.

4986

4987 So we don't get to leave a huge seller note in and then
4988 have a 150 DCR, so take less debt, less hard debt. So
4989 I'm not sure that we're achieving the desired outcome if
4990 we're going to be required to carry a seller note.
4991 Maybe there's an offsetting allowance to have a lower

4992 level of hard debt so that we have a higher DCR going in
4993 and there is more available cash flow to potentially
4994 repay that seller note that is being required to be left
4995 in the deal.

4996

4997 And then also I did just want to mention that for a
4998 number of years in the QAP from around like 2011 to
4999 2020, there was a pretty complicated formula about how
5000 you looked at identity of interest transactions. And so
5001 the exercise was that an applicant had to show that they
5002 had a basis in the deal, sorry, I'll try to be quick
5003 about this. You had to be evaluated. You cannot sell
5004 the property into a new partnership for more than the
5005 appraised value, like the lesser of the appraised value
5006 or your original cost of the development plus allowable
5007 holding costs and a 10 percent annual rate of return.
5008 It was a formula you had to prove up for every identity
5009 of interest deal. It wasn't a lot of fun to prove it
5010 up.

5011

5012 It was a lot of documentation for staff and for the
5013 applicants. But you kind of had to prove up that the
5014 appraisal was reasonable based on how much money you had

5015 to put in the deal over your entire holding period. So
5016 a roadmap does exist. We had almost a decade of
5017 underwriting rules that kind of laid out a formula that
5018 I guess got the Board and staff comfortable that someone
5019 could go ahead and sell for this acquisition cost.
5020 There wasn't a seller note provision, but there was a
5021 little bit of a test against that appraisal. So maybe
5022 we just take a look back at some of those rules as a
5023 alternative. Thank you.

5024

5025 **Kenny Marchant (2:58:38):**

5026 Okay, thank you.

5027

5028 **Blake Hopkins (2:58:40):**

5029 Hello. Blake Hopkins, Lincoln Avenue Communities. And
5030 I will not repeat what my colleagues have mentioned so
5031 far, but I will just mention one potential pitfall that
5032 could just come from the organizational structure of
5033 these partnerships. We mentioned who is receiving the
5034 benefit, and there's often many individuals within the
5035 ownership structure. So you could have 10, 12 people in
5036 the ownership. And currently, let's say you have six.
5037 Maybe you come to a capital event, three wish to exit,

5038 three wish to continue the asset forward in the program,
5039 maintain affordability, rehab it.

5040

5041 Currently, as it's written, our understanding is you
5042 would either have to all six agree to stay in the deal,
5043 keep their equity in the deal, or all six would need to
5044 exit. And practically speaking, the concern is that
5045 more often than not that group's going to choose to
5046 exit. And so you're going to have experienced operators
5047 and owners no longer participating in the property and
5048 in the program in general as it's changing over
5049 repeatedly, and just overall a negative impact on the
5050 program that may have been unintended consequence.

5051 Thank you.

5052

5053 **Tim Smith (2:59:51):**

5054 Tim Smith, Hoke Development Services. I agree with
5055 everything everybody said. I won't repeat. Just one
5056 other comment on the language in here, is you're
5057 prescribing how the sales proceeds on the waterfall is
5058 supposed to happen. And I think that why is TDHCA being
5059 involved in a limited partnership with the syndicator
5060 and determining how equities come you've kind of already

5061 deciding how the equity, I guess any cash out is going
5062 to be done. And I think for someone different funds,
5063 even syndicator funds, it could have issues with how the
5064 limited partner has to have their money flow and wrap
5065 everything up. Just maybe take that language up. All
5066 right. Thanks.

5067

5068 **Kenny Marchant (3:00:36):**

5069 Thanks. So we still have a whole three minutes left,
5070 and we thank the TxDOT for allowing us to use their
5071 meeting room, close to staff. But in accepting that
5072 gift, we accepted their restrictions as well. So my
5073 apologies.

5074

5075 **Khayree Duckett (3:00:59):**

5076 Got you. I'll begin while I try and write. Once again,
5077 not going to repeat anything. Khayree Duckett with
5078 Dominion Apartments. The one perspective I'll add is
5079 was mentioned obliquely, but I want to call out
5080 specifically, that if these properties don't continue
5081 into affordability programs, that that means that
5082 there's less affordable housing, I want to call that out
5083 specifically.

5084

5085 Also specifically, we've talked a lot about the
5086 developers, and I can say this, can play the good cop to
5087 the industry. I'm not a developer. It's not me making
5088 money. So no one's crying any tears for them. But what
5089 I want to bring up for your perspective is the residents
5090 specifically. So Dominion has three internal re-
5091 syndications we've already done with the Department over
5092 the past five or so years.

5093

5094 And then we also have just an ownership transfer that we
5095 did that the Department had to approve. I want to talk
5096 about the broad differences between those three re-
5097 syndications that were related parties and the one
5098 acquisition for the community that we're going to take
5099 to the end of the affordability period, and they
5100 probably sell on afterwards.

5101

5102 For the re-syndications, for each one of them, we're
5103 putting an average of \$7 to \$10 million worth of rehab.
5104 These were 20-, 25-year-old properties that needed
5105 accessibility improvements, that needed new clubhouses,
5106 new lighting fixtures, new kitchen appliances. Those

5107 are all direct tenant benefits. Those are residents'
5108 experiences that are improved through affordable
5109 housing. For the one acquisition we, I'm going to be
5110 pejorative. But we threw on some paint, we made it look
5111 better. It was an underperforming asset from someone
5112 else. But we didn't do an entire rehab experience. I
5113 think we made some changes to the clubhouse, to the
5114 fitness center that no one uses. And then that was the
5115 end of the day.

5116

5117 And so when we're talking about what is happening and
5118 what experience the residents of Texas are getting,
5119 that's what I think is one of the unintended
5120 consequences, that, okay, the asset just stays there, it
5121 exits the program and then there's no reinvestment. And
5122 so that's what we're talking about, the resident
5123 experience, the difference between those two. So I
5124 wanted to call those out specifically. Thank you.

5125

5126 **Kenny Marchant (3:02:51):**

5127 Thank you for your testimony. Okay. Thanks everybody.
5128 Today there's a lot to digest, and we didn't get it all
5129 done, but hopefully this was a good process. I thank

5130 the Chairman for calling this Rule Meeting. And I think
5131 we're going to adjourn early.

5132 * * * * *