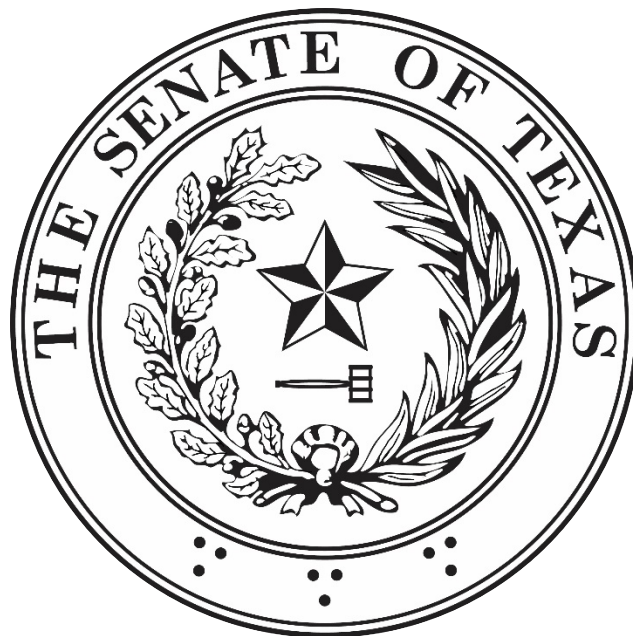


SENATE COMMITTEE ON INTERGOVERNMENTAL RELATIONS



INTERIM REPORT TO THE
86th LEGISLATURE

November 2018

SENATE COMMITTEE ON INTERGOVERNMENTAL RELATIONS



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SPECIAL ACKNOWLEDGMENTS

The Senate Committee on Intergovernmental Relations would like to thank Texas Lieutenant Governor, the Honorable Dan Patrick, for his leadership. Over the years, the Committee has enjoyed working with his staff. In partnership with Lt. Gov. Patrick, Chairman Lucio is honored to preside over the Committee and apply his years of experience in state and local government to better Texas. The Committee also notes the special assistance, collaboration, and partnership with Vice-Chairman, Senator Paul Bettencourt, and his staff, most notably Brad Tegeler, which are deeply appreciated.

The Committee appreciates the Cities of Victoria and Pharr for hosting Committee hearings on November 1, 2017 and May 31, 2018, respectively. A special thank you is extended to Senator Lois Kolkhorst and her office for helping the Committee develop the Victoria hearing.

A special appreciation is also provided to state agencies and concerned stakeholders, including, most notably, representatives from the Texas State Affordable Housing Corporation, the County Judges and Commissioners Association of Texas, the Texas Public Policy Foundation, and those who testified representing cities, for their endless dedication and resource assistance as we conducted our interim work and research.

**Senator Sylvia Garcia attended and participated in all four interim Committee hearings. Senator Garcia resigned from her Senate seat, effective 12:01 PM on November 9, 2018.*

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THE SENATE OF TEXAS

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SENATOR VAN TAYLOR

SENATE COMMITTEE ON INTERGOVERNMENTAL RELATIONS

December 3, 2018

The Honorable Dan Patrick
Lieutenant Governor of the State of Texas
Texas State Capitol
Austin, Texas 78701

Dear Governor Patrick:

The Texas Senate Committee on Intergovernmental Relations hereby submits its Interim Report for consideration by the 86th Texas Legislature. We thank you for providing us the opportunity to address the issues outlined in the Interim Report and to present recommendations that will benefit the State of Texas.

Respectfully Submitted,

A handwritten signature in black ink that reads "Eddie Lucio, Jr." with a stylized flourish at the end.

Senator Eddie Lucio, Jr.
Chairman

A handwritten signature in black ink that reads "Paul Bettencourt" in a cursive style.

Senator Paul Bettencourt
Vice-Chairman

A handwritten signature in black ink that reads "Donna Campbell" in a cursive style.

Senator Donna Campbell

A handwritten signature in black ink that reads "José Menéndez" in a cursive style.

Senator José Menéndez

Senator Don Huffines

Senator Van Taylor

Senator Sylvia Garcia

The Committee thanks the participation of Senators Don Huffines, Van Taylor, and Sylvia Garcia, who are not returning for the 86th Legislature.



INTERIM CHARGES

HURRICANE HARVEY RESPONSE

Charge 1: Examine and report on ways to improve the coordination of rebuilding housing and infrastructure following a natural disaster, including evaluating additional cost effective options for FEMA to utilize in providing direct housing assistance immediately following a disaster, creation of comprehensive lists of housing opportunities or web portals to disseminate information to survivors, ways to automatically waive local government regulations to facilitate rebuilding, and additional local resources available for rebuilding efforts.

Charge 2: Monitor the distribution of federal disaster relief funds related to housing and infrastructure, including community development block grant (CDBG) funds, to ensure the timely dissemination of monies by state entities to local governments for reconstruction efforts. Develop recommendations for any statutory changes necessary to improve the efficiency of disaster recovery efforts, maximize housing and infrastructure funds, and ensure cooperation between private and government partners.

Charge 3: Review and recommend options to expedite debris removal, including cutting unnecessary regulation and streamlining the process.

Charge 4: Identify and report on existing disaster training opportunities available for local officials and make recommendations for training programs that equip them to efficiently interact with state and federal agencies during times of disaster.

LEGISLATIVE

Charge 1: ETJ Limitations and Notice: Review the existing regulatory authority granted to home-rule municipalities within the extraterritorial jurisdiction (ETJ), including practices used by cities to expand ETJ boundaries, and whether proper notification is provided to property owners added to a city's ETJ following an annexation proceeding. Determine the limitations that need to be placed on a city's authority within the ETJ to better protect the private property rights of individuals and landowners, and ways to notify individuals of the impact of being within a city's ETJ. Develop a statewide rule and minimum requirements for such notifications.

Charge 2: Housing Affordability: Examine issues that impact housing affordability, including the effect of local government taxes, fees, and mandates. Evaluate the cost of purchasing a single-family residence in different parts of the state, factoring in the impact of local rules and regulations,

to identify matters of policy with the greatest influence, and identify ways to increase transparency and awareness prior to the adoption of costly local ordinances or orders.

Charge 3: Special Purpose Districts Bond Reform: Study the state agency review of tax exempt bonds issued by special purpose districts and public improvement districts used to finance water and sewer infrastructure in new residential and commercial developments. Examine the disparities that exist between the feasibility review of water and sewer bonds backed by property- based assessments and those backed by ad valorem taxes, and make recommendations that ensure the continued stability of the Texas tax- exempt bond market by requiring all districts to undergo appropriate reviews prior to issuance.

Charge 4: Municipal Management District Uniformity: In conjunction with the appropriate legislative departments, determine whether the development of a template or standardized language for the creation of municipal management districts would provide a more effective means for legislators to ensure new special purpose districts conform to accepted standards and contain appropriate taxpayer oversight.

INTERIM HEARINGS

Visit the Senate Committee on Intergovernmental Relations webpage on the Texas Senate website for interim committee hearing audio/video recordings, minutes, and witness lists.

First Interim Committee Hearing:

Date: November 1, 2017

Time: 11:07 AM

Location: Victoria College, Leo J. Welder Center for the Performing Arts, 214 North Main Street, Victoria, Texas 77901

Proceedings: The Committee received invited and public testimony on Hurricane Harvey Response Charges 1, 2, 3, and 4.

**audio recording only*

Second Interim Committee Hearing:

Date: March 27, 2018

Time: 10:03 AM

Location: State Capitol, Room E1.028

Proceedings: The Committee received invited and public testimony on Hurricane Harvey Response Charges 1, 2, 3, and 4 and Legislative Charge 3.

Third Interim Committee Hearing:

Date: May 31, 2018

Time: 9:07 AM

Location: Pharr Events Center, 3000 North Cage Boulevard, Pharr, Texas 78577

Proceedings: The Committee received invited and public testimony on Legislative Charge 2.

**audio recording only*

Fourth Interim Committee Hearing:

Date: August 14, 2018

Time: 10:03 AM

Location: State Capitol, Room E1.028

Proceedings: The Committee received invited and public testimony on Legislative Charges 1 and 4.

EXECUTIVE SUMMARY

During the 85th Legislative Interim, the Senate Committee on Intergovernmental Relations (Committee) was tasked by Texas Lieutenant Governor, the Honorable Dan Patrick, to study eight charges, four of which are specific to Hurricane Harvey Response and four concerning matters in which the Committee has standing jurisdiction (e.g., municipal, county, special purpose districts, and housing related matters). The Committee was tasked with developing recommendations for the 86th Legislature in order to better address the circumstances regarding each individual charge.

The Committee held a series of four hearings over the course of the interim, including two hearings dedicated to examining the Hurricane Harvey Response efforts. During these hearings, the Committee heard testimony from agencies and experts leading the recovery effort, conducted meetings with stakeholders and local officials, and comprehensively researched the issues confronting disaster victims, local governments, and state agencies in the face of disaster.

The testimony received on November 1, 2017 in Victoria, Texas (a coastal city hit by Hurricane Harvey) and March 27, 2018 in Austin, Texas highlighted a number of strengths and obstacles in the State of Texas' current disaster response and recovery procedures. Additionally, state agencies, elected officials, and community leaders offered various avenues for potential improvement in establishing a more efficient, effective, and coordinated response for current and future disasters, natural or man-made.

The Committee heard valuable feedback concerning the need for improved resiliency in communities affected by the disaster, especially rural communities with limited resources and larger communities with higher density populations. The testimony, at times supplemented with written remarks, reflected a strong need for a better framework on which local communities can rely on to guide them and their residents as they aim to return to a normal way of life following a disaster.

In line with the charges assigned, the Committee received input regarding the different ways to comprehensively improve the state response, which included opportunities to: improve coordination amongst federal, state, and local governmental entities; increase capacity in accordance with local needs; and establish stronger local control to ensure a more targeted response.

These across the board recommendations will provide a fresh perspective that may serve as a stronger blueprint for how the State of Texas can achieve quicker and better results when confronting the tedious and tumultuous realities of disaster recovery. Please note, this report is not meant to be interpreted as an attempt to disparage the current statewide effort in place, rather it is intended to provide the next and future legislatures with the information and recommendations

the Committee has fielded from those representing victims and devastated communities recovering from one of our state's most destructive disasters. With appropriate legislative action, communities across the state and those continuously ravaged by disasters could be given the opportunity to build a foundation of preparedness to be better equipped to more effectively navigate the complex disaster recovery process and better serve their constituents.

Since the primary focus of disaster recovery pertains to the rebuilding of housing and infrastructure, which are largely governed by municipal and county regulations, many of the findings and issues that were discussed in the interim hearings related to Hurricane Harvey lend themselves to be addressed in the legislative charges.

The legislative charges pertain to the powers of municipalities and counties to guide development through special purpose districts, oversee growth of a region, and promote housing affordability. In this regard, both the Hurricane Harvey and legislative charges assigned to the Committee complement each other as they rely on the work and effectiveness of local units of government and aim to find ways to address the needs of their constituency.

Hurricane Harvey Response

INTERIM CHARGES 1 - 4

***Charge 1:** Examine and report on ways to improve the coordination of rebuilding housing and infrastructure following a natural disaster, including evaluating additional cost effective options for FEMA to utilize in providing direct housing assistance immediately following a disaster, creation of comprehensive lists of housing opportunities or web portals to disseminate information to survivors, ways to automatically waive local government regulations to facilitate rebuilding, and additional local resources available for rebuilding efforts.*

***Charge 2:** Monitor the distribution of federal disaster relief funds related to housing and infrastructure, including community development block grant (CDBG) funds, to ensure the timely dissemination of monies by state entities to local governments for reconstruction efforts. Develop recommendations for any statutory changes necessary to improve the efficiency of disaster recovery efforts, maximize housing and infrastructure funds, and ensure cooperation between private and government partners.*

***Charge 3:** Review and recommend options to expedite debris removal, including cutting unnecessary regulation and streamlining the process.*

***Charge 4:** Identify and report on existing disaster training opportunities available for local officials and make recommendations for training programs that equip them to efficiently interact with state and federal agencies during times of disaster.*

Background:

On August 25, 2017, Hurricane Harvey made landfall as a Category 4 Hurricane in the City of Port Aransas, bringing winds as high as 132 miles per hour and affecting a total of 49 Texas counties. According to infographics produced by the Federal Emergency Management Agency (FEMA), throughout its cycle, Hurricane Harvey brought up to 60 inches of rain in some areas and an estimated total rainfall of over 30 trillion gallons in a matter of days. Impacted areas included many of the communities within the Texas coastal region, including rural areas and the City of Houston, the biggest city in Texas and one of the biggest in the country.

In anticipation of landfall that day, Texas Governor Greg Abbott requested a Presidential Disaster Declaration that would, if executed, provide Individual Assistance, Public Assistance, and Hazard Mitigation to Texas counties in the affected areas. Later that day, the President and FEMA granted the Governor's request for Texas Hurricane Harvey (DR-4332).

REPORT ON COMMITTEE INTERIM CHARGES

Hurricane Harvey Response Charges 1 - 4

On September 7, 2017, in need of a “Texas sized response,” Governor Abbott established the Governor’s Commission to Rebuild Texas (Commission). Texas A&M University System Chancellor John Sharp was selected to lead the Commission. Within the Commission’s prescribed responsibilities relating to response, relief, and rebuilding efforts, its primary goals (as outlined in testimony received by the Committee) were established as the following:

- To assess each community and identify its needs;
- To respond to those local needs;
- To advocate for the interest of the affected areas; and
- To rebuild the affected communities as quickly and efficiently as possible, with an eye towards future-proofing to mitigate damages from the next storm.

On September 14, 2017, Governor Abbott announced that Texas General Land Office (GLO) Commissioner George P. Bush would lead the state’s short- and long-term Hurricane Harvey housing recovery efforts. Under the authority granted by § 306 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), FEMA and the GLO began preliminary negotiations for duties outlined in an Intergovernmental Service Agreement (IGSA) to enable the state to administer the direct housing assistance services on behalf of the federal government. The IGSA, signed September 22, 2017, established, for the first time, a framework for a state agency to oversee both disaster short- and long-term housing administration, with the GLO spearheading a “locally led, state supported, and federally funded” recovery effort, as described in testimony.

Through the utilization of partnerships with Council of Governments (COGs), a regional, collaborative network that address statewide and local needs, the GLO provided direct housing solutions as identified under the IGSA, including five solutions within the purview of § 408 of the Stafford Act (having sufficient capacity, Harris County and the City of Houston elected to administer CDBG-DR funds directly):

- **Multi-Family Lease and Repair** - to make repairs and lease existing multi-family housing, such as apartments, in order to provide additional housing for survivors;
- **Direct Leasing** - to lease a property that would not generally be available to the public, such as corporate lodging, in order to house survivors;
- **Manufactured Housing Options (MHOs)** - to provide temporary housing for flood survivors, manufactured housing units (MHUs), travel trailers and non-motorized recreational vehicles;
- **Partial Repair and Essential Power for Sheltering (PREPS)** - to provide temporary repairs that afford homeowners the ability to remain in their homes and, thereafter, complete permanent repairs; and

REPORT ON COMMITTEE INTERIM CHARGES

Hurricane Harvey Response Charges 1 - 4

- **Direct Assistance for Limited Home Repair (DALHR)** - to repair homes with moderate damages so applicants who lack available resources can return to their home.

On May 1, 2018, the United States Department of Housing and Urban Development (HUD) approved the GLO's Action Plan, produced in line with HUD requirements, for the allocation of \$57.8 million in Community Development Block Grant - Disaster Recovery (CDBG-DR) funds. The allocation of CDBG-DR funds from HUD to the State of Texas was transitioned from a previous Congressional Appropriation for 2015-2016 flood events. As per HUD guidelines, 80% of the allocation was to be expended on areas most impacted and distressed, which HUD designated as Harris County. Additionally, 70% of those funds were required to be utilized towards low- to moderate-income (LMI) constituents. Programs included:

- Harris County Residential Buyout Program; and
- Affordable Rental Recovery Program.

On June 25, 2018, HUD approved the GLO's Action Plan for the federal allocation of \$5.024 billion in CDBG-DR funds. Consistent with HUD guidelines as described above, a \$2.3 billion direct allocation was delivered to Harris County, including the City of Houston, and a \$2.7 billion allocation was delivered to the remaining impacted areas, as administered by the GLO. The action plan outlined several state-run programs, including:

- Homeowner Assistance Program;
- Local Buyout and Acquisition Program;
- Homeowner Reimbursement Program;
- Affordable Rental Program;
- PREPS;
- Local Infrastructure Program; and
- Economic Revitalization Program.

On October 8, 2018, the GLO approved methods of distribution proposed by impacted COGs for distribution of an additional HUD allocation of \$652 million in CDBG-DR funds in the form of an amendment to the June 25th approved Action Plan. As of publication of this report, the GLO has submitted the request for approval of the amendment and is awaiting HUD response.

Hurricane Harvey Response Charges 1, 2, 3, and 4 direct the Committee to review aspects of the State of Texas' disaster recovery framework as implemented in the wake of Hurricane Harvey, including housing and infrastructure rebuilding coordination, debris removal, and training efforts, and whether there are opportunities to improve overall efficiency in these areas going forward.

REPORT ON COMMITTEE INTERIM CHARGES

Hurricane Harvey Response Charges 1 - 4

Analysis:

On November 1, 2017, the Committee traveled to Victoria, Texas and received testimony on Hurricane Harvey Response Charges 1, 2, 3, and 4.

Less than two months after the conclusion of Hurricane Harvey's incident period as defined by FEMA, the Committee received insight concerning the state's disaster response, listened to the needs of local officials and communities, and considered the perspective of affected stakeholders. Senator Lois Kolkhorst of Senate District 8, an area highly impacted by the storm, including the host city, participated in the hearing's proceedings.

State Response

Individuals representing state entities provided testimony outlining the scope of their respective agency's function in addressing the obstacles created by Hurricane Harvey. Although expected participation from Commissioner Sharp, Commissioner Bush, and Chief W. Nim Kidd of the Texas Division of Emergency Management (TDEM) was ultimately not possible due to out-of-state commitments, representatives provided testimony in their stead.

The Governor's Commission to Rebuild Texas described its efforts as a bottom-up approach with a focus on attending to the immediate needs of local officials and Texas residents, as well as ensuring the realization of the Governor's goal of future-proofing infrastructure so Texas coastal communities could withstand future disasters. Under the direction of Commissioner Sharp, the Commission worked quickly to activate existing state resources, specifically the Texas A&M University AgriLife Extension offices and agents, in order to offer support for local officials in attending to constituent needs, locating available governmental and private resources, and accurately completing paperwork necessary for expenditure reimbursement. The Commission informed the Committee of its success in responding to the immediate needs of communities and identified training of local officials as a great need in the state's transition to the disaster recovery phase.

GLO representative Pete Phillips, Deputy Director of Community Development and Revitalization, provided testimony to the Committee on behalf of the agency charged with short- and long-term housing recovery. The GLO estimated 1.2 million homes were impacted during the storm and estimated a cost to the federal government of an estimated \$180 billion, with an unmet need for the State of Texas of \$40 billion. In order to tackle this unique housing challenge, the agency agreed with FEMA, in their IGSA, to provide a number of direct housing programs. While

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Mr. Phillips remarked that the PREPS program may be the only program some households may qualify for, he identified the DAHLR program as a “much more beneficial program.”

As a potential alternative, a successful direct housing single-family model in the Rio Grande Valley known as RAPIDO attempts to maximize federal disaster relief dollars by utilizing a cost-effective temporary-to-permanent building strategy to efficiently house disaster victims.

RAPIDO is a Texas-developed solution in which a homeowner’s lot is cleared, a new, elevated pier foundation for a full-size home is constructed, and a modest-sized modular housing unit, known as the "core," is built consisting of basic living necessities (e.g., kitchen, bathroom). Designed to return people back to their property in four days or less, the core, in its original form, is funded by FEMA temporary housing funds and is expanded upon when long-term HUD CDBG-DR funds become available.

Currently, disaster recovery housing programs require the considerable use of public funds to purchase, transport, and install MHUs, such as trailers, for displaced households, often at a cost of approximately \$120,000. While the associated costs are further increased when the temporary unit needs disposing and a permanent option is needed, the RAPIDO model salvages its temporary structure and incorporates it into a pre-designed permanent home, which totals a cost ranging between \$95,000 and \$120,000.

The genesis of RAPIDO is rooted in Senate Bill (SB) 2292 by Senator Eddie Lucio of the 81st Legislative Regular Session that was ultimately passed into law that session in House Bill 2450, which established a housing reconstruction demonstration pilot program and created a natural disaster housing reconstruction advisory committee (*Texas Government Code § 2306.541 and § 2306.542; see attachment 1*). Subsequently, through Conciliation Agreement Texas entered with HUD in previous disasters, the state ultimately funded, through GLO as the administrator, the Government Code § 2306.542 pilot program, which came to be known as RAPIDO. This demonstration program was proven to be successful in assisting Hurricane Dolly victims quickly rebuild their homes and, as a result, provided the state an alternative resource to draw upon.

A primary finding from stakeholders involved in the RAPIDO pilot program, as indicated in testimony, was that the model is a locally driven, family-oriented housing option in which the family decides the design for their replacement home. The GLO representative suggested that this housing option could not be feasible under the federal Stafford Act, due to the dual temporary and permanent classification of the housing model. Subsequently, then-Executive Director of the state's leading housing agency, the Texas Department of Housing and Community Affairs (TDHCA), testified that a state workaround could be developed in which titles could be

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restructured in a way which adheres to the Stafford Act's prescribed rules (*see attachment 2, discussing similar temporary-to-permanent transitory titles in manufactured housing units in SB 521 of the 78th Legislative Regular Session*). Nevertheless, on October 5, 2018, the federal government amended the Stafford Act, which may afford the state an opportunity to have RAPIDO-like housing options in the future, consistent with adopted federal guidelines.

In administering the allowable housing options, the GLO placed emphasis on prioritizing local needs and identified COGs as a partner by which resources can be funneled to affected cities and counties in order for local governments to identify their best avenue towards recovery. Acknowledging the difficulties communities face, especially rural communities with fewer resources, in adhering to federal guidelines for procurements and paperwork, the GLO was hopeful, at the time of the hearing in Victoria, of placing a single state employee per COG to help localities navigate the recovery process. However, Senator Kolkhorst expressed concern over the lack of institutional knowledge within state agencies and questioned whether hiring staff after a disaster is a potentially ineffective approach, where new personnel would first need to gain the expertise before being able to provide assistance to local officials. The agency acknowledged that it would aim to overcome staffing challenges by hiring individuals who are from the communities and have the ability to learn quickly. The witness was hopeful the agency could retain those staff members assigned to COGs employed with the GLO in perpetuity in order to be prepared for the next disaster. Additionally, the GLO committed to undertake weekly calls with mayors, county commissioners, and legislative staff to clear up ambiguity in the housing programs and provide consistent recovery updates.

In terms of preparing local governments prior to a disaster, TDEM reaches out to newly elected officials and provides them with the training they need to effectively respond to disasters - a responsibility that at times may be unknowingly diminished or overlooked by local governments. TDEM employs field agents regionally and by district throughout the state who carry out emergency preparedness and response operations and are a resource for elected officials to draw upon. The TDEM representative testified that certain training resources available to local officials are effective including federal and state online classes, disaster accounting courses, and state conferences. Moreover, the representative alluded to gaps present in the training modules that were highlighted by the experience managing Hurricane Harvey and notified the Committee that TDEM was working to fill those gaps with new online classes targeting the specific needs of Texas.

During a disaster, the Texas Department of Transportation's (TxDOT) skilled workforce, engineering capabilities, and established statewide presence made the agency a valuable asset in providing a safe and reliable transportation network for affected communities. To this end, the

REPORT ON COMMITTEE INTERIM CHARGES

Hurricane Harvey Response Charges 1 - 4

agency implemented measures, in conjunction with other governmental entities, before, during, and after Hurricane Harvey's landfall in order to more efficiently address the state's transportation needs.

Before the event, TxDOT preemptively placed agency staff in strategic districts for the purpose of opening roadways immediately following the disaster. After landfall, the agency deployed hundreds of crews to establish traffic signage and assist with debris removal, picking up an estimated 15.6 million cubic feet of debris. Roadways were opened quickly through the use of AquaDam, an innovative method of creating inland aquatic barriers to control water flows and prevent flooding. By the date of the hearing, the agency expended \$52 million for mobilization, \$110 million for roadway damage, and approximately one million man-hours.

The Committee also received testimony from then-Chairman of the Texas Water Development Board (TWDB), Bech Bruun, regarding the agency's role in administering state and federal financial assistance programs for the purpose of rebuilding critical water infrastructure damaged by the storm. He outlined to the Committee some of the programs that communities may be eligible to apply for when rebuilding water infrastructure following a disaster.

Alongside these state agencies, the Committee heard from the Texas Commission on Environmental Quality (TCEQ), which is responsible for assisting affected communities by providing additional resources and balancing public health concerns with bureaucracy. Then-TCEQ Chairman, Bryan Shaw, provided the Committee with an update on the agency's progress, specifically regarding the debris removal aspect of recovery, and highlighted some key issues that should be addressed in order to improve response efficiency, maximize available funds, and expedite the recovery process. Among the issues mentioned included receiving quick authorization of temporary debris management sites and removing bureaucratic barriers preventing the disposal of debris in certain landfills. A major agency focus in combating these issues is learning from the experience and conducting After-Action-Reviews to identify best practices going forward.

The Committee heard testimony from different officials detailing the impact construction debris presents as a potential health risk since it is commonly known to harbor bacteria, viruses, mold, and different vectors that can result in adverse health effects. Furthermore, the Committee was urged to consider proper management and clearance of such potential debris in disaster regions that would reduce exposure to infectious agents, waste, and the spread of potential health risks.

Then-Executive Director of TDHCA, Tim Irvine, provided testimony regarding the agency's perspective on immediate, interim, and long-term housing disaster response needs and highlighted

REPORT ON COMMITTEE INTERIM CHARGES

Hurricane Harvey Response Charges 1 - 4

the valuable insight local officials bring to the recovery effort. He identified the most pressing needs of local communities and detailed the agency’s goal of providing these officials with the flexibility necessary to address those needs. Specifically, to maximize federal disaster recovery funds through more efficient allocation formulas and expanded use of the federal Low-Income Housing Tax Credit Program (LIHTC) to repair damaged multi-family properties.

Local Perspective

Having heard from the state agencies regarding their approach to Hurricane Harvey recovery, the Committee fielded testimony from city mayors and county judges in order to gain insight as to whether the state and federal approach is sufficient in meeting their local needs. In order to gain this local insight, the Committee heard from a panel comprised of city officials representing some of the areas most affected by Hurricane Harvey, including the Cities of Victoria, Wharton, and Port Lavaca.

The host city, Victoria, Texas, was represented by Mayor Paul Polasek, whose testimony gave the Committee a unique perspective into the immediate needs and concerns of his impacted community. In his testimony, Mayor Polasek expressed the challenges and opportunities for improvement regarding the federal and state response. A major focus of his testimony pertained to subsequent frustration felt due to a lack of communication and coordination at the federal level. Additionally, Mayor Polasek expressed grievances over the lack of rewards or incentives for communities, such as Victoria, who plan for the these types of disasters and, by virtue, are more self-sufficient.

Mayors Tim Barker of the City of Wharton and Jack Whitlow of the City of Port Lavaca provided the Committee additional local perspectives by outlining the issues most affecting their communities, including quality debris removal contracts, the lack of adequate training opportunities, and the need for a more efficient method of distribution of federal disaster relief funds. Mayors Barker and Whitlow went on to echo the concerns expressed by Mayor Polasek regarding the lack of coordination between governmental entities and the inconsistent information being exchanged within these entities. Furthermore, Mayor Whitlow described a significant challenge in dealing with the bureaucratic nature of state entities.

A common theme present throughout the mayors’ testimony was the difficulty in coordinating with the federal government. Specifically, Mayor Polasek expressed a shortcoming in FEMA’s collection and distribution of information necessary to coordinate services most appropriate for areas impacted by Hurricane Harvey. Both Mayors Polasek and Barker proposed further utilizing COGs to improve efficiency of disaster recovery efforts.

REPORT ON COMMITTEE INTERIM CHARGESHurricane Harvey Response Charges 1 - 4

To gain insight into the county perspective, three county judges from the coastal area, including the Counties of Victoria, Aransas, Refugio, and Goliad, provided testimony detailing their needs, concerns, and goals. Similar needs as those discussed by the mayors were highlighted by the county judges, as well as the unique impediments faced in the unincorporated areas of a county. As Aransas County Judge C.H. "Burt" Mills outlined, and as the other judges echoed, the priorities in recovery should first be safety and debris removal, followed by short- and long-term housing and economic recovery.

In recounting the damage sustained by the storm, including the debris burden, Judges Ben Zeller of Victoria County and Pat Calhoun of Goliad County testified on how prepositioned contracts were helpful for them to immediately begin disaster response. Judge Mills provided an estimate of 3 million cubic yards of debris in what, he reminded the Committee, is the second smallest county in the state. Judge Mills applauded the efforts of TxDOT in providing assistance with debris cleanup, while Judge Calhoun offered similar praise for TCEQ's quick action in granting burn permits but made note of the need to find other ways to reduce the weight of bureaucracy in a time of emergency.

In discussing disaster housing needs, Judge Zeller noted there is a lack of data being shared with locals concerning the federal assistance eligibility of their constituency. If equipped with clear data, county judges may have a better grasp of the extent of damage inflicted upon their particular region and be able to better address the particular needs of the victims of disaster. Furthermore, Judge Zeller suggested that without the state expanding county housing development authority, structures built in response to Hurricane Harvey may not survive the next major storm.

Judge Mills offered more direct concerns, stating housing is "a problem and it's a problem everywhere," and some of his constituents, at the time of the hearing, were still living in tents. Although some judges suggested their constituents' homes fared well in the face of the storm, a common theme described by other judges was the central, urgent need for housing, especially affordable housing. Refugio County Judge Robert Blaschke stated, "just about every home and business sustained damage."

As the counties that participated in the hearing are coastal, a major concern expressed throughout the panels' feedback to the Committee was the need to restore stability in the economy as quickly as possible to maintain the financial stream brought about by the tourism industry. Judge Mills and Senator Kolkhorst noted that a crucial aspect of restoring the economy was ensuring workers had a place to live and that families felt a sense of normalcy reentering their community and sending their kids back to school. Judge Blaschke described the state of his local economy as

REPORT ON COMMITTEE INTERIM CHARGES

Hurricane Harvey Response Charges 1 - 4

fragile before Hurricane Harvey, and warned of the potential risks the storm will have on the county's ability to deliver public services going forward. The judges echoed each others' inability to rely on property taxes as the properties have been extensively damaged and the disaster cause considerable household displacement. Additionally, they expressed the need to increase state resources and oversight due to limited local staffing capacity, especially regarding paperwork submissions in order to ensure federal funds be appropriately reimbursed and does not lead a weakened community towards bankruptcy.

In managing these three major areas of concern, the county judges also emphasized the need for reliance on federal and state resources, as well as strong regionalism going forward.

Stakeholder Issues

In addition to the local perspective, the Committee invited a panel of expert stakeholders to testify and provide their take on the disaster recovery efforts. First to testify was Texas A&M University's Hazard Reduction and Recovery Center's Dr. Shannon Van Zandt, one of the country's leading scholars on housing recovery following a disaster. In her expert opinion, limited resources, insufficient knowledge about available resources, and a lack of pre-disaster planning contributed to the delays and instability experienced by affected communities in the aftermath of Hurricane Harvey. She identified a need for a more efficient system in which pre-planning is heavily emphasized and local concerns are considered. These sentiments were echoed by Community Development Corporation of Brownsville representative Nick Mitchell-Bennett whose testimony emphasized the importance of pre-planning and the need for a new system to address the gaps in disaster recovery, specifically through the RAPIDO program. Omar Hakeem with the Building Community Workshop also advocated for the use of the RAPIDO model to address the need for housing in a quick, cost effective, and locally driven manner.

On March 27, 2018, the Committee received testimony on Hurricane Harvey Response Charges 1, 2, 3, and 4.

Now six months since Hurricane Harvey's landfall, state and local representatives provided insight to the progress and challenges in the implementation of short- and long-term recovery efforts. Unfortunately, due to prior commitments, Commissioner Sharp was unable to attend. The Committee, however, did receive testimony from Commissioner Bush of the GLO, the agency leading the housing disaster recovery effort.

State Response

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On March 27, 2018, Commissioner Bush expanded on previous testimony regarding efforts the GLO has undertaken since their November 1, 2017 hearing testimony by stressing the unique role GLO has played in Hurricane Harvey's recovery as the first state agency in the country to independently administer short- and long-term housing. With this unique responsibility, he offered three important lessons the agency has learned and implemented, including: the ability to house victims of the disaster at commercial sites; working with FEMA to utilize replacement value of a home to determine damage rather than appraised value; and increasing the speed in which GLO staff receives clearance to handle personal identifiable information of victims of the disaster.

Commissioner Bush noted that many communities do not plan for disaster recovery and resiliency, in addition to disaster response, and that the GLO is leading resiliency information sessions to improve that area of preparedness. Nevertheless, the GLO encouraged prepositioning relationships as an additional way to better prepare for disaster response, as well as establishing performance clauses to ensure contractors maintain their commitment to local governments.

When asked by Vice-Chairman Paul Bettencourt if the GLO would be considering the RAPIDO model in delivering housing, Commissioner Bush responded by suggesting the issue should be decided at the community level and added that RAPIDO has demonstrated to be successful in Texas and can be an additional offering available to constituents. However, the GLO indicated that currently the Stafford Act does not permit the RAPIDO model to be implemented. When asked for an update on RAPIDO by Chairman Lucio, he stressed the agency's primary legislative ask in the future is for more collaboration between FEMA and HUD on the definition and distinctions between temporary and permanent housing. Senator Sylvia Garcia echoed the remarks delivered by the members before her and expressed her support for the RAPIDO model.

Commissioner Bush added that the GLO, at the time of the hearing, was 70% completed with the approximately 6,000 constituents that qualified for a direct housing benefit and approximately 60% completed with those who elected for PREPS assistance.

Lastly, when asked by Chairman Lucio whether the agency would place an increase for staffing capacity as a top priority in the agency's legislative appropriations request to have disaster recovery professionals in place for future disasters, Commissioner Bush affirmed the request would be a top priority.

The Committee also heard from TDEM's Chief Kidd who provided the Committee insight into the division's role in disaster response and recovery, and his take on issues related to housing and funding resources. In regards to the distribution of funds, Chief Kidd acknowledged that while

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\$14 billion of federal funds had been successfully passed down to Texans and local governments at a pace never seen before in Texas, it was still not fast enough. In examining the breakdown of the past several appropriations, Chief Kidd made mention of the fact that the majority of funding is federal while the portion of state funding has remained a static \$5.2 million.

When discussing issues surrounding housing, Chief Kidd emphasized the importance of understanding and learning from past disasters in order to push the right resources toward the right places at the right times. One particular issue mentioned was the challenge local governments have with meeting FEMA qualifications for direct housing.

Local Perspective

Mayor C.J. Wax, representing the City of Rockport, was invited to testify and share his firsthand municipal experience with the recovery effort. In his testimony, Mayor Wax identified the state-administered Multi-Family Lease and Repair program, and multi-family housing in general, as the biggest short-term housing weakness in response to Hurricane Harvey. While the program was intended to provide communities an opportunity to quickly rehabilitate multi-family housing, the program's criteria proved to be unattractive to many property owners and resulted in low program participation. Mayor Wax encouraged the state to continue pursuing other innovative housing options.

When addressing the second charge relating to Hurricane Harvey, Mayor Wax characterized CDBG-DR funds as a "godsend" to communities who do not have the staff necessary to dedicate to the recovery efforts. However, a proposed improvement mentioned by Mayor Wax would be for the federal government in its allocation formulas to consider the percentage of a community's estimated total loss of appraised values in order to receive appropriate financial assistance and expedite the recovery process. To offset remaining need, he emphasized the role charitable organizations have played in rebuilding 105 homes in his community. Regarding training, Mayor Wax implored the legislature, as Chief Kidd echoed, to look into ensuring that at least one emergency management coordinator is present in every county and has a certain level of mandated training required to hold the position.

Harris County and the County Judges & Commissioners Association of Texas (CJCAT) provided testimony from the county perspective. The two offered a county viewpoint, which in large part echoed the experiences shared with the Committee during the November 1, 2017 hearing. While Harris County elected to administer HUD funds directly, as it has displayed the capacity to do so in the past, a major concern shared amongst the county representatives in both hearings had been the delays and need for federal funds to arrive and be put into use. Daphne Lamelle representing

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Harris County made note that in the unincorporated part of the county, more than 30,000 units flooded and 26% of those households were in LMI communities and many remain displaced.

James Allison representing CJCAT offered much of the same sentiments delivered by county judges in the previous disaster hearing remarking on the precarious nature of a coastal, rural economy and on the importance of quickly rehabilitating a community through affordable housing to house the workers that will revitalize an area. Additionally, he informed the Committee that, regrettably, delays are continuing in terms of receiving federal funds, reimbursements, and resources, including delays in the distribution of temporary housing such as trailers and MHUs.

Stakeholder Issues

In order to build a well-rounded understanding of the issues present six months after the disaster, the Committee invited witnesses from Texas RioGrande Legal Aid (TRLA), Lone Star Legal Aid (LSLA), Texas Apartment Association (TAA), Texas Appleseed, and West Street Recovery.

Representatives from TRLA and LSLA, Tracy Figueroa and Sandra Brown, respectively, detailed to the Committee their organizations' experience in providing legal services to disaster victims, specifically low-income individuals, and the shortcomings they identified in the process. Key issues expressed by both representatives related to FEMA and the difficulty in applicants getting approved for federal benefits, as well as issues between landlords and tenants.

Additionally, a common challenge identified was the need to establish clear titles to homes in order to qualify for federal assistance. Many low-income homeowners inherit and occupy homes from owners who died without wills, leaving the ownership of the property unclear. The process of tracking down multiple heirs across several generations delays the ability of the owner-occupants of this type of "heir property" from applying and securing the needed assistance for repairs after a disaster.

In past disasters, the state agencies administering disaster recovery funds have permitted a simple affidavit of heirship to suffice for obtaining rehabilitation or reconstruction assistance. According to an interview conducted by National Public Radio with Heather Way, a legal expert on housing issues, 50% of low-income homeowners will experience difficulty in receiving assistance due to the issue of clouded titles.

Madison Sloan with Texas Appleseed provided an added perspective from LMI constituents. She stated that FEMA data understates the needs of renters by utilizing a threshold of \$2,000 personal property damage, instead of unit damage, to ascertain whether an individual or household qualifies

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for assistance. If it is unlikely that the threshold will be easily met, as may be the case for many low-income individuals, FEMA excludes that renter from the overall disaster damage assessment which impacts HUD funding to the state. A similar scenario plays out for LMI homeowners.

Additionally, Ms. Sloan encouraged the federal government to expand its appropriation of federal tax credits to offset the added housing need due to the disaster, and to diversify the areas and income scales for which permanent multi-family housing is rebuilt. With Hurricane Harvey, the GLO is providing assistance to rebuild affordable multi-family housing complexes and, per the federal agreement, requires these complexes to be kept at affordable rents for a certain time frame. Pursuant to testimony, the state should endeavor to provide for longer-term affordability periods to maximize the benefit of the sizeable public investment.

Focusing on the PREPS program, West Street Recovery representative Benjamin Hirsch provided numerous cases in which the organization's clients have expressed dissatisfaction with the results of the program. Instances were brought up where, after PREPS work had been completed, there remained unsafe electrical outlets, high levels of home moisture, and mold. As the program is relied upon by the GLO to assist victims of the disaster, Mr. Hirsch's testimony and pictorial presentation illustrated a need for improvements in the program.

David Mintz with TAA established his organization as a housing resource for association members with the goal of providing short- and long-term options to address housing needs following a disaster. A key component of accomplishing this goal is to gain a comprehensive understanding of the nature of the housing need. Mr. Mintz proposed a statewide housing portal to provide consistent and comprehensive information regarding the availability of short- and long-term housing, tenant rights and responsibilities, and additional housing resources. He further proposed the creation of a standing committee to discuss on a regular basis housing relief planning and response for future disasters.

The following policy recommendations address and echo the testimony the Committee received and highlight some of the resounding themes the different stakeholders presented.

Recommendations:

In order to improve the coordination of rebuilding housing and infrastructure following a natural disaster, the committee recommends the following:

- The legislature should consider reforms that improve the state's response to disasters by building on a policy that better ensures the advanced positioning and access to recovery

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assets that would be essential in recovery, such as MHUs, direct repair teams, and contracts.

- The legislature should consider enhancing existing synchronization at the county and regional level by strengthening essential legal structures and arrangements (e.g., contracts, performance clauses, warranties on goods and services, remedies, recourse and alternative arrangement for non-compliance) and establish better market price-points for contractors to do business with the state for response and recovery efforts.
- The legislature should consider developing a Disaster Recovery Strike Team to better assist any community impacted by a disaster that lacks the capacity to accommodate and move quickly through the challenges confronted in recovery efforts.
- The legislature should consider building on the effectiveness of the GLO's qualified list of vendors and work with local communities that are in regions that are prone to being impacted by natural disaster (e.g., Gulf Coast region impacted by hurricanes and flooding) and consider directing the appropriate state agency to work with local communities, and interested parties, and develop a similar qualified list of vendors comprised by entities from each region that can afford units of government the procurement of local firms.
- The legislature should consider maximizing existing resources, such as Texas A&M University's AgriLife Extension Service and Hazardous Mitigation Centers, and work with state, region, and local leaders to better assist communities plan and establish protocols before disasters strike so that they will be better equipped to undertake recovery and rebuilding efforts.
- The legislature should consider building on Texas A&M University's College of Architecture's outreach organization, Texas Target Communities and expand its efforts to better assist communities and regions of the state that are prone to be impacted by disasters in developing infrastructure resiliency, including drafting recovery and reconstruction protocols and plans that would be activated after a disaster strikes.
- The legislature should consider improving the state's effort to address the need for temporary housing after future disasters occur by supporting and instituting initiatives that increase the capacity, strengthen coordination, and streamline regulatory requirements in regions that are prone to be impacted by disaster.

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- The legislature should consider directing the appropriate state agencies to review their environmental permitting efforts and proactively work with FEMA and HUD before a disaster occurs to determine to what extent a better synchronization of permits can be achieved prior to a disaster occurring that could better assist a victim of the disaster in streamlining or shortening the delay that is currently experienced through different layers of federal and state bureaucracy.
- The legislature should consider requiring every state agency and local unit of government involved in response and recovery efforts and existing ongoing disaster programs to undertake an After-Action-Review, or Incident Critique, to better understand what was effective and what needs improvement and report their findings to the state so that the appropriate state agencies can develop short- and long-term plans to improve the state's recovery efforts.
- The legislature should consider directing the appropriate state agencies, along with affiliated partners from the private and nonprofit sectors, to assess the short- and long-term needs stemming from the latest disasters along the Texas Gulf region and develop the appropriate recommendation and reforms so that the time frame in which victims of disasters return to normalcy is significantly improved.
- The legislature should consider developing an expedited manner by which victims of natural disasters can clear clouded title issues in order to speed up reconstruction effort and overcome existing impasses in drawing down and accessing federal CDBG disaster recovery monies.

In evaluating cost effective options for FEMA to utilize in providing direct housing assistance immediately following a disaster, the committee recommends the following:

- The legislature should consider offsetting future delays in disaster recovery by establishing the framework for an expedited hazard recovery process that builds on pre-disaster planning, increased coordination of local units of government and state partners, and temporary to permanent housing programs.
- The legislature should consider requesting its congressional delegation encourage reforms be instituted that ensure more cost-effective housing options are made available through federal funding streams in order to maximize resources, assistance, and effectiveness. This includes the reduction of waste and needless tax payer spending caused by federal

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regulations that fail to take into account the plight of disaster victims and concerned local officials trying to assist them acquire temporary housing that transitions into permanent housing more effectively, including allowing for more effective utilization of multifamily housing.

- The legislature should consider building on the existing 10-year affordability term on CDBG disaster related housing, both rental and single-family, and continue to assist victims of disasters ensure that their housing continues to be affordable.
- The legislature should consider building on the success of SB 521 of the 78th Legislative Regular Session and develop a mechanism to enable innovative disaster recovery housing solutions, like RAPIDO, that are first undertaken as temporary housing to be titled in the state as personal property (temporary and moveable, as required by the Stafford Act) and then be titled as real property, which is permanent housing in order to maximize the use of federal disaster monies that meets both temporary to long-term housing needs.
- The legislature should consider supporting legislative efforts that allow local units of government the necessary authority to begin pre-planning and work with the appropriate state agencies in vetting their post disaster recovery plans in order to better assist Texans who are victims of a natural disaster, such as SB 1376 and SB 1673 by Senator Lucio from the 84th and 85th Legislative Regular Sessions, respectively.
- The legislature should consider ensuring that all homes that participate through the GLO's PREPS program must go through a post-recovery evaluation with informed consent of final inspection criteria with the homeowner.
- The legislature should consider requiring state agencies in charge of disaster recovery to begin engaging in future disaster housing recovery options for temporary, short- and long-term housing that will enable local and regional officials to become better engaged. Negotiation with federal counterparts is recommended to be implemented for disaster regions with the goal of providing transparency, flexibility, stability, resiliency, and greater choice to Texans and their families.
- The legislature should consider encouraging the state's lead disaster recovery agency to maximize engagement with FEMA and HUD so that the eligibility requirements set-forth after a disaster are well-aligned with the needs of Texans who are victims of disaster. This

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will enable Texas to realize the full potential of FEMA and HUD to more quickly deliver assets and resources (e.g., the State of Louisiana).

In order to better disseminate information to survivors of disasters, the committee recommends the following:

- The legislature should consider requiring all state agencies involved in disaster recovery efforts to be part of an advisory entity that will meet to develop and design a one-stop web portal with all necessary assistance information for disaster victims and help maintain the portal. The web portal should be developed in a manner that protects confidential information (including protected information under HIPAA or other similar laws).
- The legislature should consider directing the appropriate state agencies to undertake a housing needs assessment so that policy is made to better understand the nature of housing needs (single- and multi-family) in order to be more effective immediately after a disaster.
- The legislature should consider directing the appropriate state agency to develop an information campaign in regions of the state that are prone to disasters occurring providing residents with a better understanding of FEMA and clarify any misconceptions that it may be an insurance company, and explain, with the assistance of the Texas Department of Insurance, the importance of flood insurance.
- The legislature should consider developing a permanent disaster hotline for local government officials so they may get immediate help and receive consistent information in order to prevent delays in the paperwork.

In order to better facilitate rebuilding, the committee recommends-the following:

- The legislature should consider strengthening recovery and rebuilding efforts by automatically waiving local permitting fees in regions of the state covered by a state declaration of disaster.
- The legislature should consider that when the Governor issues a disaster declaration and it has been determined that the public's health is threatened by the need to clear debris which may spread diseases through different vectors, for the state to automatically waive any regulations that may impede a local unit of government from addressing the debris removal

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or control of vectors (i.e., mosquitoes and other organisms that carry disease), implemented in a way that would not negatively impact federal reimbursements.

- The legislature should consider updating the appropriate state code that requires the installation of arc fault interrupters in order to facilitate cost-effective rebuilding efforts once a disaster declaration has been issued.
- The legislature should consider requesting its congressional delegation to amend the appropriate federal statute to provide for an emergency procurement process that can waive existing procurement regulations that lead to delays in reconstruction efforts.

In order to strengthen rebuilding efforts, the committee recommends the following:

- The legislature should consider codifying the use of COGs in regions of the state that are prone to natural disasters and institute initiatives that encourage greater collaboration, regionalism, and cooperation in order to improve the state response to future disasters and build regional capacity.
- The legislature should consider strengthening the local capacity of COGs in disaster-prone regions by assisting them in the initial hiring of public assistance firms that can assist local units of government work with FEMA, including handling paperwork and associated accounting.
- The legislature should consider instituting a statutory framework that fosters greater regional cooperation and partnership development that maximize existing resource and assets so that regions can become more resilient and be better assisted in their disaster recovery efforts. The state should also consider building partnerships with nonprofits and private foundations in these efforts.

In order to ensure the timely dissemination of disaster relief funds by state entities to local governments for reconstruction efforts and eliminate delays in the use of those funds, the committee recommends the following:

- Prior to future disasters, the legislature should consider assisting local units of government in disaster-prone areas build their capacity so that they are better equipped in accessing recovery monies, including consulting local governments prior to designing any program and before entering negotiations with the federal government on finalizing program

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restrictions. In this regard, initiatives that Texas takes to the federal government for approval are more responsive to the operational needs of local government by being custom built around the capacity and capability of local governments (e.g., taking into account their resources such as upfront cash flow, or the lack thereof, which is needed in a program reimbursement design) so that program delivery and assistance to victims of disaster are provided without delay which could have been easily avoided.

- The legislature should consider establishing the necessary statutory and programmatic framework for future disaster recovery that is built on the state having a pre-established, state-administered environmental review process and a pre-arranged "block grant" approach with executed memorandums of understandings with local units of government, as well as nonprofit partners, to serve as methods of delivery which can be activated immediately after a disaster declaration has been issued.
- The legislature should consider encouraging local governments in disaster-prone regions to engage in pre-disaster planning, and determine what type of post-disaster housing recovery system would best meet the needs of their local communities, including prioritization of temporary and multifamily housing options, so that they are better equipped to begin delivery of housing recovery after a disaster occurs.
- The legislature should consider assisting local units of government in disaster-prone areas in addressing their lack of recovery staffing for future disasters by providing resources that would facilitate the initial hiring and training of local permanent disaster coordinators that would be trained and be familiar with recovery efforts before the next disaster occurs.
- The legislature should consider establishing a permanent, statewide official whose sole statutory purpose is to be responsible full-time for the coordination of all disaster recovery efforts to better coordinate every facet of the recovery process providing greater assistance to regions of the state coping with disaster and who every state agency and local officials can be accountable to.
- For disaster-prone regions, the legislature should consider establishing a minimum statewide standard in disaster recovery efforts by:
 - Establishing minimum levels of resources and capacity that should be maintained in advance of disasters and that engenders faster, more efficient deployment of resources in disaster response and recovery efforts;

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- Establishing and maintaining minimum levels of expertise and knowledge in disaster planning, response, and recovery management, as well as grant application process expertise;
 - Hiring and maintaining emergency management local directors within local jurisdictions;
 - Facilitating in establishing increased regional cooperation and collaboration that maximizes the use of existing local assets and expertise; and
 - Providing ongoing disaster training in response and recovery efforts.
- The legislature should consider building on the ongoing efforts of regional COGs and assist those in disaster-prone areas by providing greater training in grant application management and process, including assisting in identification of grant opportunities and coordinating data acquisition necessary for grant applications, to better build the capacity of these regions so they may become more self-sufficient.
 - The legislature should consider establishing a state coordinator who can better assist smaller and rural units of government manage contractors and execute contracts on their behalf to expedite the recovery process before disaster occurs and can be better situated to ensuring that the necessary accounting and supporting documents are in order to increase the reimbursement levels and decrease denial claims by the federal government.
 - The legislature should consider creating a revolving loan fund similar to those administered by the TDWB where rural and smaller units of government in disaster-prone regions may borrow necessary funds to address initial cash flow needs for initial expenses and, once reimbursement is received, pay back the outstanding loan.

In order to expedite debris removal, the committee recommends the following:

- The legislature should consider establishing pre-disaster removal contracts with reputable bidders who the state can have prequalified and bonded in order to ensure that price gauging or overpromising do not occur after a disaster.
- The legislature should consider building on the experience of past disaster recoveries along the Gulf region and develop a debris removal plan of specific types of debris only found along the Gulf Coast (e.g., boats) so that the removal of that debris is undertaken in a more expedited manner. State agencies may be encouraged to work with the Texas Department of Insurance and private insurance providers to address the myriad of paperwork that is

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engendered when trying to address debris that may or may not be insured (e.g., boats with insurance).

- The legislature should consider providing TCEQ the necessary statutory framework and authority after a disaster declaration has been issued to allow Type IV construction and demolition landfills to be authorized through a registration or permit-by-rule process, rather than through the traditional permit process.

In order to address existing disaster training opportunities for local officials in disaster-prone regions, the committee recommends the following:

- The legislature should consider addressing the need that exists in less populous counties for regular technical training, information, mentoring, and assistance by establishing initiatives that will help local leaders establish a standard knowledge on how to prepare for, and respond to, a disaster and better assist local governments to successfully qualify for federal and state aid.
- The legislature should consider establishing an initiative that builds on the regional networks of regional COGs and undertake regular, weekly webinars to provide video-based and online training for disaster response and recovery efforts.
- The legislature should consider working with the regional COGs in an outreach campaign to encourage local and regional officials to undertake FEMA certification.
- The legislature should consider establishing a minimum criteria of training that local emergency management coordinators should undergo, and encourage basic standardization of education, training, and experience, including a state set curriculum, so that local emergency coordinators are better prepared for future disasters.

Legislative INTERIM CHARGE 1

***ETJ Limitations and Notice:** Review the existing regulatory authority granted to home-rule municipalities within the extraterritorial jurisdiction (ETJ), including practices used by cities to expand ETJ boundaries, and whether proper notification is provided to property owners added to a city's ETJ following an annexation proceeding. Determine the limitations that need to be placed on a city's authority within the ETJ to better protect the private property rights of individuals and landowners, and ways to notify individuals of the impact of being within a city's ETJ. Develop a statewide rule and minimum requirements for such notifications.*

Background:

In the State of Texas, municipalities are classified into either "general law" or "home-rule" cities. A home-rule city is established when a municipality meets two criteria: consists of a population of over 5,000; and electing, by citizen vote, to adopt a governing charter. In contrast, a general law city, consisting of a population of 5,000 or less is therefore absent a governing charter and is instead directed by state, federal, and common laws.

As prescribed within Chapter 42 of the Texas Local Government Code, an unincorporated area contiguous to the corporate boundaries of a municipality is designated as the municipality's extraterritorial jurisdiction (ETJ). Within the ETJ, cities have the authority to enforce regulations in order to, as outlined in statute, promote and protect the general health, safety, and welfare of individuals residing in and adjacent to the municipalities.

The extent of an ETJ's boundaries is determined by a municipality's population and, in certain cases, geography. According to § 42.021 of the Texas Local Government Code, the ETJ is located within:

- 0.5 miles for a municipality with a population less than 5,000;
- 1.0 mile for a municipality with a population more than 5,000 but less than 25,000;
- 2.0 miles for a municipality with a population more than 25,000 but less than 50,000;
- 3.5 miles for a municipality with a population more than 50,000 but less than 100,000; or
- 5.0 miles for a municipality with a population more than 100,000.

The ETJ of a municipality with a population of more than 2,000 and has territory located within 30 miles of the United States-Mexico International Border is the unincorporated area that is contiguous to the corporate boundaries of the municipality and that is located:

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Legislative Interim Charge 1 - ETJ Limitations and Notice

- 0.5 miles of those boundaries off a barrier island in the Gulf of Mexico; or
- 5.0 miles of those boundaries on a barrier island in the Gulf of Mexico.

Cities have the authority to enforce regulations in the ETJ only if explicitly given the statutory authority to do so. According to a Texas Municipal League (TML) fact sheet received by the Committee and distributed to the membership prior to the interim hearing on August 14, 2018, cities are generally granted the authority to conduct certain measures in their ETJ, including, but not limited to, the following:

- Annexation;
- Development agreements;
- Subdivision regulations;
- Provide municipal utility services;
- Impact fees for water, wastewater, and drainage;
- Strategic partnerships with special districts;
- Municipal development districts;
- Industrial district contracts;
- Relocation, reconstruction, or removal of any sign; and
- Home-rule cities may abate nuisances within 5,000 feet of city limits.

In particular, a city's authority to annex surrounding unincorporated areas has become a point of concern for some stakeholders. During the 85th Legislative Special Session, Senate Bill (SB) 6 authored by Senator Donna Campbell was passed, which amended state law relating to municipal annexation by categorizing cities and counties into "Tier 1" or "Tier 2" classifications and requiring voter approval for "Tier 2" annexations and allowing for a petition for a vote in "Tier 1" classifications.

Following a city's annexation whereby an area in its ETJ is absorbed into its corporate boundaries, the city's ETJ is expanded accordingly to encompass new territory. State law requires a municipality to provide notice of annexation hearings to property owners within the area being annexed, but does not require a municipality to provide notice to property owners newly encompassed by the expanded ETJ.

Legislative Charge 1 instructs the Committee to consider the existing regulatory authority granted to home-rule municipalities within the ETJ, including practices used by cities to expand ETJ boundaries, and whether proper notification is provided to property owners added to a city's ETJ following an annexation proceeding.

REPORT ON COMMITTEE INTERIM CHARGESLegislative Interim Charge 1 - ETJ Limitations and Notice

Analysis:

On August 14, 2018, the Committee received invited and public testimony on Legislative Charge 1 from officials representing the Cities of Grapeland, Pearland, and Pflugerville, along with other interested stakeholders.

From the local perspective, city representatives each expressed frustration over how their communities were impacted by the added requirement of voter approval by SB 6. In particular, Mayor Victor Gonzales of the City of Pflugerville conveyed his concerns about the diversion SB 6 has caused his community's strategic growth planning, a sentiment also echoed by the City Attorney of Pearland Darrin Coker.

Phil Crone with the Dallas Builders Association detailed to the Committee his experiences with cities attempting to enforce their building codes in the ETJ. Although the Dallas Court of Appeals recently issued an opinion in *Collin County v. City of McKinney v. Custer Storage Center* asserting that a home-rule municipality “lacks the authority to enforce its building codes and related inspection requirements within its extraterritorial jurisdiction,” Mr. Crone expressed concern that some home-rule cities may be trying to enforce building codes in their ETJ. A proposed solution to address this concern was to codify the Dallas Court of Appeals decision.

Moreover, a corresponding matter that was discussed by multiple stakeholders, including the Texas Public Policy Foundation (TPPF) and TML, pertains to SB 655, authored by Vice-Chairman Bettencourt during the 85th Legislative Regular Session, relating to notices cities provide when expanding their boundaries. SB 655 required municipalities that expand their boundaries through annexation to give written notice of the scheduled annexation hearings to each property owner in any area that would be newly included in the municipality's ETJ as a result of a proposed annexation.

Additionally, another issue pertaining to practices that cities may be conducting in their ETJ was highlighted in testimony provided by TPPF. The organization shared a concern regarding the use of non-annexation agreements by cities to “leapfrog” over undesirable areas in order to extend their ETJs and encompass more desired areas. Currently, the issue of using non-annexation agreements to expand ETJ has been raised in litigation: *Cagle v. City of Nolanville* in the 169th Judicial District Court in Bell County; and *Grafe and Mosier v. Seguin* in the 25th Judicial District Court in Guadalupe County. As of publication of this report, the issue is still pending; therefore, interpretation of the code is not definitive.

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Legislative Interim Charge 1 - ETJ Limitations and Notice

The following policy recommendations address and echo the testimony the Committee received and highlight some of the resounding themes the different stakeholders presented.

Recommendations:

- The legislature should encourage greater interaction in the planning phase of growth in municipalities in order to have better guided growth and to safeguard local and regional economies.
- The legislature should consider continuing to monitor the implementation of the 85th Legislative Special Session's annexation overhaul legislation (SB 6) to better determine its impact on municipalities in order to better provide municipalities with the ability to revitalize themselves and attract industry, retail businesses, and curtail urban migration.

Specifically,

- The legislature should consider codifying the Dallas Court of Appeals' ruling in regards to a city's ability to enforce its building codes in their ETJ.
- In order to afford Texans greater transparency and certainty, the legislature should consider revisiting and supporting the passage of legislative initiatives from the 85th Legislative Regular Session that provided greater notice when a municipality is considering expansion of their ETJ, such as SB 655 by Senator Bettencourt.
- The legislature should consider revisiting and supporting the passage of legislative initiatives from last session that provide better ballot language guidance, such as SB 488 by Senators Bettencourt and Lucio.
- The legislature should consider reviewing non-annexation agreements to address any ambiguity that may exist in order to clarify whether non-annexation agreements extend a city's ETJ, and whether these agreements can be considered for the purposes of calculating the boundaries of an ETJ.

Legislative INTERIM CHARGE 2

***Housing Affordability:** Examine issues that impact housing affordability, including the effect of local government taxes, fees, and mandates. Evaluate the cost of purchasing a single-family residence in different parts of the state, factoring in the impact of local rules and regulations, to identify matters of policy with the greatest influence, and identify ways to increase transparency and awareness prior to the adoption of costly local ordinances or orders.*

Background:

As the State of Texas continues to be amongst the leaders in the nation in economic prosperity and population growth, testimony received by the Committee indicated that the supply of housing has not kept up with the demand of the growing population. The strong housing demand and lacking availability has resulted in a highly competitive housing market across the state that considerably drives up prices and limits affordable housing options.

In order to stabilize the housing market, federal, state, and local governments each place a role in administering services and programs aimed at increasing housing affordability. At the federal level, the United States Department of Housing and Urban Development (HUD) administers two types of housing tax credits, competitive and non-competitive, to states with the goal of developing low-income rental housing where needed. The federal housing tax credit guidelines are generally broad, leaving discretion on how exactly to disperse the credits to individual state housing agencies.

At the state level, the Texas Department of Housing and Community Affairs (TDHCA) serves as the state agency primarily responsible for administering, among other housing measures, the Private Activity Bond Program and federal tax credits pursuant to a Qualified Allocation Plan that defines affordable housing development eligibility for housing tax credits. Additionally, the agency maintains the state's Housing Trust Fund, the repository responsible for administering single-family programs. TDHCA also administers a first-time homebuyer financing program, known as the My First Texas Home (MFTH) program, and a self-help construction program, known as the Bootstrap Loan Program (Bootstrap). The MFTH program offers low-income first-time homebuyers with home loan and down payment assistance, while Bootstrap offers very low-income households with home purchase or refinance loans made by the state of up to \$45,000 that are issued with the sweat equity of the household's labor.

The Texas State Affordable Housing Corporation (TSAHC), a statewide quasi-governmental organization, is an additional state resource that serves as a leading provider of affordable housing

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in Texas, in partnership with private entities. TSAHC is responsible for administering two homebuyer programs, Texas Homes for Heroes and Home Sweet Texas Home Loan Program, aimed at providing low- to moderate-income (LMI) homebuyers with a first fixed-rate mortgage loan and grant for down payment assistance. In addition to these programs, the organization administers the Texas Housing Impact Fund, a program offering financing options for the acquisition, rehabilitation, and construction of affordable rental or homeownership projects, and the Affordable Communities of Texas (ACT) program, a land banking and land trust initiative.

Moreover, at the local level, local governments play a critical role in determining housing affordability in their communities through regulations, services, and strategic public-private partnerships. City enforcement and implementation of local regulations and building standards have the potential to increase housing costs and prevent families from obtaining affordable homes. However, testimony indicated that local regulations may be necessary to prevent substandard quality work from unscrupulous developers and potentially lead to an increase in colonia-like conditions, which are makeshift communities with poor infrastructure and living conditions.

As per testimony, cities are positioned to act on what they believe is best for their residents and community, and commonly enter into partnerships with the private sector (e.g., developers, banks, and advocacy groups) to develop tailored solutions. Counties also provide support for individuals seeking affordable housing alternatives through the construction and maintenance of over 88,000 miles in county roads which expand a household's search into more affordable housing options located in unincorporated areas of a county.

As the Senate Committee with standing jurisdiction over housing related matters, Legislative Charge 2 asks the Committee to review the issues relating to housing affordability in Texas and assess opportunities available to the state to better meet its housing affordability needs.

Analysis:

On May 31, 2018, the Committee traveled to Pharr, Texas and received invited and public testimony on Legislative Charge 2.

The Committee received testimony from state actors, local officials, and the private sector in order to appropriately address the full scope of housing affordability in Texas.

State Perspective

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To gain the perspective of home ownership and housing affordability from the state perspective, the Committee received testimony from TDHCA and TSAHC. As the lead housing agency in Texas, then-Executive Director of TDHCA, Tim Irvine, identified the need in housing affordability as exceedingly correlated to Texas' strong economy which causes an increase in migration to the state and, ultimately, an increase in housing construction and rent and purchase costs. This observation of demand versus supply driving costs was made to the Committee by a number of witnesses throughout the hearing, including individuals from the academic, building, and financing communities. TDHCA testified that currently the agency is only able to meet less than 20% of the state's housing need.

As part of the state's efforts to spur development of affordable housing, TDHCA characterized the MFTH and Bootstrap programs as effective tools that enable higher risk populations the opportunity to enter and contribute to the housing market. These programs have afforded vulnerable populations an opportunity to begin achieving economic security and have seen strong repayment performance with minimal foreclosures. Additionally, TDHCA leverages partnerships with Habitat for Humanity and other local nonprofit organizations to implement the Bootstrap program.

TDHCA also described the successes of the agency's 9% LIHTC and Private Activity Bond programs as "roaring," each producing at least 6,500 units per year. The tax credit program was recognized as an essential mechanism that effectively leverages the private sector by bringing in private equity and financing mechanisms, and encourages their participation in remedying the state's housing affordability need.

Another state arm tasked with assisting affordable housing in Texas, TSAHC has consistently performed successfully in this public-private partnership dynamic for almost 25 years. TSAHC targets the housing needs of low-income families and other underserved Texans who cannot be assisted through conventional financial streams. It does this by leveraging private sector dollars with its authority to sell tax-exempt bonds through its array of different housing programs.

TSAHC is a great example of how a state self-supporting organization can help address the affordable housing needs of Texas. Its ability to leverage private sector dollars ensures that households are adequately equipped with the financial assistance necessary to encourage home ownership, as well as the financial literacy necessary to maintain home ownership, both of which David Long, President of TSAHC, identified as invaluable. The two homebuyer programs the organization administers aim to assist LMI homebuyers with fixed-rate mortgage loans, as well as down payment assistance.

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In addition to tailoring solutions for homebuyers to be positioned for success, TSAHC administers the Housing Impact Fund and the ACT programs, which are partnership initiatives with developers and, additionally under ACT, banks, nonprofits, and local governments. As per the testimony received by the Committee, the two programs are successful as they foster long-term partnerships and attract private investment, which in turn is used by the organization to leverage additional dollars for affordable housing.

Mirroring testimony received throughout the hearing which emphasized the critical continued assistance needed from the private sector, these four TSAHC programs highlight the various avenues Texas can continue to develop and expand to better housing affordability statewide. To this end, TSAHC expressed their intent to not only continue to leverage existing partnerships, but identify new partnership opportunities with local nonprofits and financial institutions to assist Texas in meeting its housing affordability needs.

Gary Maler with Texas A&M University's Real Estate Center noted the building industry is still in recovery after the 2008-2009 economic recession and identified shortages in properly trained, skilled labor as an added hindrance to Texas home building keeping pace with the growth in population. In addition to statewide factors, Mr. Maler expressed the potential of local regulations factoring into increased costs to home development and suggested the need to conduct a cost-benefit analysis for local regulations. Mr. Maler also acknowledged the adverse effect federal tariffs can place on costs to home building, as well as shortages in key materials and labor due to natural disasters.

Local Perspective

The Committee heard testimony from the perspective of Rio Grande Valley local officials, including Mayor Ambrosio Hernandez of the City of Pharr, Mayor Jim Darling of the City of McAllen, and Mayor Chris Boswell of the City of Harlingen, regarding housing affordability in their region. The mayors' testimony provided the Committee a valuable insight into the issues impacting housing affordability, particularly in South Texas, as well as local solutions they have utilized to overcome these issues.

A common sentiment expressed by each mayor was a strong support for innovative projects and partnerships with the goal of ensuring the availability of a variety of housing options to meet the needs of individuals at all income levels. Mayor Hernandez of the City of Pharr has implemented various homebuyer programs that assist working class families in purchasing their first homes. Furthermore, the City of Harlingen reported its private partnership with a local developer, MRE

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Capital, was successful in rehabilitating a nine story, dilapidated downtown building in order to develop affordable housing units.

A representative from TML, Scott Houston, provided the Committee with the city government perspective on the impact of building fees and regulations on housing costs. According to data collected by TML, fees imposed by cities generally constitute about 2 to 3% of the average mortgage payment in Texas. Mr. Houston emphasized the need for cities to decide what is best for them based on local input, geographic location, and risk. When discussing the impact low fees and regulations have on the cost of a home, the City of McAllen suggested the state review policies of certain agencies that may potentially contribute to increased home costs.

James Allison, General Counsel for the County Judges & Commissioners Association of Texas (CJCAT), was invited to testify to provide the Committee insight into the role counties play in encouraging housing affordability and identifying opportunities where the state can assist counties better meet the housing affordability needs in unincorporated areas. Specifically, counties could benefit from being given the statutory authority to engage in a county land banking program with the goal of putting tax-foreclosed properties back on the tax rolls and developing those properties into affordable housing units.

The state's use of land banking initiatives originated during the 78th Legislative Regular Session in 2003. Urban land banks were established by the passage of House Bill 2801, which allowed the City of Dallas to undertake an "Urban Land Bank Demonstration Program" to address their affordable housing needs by revitalizing tax-foreclosed properties into affordable housing developments through private investment. Subsequently, urban land bank statutory authority was extended to the City of Houston during the 79th Legislative Regular Session and to all other municipalities during the 80th Legislative Regular Session. With the increasing population in counties residing outside of urban cities, counties have sought statutory authority to establish land banks to serve their communities.

An additional local perspective was provided by Alamo Area COG representative Diane Rath in which she detailed some challenges rural populations face in developing affordable housing. Such challenges include the significantly limited availability of affordable housing options and the inconsistent financing options offered between urban and rural counties. Additional issues identified by Ms. Rath were specific to low-income renters and veterans. A majority of apartment complexes require renters to pay upfront deposits, and impose income and credit requirements that price out low-income individuals and further restrict accessibility to affordable housing. The requirement for renters to earn three times the rent amount weeds out many veteran applicants, and the rising median home price makes it difficult for veterans to become homeowners. Within

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the Alamo region, three entities administer the HUD Veterans Affairs Supportive Housing programs, which combines housing choice vouchers and rental assistance with case management, coordinated by the United States Department of Veterans Affairs.

Developer Perspective

Texas Association of Builders' (TAB) Executive Director, Scott Norman, provided the Committee key insight into the organization's perspective on the condition, causes, and needs of affordable housing in Texas. Builders play an indispensable role in housing development and are important partners in addressing housing affordability shortcomings. As the witnesses who testified before him, Mr. Norman attributed a strong economy and population growth as the principle cause for Texas being first in the nation in new housing construction.

Although overall housing construction is high, there are many factors leading to an increased price of a home, resulting in limited affordable housing. As noted by Mr. Norman, these include items directly controlled by governmental entities, including regulatory costs, impact fees, and taxes. Kyle Jackson with the TAA identified local governments implementing rising inspection and street improvement fees as an added cost to consumers and disparity throughout the state, and suggested local governments should work to increase transparency and ensure those fee increases are made known to the business community.

Nevertheless, the TAB representative informed the Committee, while discussing the differences between costs of homes in different parts of the state, that many of the factors contributing to those costs are not within the control of governmental entities. Although there exists good government subsidy programs, he noted, housing is ultimately market-based and those government programs can only meet a small percentage of the need.

The other factors that contribute to housing costs include labor, materials, and interest. One of the biggest drivers is land costs, as echoed by Mr. Maler, that are themselves impacted by numerous other factors, creating varying interpretations of what affordability looks like across the state. In addition, Mr. Norman mentioned how strategic partnerships with local governments have proven successful in curtailing final costs to homebuyers and ensuring the construction of affordable housing.

Mr. Norman provided examples of partnerships in the Cities of San Antonio and Bryan where builders and local officials collaborated to develop innovative home builder incentive programs in order to target the housing affordability need in the area. Tools used in these programs included local governments waiving development fees and selling procured foreclosed properties to

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developers at a strong price point if the prospective developments contained a percentage of affordable housing units. This anecdotal experience between TAB membership and local governments, and echoed by TAA, exemplify the positive results that can come from other communities engaging with the private sector and vice-versa.

Another common observation found amongst several witnesses, including Mr. Norman, was the sensitive nature of housing affordability for low-income households. As claimed in a Real Estate Center report referenced by TAB, for every \$1,000 added cost to a home, 20,000 Texans are unable to afford that home. The vulnerabilities surrounding the low-income, the elderly, the disabled, and minority populations when purchasing or renting a home was also transmitted by the Community Development Corporation of Brownsville (CDCB), one of the largest nonprofit producers of affordable housing in the state.

CDCB representatives expressed concern over the inadequate supply of affordable housing coupled with high percentages of households' already-low income required to be allocated towards paying rent. These factors contribute to a more dire situation for colonia residents who typically hold very low-income employment. According to CDCB, these factors, in addition to the disproportionate impact of property taxes and insurance, have created a housing situation where, at least in the Rio Grande Valley, 1 out of every 2 families cannot afford to purchase a home. Texas Affiliation of Affordable Housing Providers, which represents stakeholders in the state's LIHTC program, added to this sentiment by describing how at least 50% of LIHTC program eligible households are either rent burdened or severely rent burdened.

A partner with CDCB, Esperanza Homes, the largest home builder and developer in the Rio Grande Valley, testified on the need to build communities, regardless of the intended demographic, that prioritize a high quality of life. The group recommended creating affordable housing by considering cost-saving measures when constructing new homes; for example, Esperanza Homes builds each home with energy saving amenities that, although contribute to the purchase cost of the home, save the homeowner costs in the long run. In addition, the group identified land development lot costs as the primary contributor to home prices, which are accelerating at a pace in the region double income levels.

CDCB Executive Director, Nick Mitchell-Bennett, mentioned he is strongly against the suggestion of eliminating local building and development codes in an effort to solve the issue of housing affordability, stating those "solutions are only affordable to the developer, not the family or the government." Mr. Mitchell-Bennett described that it has been a responsibility of CDCB to use government, taxpayer-backed funds to rehabilitate areas of the region that are substandard due to

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building regulations not being enforced at the time of construction. This dynamic is especially notable in the wake of natural disasters.

Utilizing a disaster model known as RAPIDO as inspiration, Mr. Mitchell-Bennett described an innovative possible solution for the growing need of housing affordability known as Mi Casita. These two renowned programs utilize a phased construction model that starts with a “core” that provides for basic necessities of living and can be built upon once the homeowner accumulates sufficient financial resources necessary to add additional square footage to the home. This and other initiatives should also be supplemented with homebuyer financial literacy, as noted by other witnesses.

As an added solution, CDCB recommended the state adequately fund Texas' Housing Trust Fund by designating a revenue source to do so. In advocating for more investment, Mr. Mitchell-Bennett provided how the City of Los Angeles, California funds their housing trust fund at approximately \$100 million every year, while the State of Texas funds their housing trust fund at approximately \$6 million every two years.

Bank Perspective

Financial institutions provided testimony to outline their interaction with government initiatives and ways to improve housing affordability in the state. David Saling, representing J.P. Morgan Chase Bank, echoed past testimony regarding the impact Texas' economy directly has on a household's ability to procure and maintain housing. Additionally, although he states affordable housing is strong and vibrant, communities are growing at a faster rate than the supply of affordable housing. Mr. Saling also identifies, like numerous other witnesses, development costs, constructions costs, and land costs as impediments to the development of affordable housing.

A J.P. Morgan Chase report focused on affordability issues across the country, including Austin, Texas, anchored Mr. Saling's testimony. The report identified inclusionary zoning laws, which require affordable housing units be placed in market rate developments wherever they may be located, as a tool the State of Texas could consider in order to improve the state's overall housing affordability stock. Moreover, Mr. Saling expressed how developers must navigate challenges in obtaining financing for affordable housing projects, especially from federal and state resources. He noted that municipalities also have various funding sources available to them through the federal government, such as Community Development Block Grant funds, home funds, and housing trust funds, all of which can be strategically utilized to encourage housing affordability development.

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Texas Capital Bank, a principal funder in affordable housing developments, also provided their perspective and highlighted, as other witnesses did, the successes they have experienced in building strategic partnerships with the building community, nonprofit organizations, and governmental entities.

Advocate Perspective

State and local advocates testified before the Committee to share the obstacles and issues surrounding housing affordability. TPPF identified issues the organization believes contribute to housing costs. The first of which being the way local land use restrictions play an outsized role in increasing the final price of a home, especially through land price, by constraining the capacity of the market to provide the mix of affordable housing that can meet the needs of most Texans. In their view, the state cannot and should not micromanage local land use regulations, but should instead oversee local policies to protect private property rights of homeowners.

In regards to local regulations, TPPF testified that local permitting regulations contribute significantly to the final cost of homes, and recommended prohibiting local governments from imposing new regulations after property owners have obtained the required permits to begin their desired development or construction phases. According to TPPF, changing and adding requirements is an issue seen in a variety of housing markets, including the Cities of Austin and Bee Cave and Harris County, and can increase housing costs.

To this end, TPPF's testimony was contrasted by advocates Josué Ramírez and Amelia Adams with the Texas Low Income Housing Information Service (Texas Housers) and Texas RioGrande Legal Aid (TRLA) representative Pablo Javier Almaguer. While the Texas Housers recognized the importance of minimizing unnecessary regulation, they argue that the historically unregulated approach to the development in low income communities in South Texas has produced a proliferation of colonias and subjected low-income families to live in dangerous and substandard conditions. More importantly, it has cost the state millions of dollars to mitigate and rectify the result of substandard housing development that pose public health threats.

For many years, unscrupulous developers failed to provide potable water, proper wastewater disposal, paved streets, and essential infrastructure in colonias. According to testimony, regulations offer a certain amount of protection, many of which are expected or taken for granted, and removing regulations can lower the standard quality of housing in unincorporated areas. Although regulations increase initial home costs, the Texas Housers point out that residents end up paying these costs in the long run when those securities and regulations are not in place. According to TRLA, many of their clients believe that the costs added through regulations

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would serve more like an added investment to their home, which would be a better home to pass down through generations. To echo Mr. Mitchell-Bennett’s testimony, they contend taxpayer funds are used to clean up the mess developers leave behind in order to improve the quality of life in these neglected communities.

The following policy recommendations address and echo the testimony the Committee received and highlight some of the resounding themes the different stakeholders presented.

Recommendations:

- The legislature should consider building on the success of urban land banks and consider encouraging more local units of government to engage in land banking by increasing opportunities of converting tax foreclosed property into affordable housing.
- The legislature should consider encouraging more local units of government to work with their building communities and develop initiatives, such as the waiving of impact fees, to address affordable housing needs.
- The legislature should consider building on the success of state housing entities and consider encouraging more public-private partnerships, especially with local units of government, to address affordable housing needs.
- The legislature should consider providing communities that are economically distressed and that are predominantly rural, the ability to have better guided growth by providing them the necessary statutory structure to prevent dilapidated housing conditions from spreading within their jurisdictions and incurring millions of tax dollars cost in mitigating public health threats.
- The legislature should consider examining the structure of housing bond projects in the state and work with the appropriate governing agencies to ensure flexibility and better assist Texas developers maximize bond financing.
- The legislature should consider establishing some basic state guidelines that provide better notice and transparency in the local permitting process (e.g., working with interested parties in setting a maximum amount of time a city may delay in making a determination of whether or not a building permit will be issued) and consider protecting property owners who have already obtained the necessary permits required to begin development or

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construction from being imposed new permit requirements after the initial permit was already acquired.

- The legislature should consider the need for homeowners and the building industry to have greater transparency in the regulation of housing development and provide greater consistency by supporting initiatives that strengthen uniformity in the development of ordinances and permitting standards.
- In order to find a better balance between property rights of homeowners and development needs of municipalities, the legislature should consider developing a means by which land use regulation better adheres with the model of development that provides a basic template that cities can use to reassess their existing land use regulations and provide greater opportunities for the development of affordable housing options within their jurisdiction.
- In developing greater consistency, the legislature should consider undertaking a review of regulations promulgated by state agencies, such as the Texas Department of Transportation (TxDOT) and the Texas Commission on Environmental Quality (TCEQ), that impact development (e.g., right-of-way policies), and work with the appropriate stakeholders to better implement agency policies that are more cognizant of the needs of the home building industry.
- The legislature should consider building on the success of urban land banks and statutorily provide counties with the necessary authority to engage in a county land bank program.
- In order to better assist the public, private, and nonprofit communities that are the backbone of developing housing that addresses the housing needs in the state, the legislature should consider developing a task force to evaluate the state's LIHTC program and ensure that it operates under a consistent set of rules that emphasize quality and availability of housing to meet housing demands in Texas. The legislature should consider directing the Task Force to develop reforms and initiatives that better guide LIHTC with consistent and seamless implementation that provide greater consideration to construction cost allowances which develop better housing development opportunities.
- The legislature should consider supporting the passage of legislation that provides more upfront notifications and transparency in the municipal budget process, especially in regard to fee increases, and provides greater electronic access to concerned residents such as envisioned in SB 737 of the 85th Legislative Regular Session.

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- The legislature should consider supporting opportunities that encourage cities and counties to engage in pre-emergency planning and direct them to develop reconstruction and recovery plans that may be pre-approved by state government as part of their charter.
- The legislature should consider supporting the ability of local governments to provide incentive programs and infrastructure investment projects that benefit workforce and affordable housing.
- The legislature should consider supporting the creation of greater opportunities for local units of government to develop affordable housing opportunities through the creation of Neighborhood Empowerment Zones, compiling foreclosed property, undertaking land trusts, and strategically limiting building permit and impact fees such as the successful undertakings by the Cities of San Antonio, Bryan, and Austin.
- The legislature should consider encouraging local governments to adopt building codes, permit process and systems that speed up development and building processes without lowering quality.
- The legislature should consider providing a manner by which incorporated areas make available residential locations that are appropriately zoned and affordable for people with modest means.
- The legislature should consider supporting efforts to address the growing affordable housing needs in the state through a designated source to assist the developing of housing opportunities, including assisting developers with their impacts fees if the housing that is being produced is for affordable housing.
- The legislature should consider supporting innovative state and private partnerships that provide increased resources to support financial literacy that will benefit existing and prospective homebuyers.

Legislative INTERIM CHARGE 3

Special Purpose Districts Bond Reform: Study the state agency review of tax exempt bonds issued by special purpose districts and public improvement districts used to finance water and sewer infrastructure in new residential and commercial developments. Examine the disparities that exist between the feasibility review of water and sewer bonds backed by property- based assessments and those backed by ad valorem taxes, and make recommendations that ensure the continued stability of the Texas tax- exempt bond market by requiring all districts to undergo appropriate reviews prior to issuance.

Background:

In Texas, Special Purpose Districts (SPDs) are tools used in collaboration with local governments to address specific, limited needs of the area. While independent school districts serve as the primary type of special purpose district in the state, other districts are also widely utilized, including, but not limited to, water and wastewater, as well as development and improvement districts, which, in Texas, are commonly established in the form of Municipal Utility Districts (MUDs) and Public Improvement Districts (PIDs), respectively. The Texas Constitution grants SPDs numerous powers and duties, including the authority to levy taxes and issue bonds.

Ad Valorem Based Bonds

In the 1980s, MUDs in Texas lacked sufficient oversight, notably those utility districts in the City of Houston and surrounding areas where they have historically been most widely created in the state. In that decade, an economic downturn for Texas oil caused a decrease in property values and an increase in overall utility district debt. There are at least 18 defaults recorded on issued MUD bonds throughout the 1980s.

To remedy these issues and prevent future collapse, public and private entities collaborated to identify appropriate oversight aimed at stabilizing the industry that provides critical public services.

By the end of the 1980s, in partnership with industry practitioners, the TCEQ adopted a set of rules to stabilize ad valorem based MUD bonds, which included feasibility tests and limited the amount of debt that can be issued by a district to the amount that they can expressly support. As prescribed by the adopted agency rules, a MUD can only sell bonds once it has shown TCEQ that there exists sufficient value to support the debt and does so by having built the infrastructure, built the homes, and sold the homes.

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Additional actors involved include: the MUD board of directors that determines when it is appropriate to sell bonds to reimburse the developers; TCEQ which reviews the bond application report; and, once the bond sale is approved and executed, the Texas Attorney General who oversees final review and closure.

These TCEQ rules regarding ad valorem based MUD bonds are still in use today.

Assessment Based Bonds

Whereas the historical circumstances surrounding ad valorem based bonds necessitated state oversight, assessment based bonds have attempted to secure stability by being closely monitored by public and private players, particularly city officials, underwriters, and the market. In contrast to the MUD model, an assessment is made prior to infrastructure being placed that determines the feasibility of the project and bond sales. While MUDs are a political subdivision of the state, PIDs, which utilize assessment based bonds, are typically controlled by the municipality in which the PID is being created.

Beginning with the 81st Legislative Session, efforts were made by the legislature and stakeholders to revise the Texas statutes relating to assessment based bonds. Although the assessment based PID bonds market did not experience the same vulnerabilities and collapse as the ad valorem based MUD bonds market, according to testimony, the goal of the legislative efforts was to transfer risks involved away from the homeowner and onto the investor. According to testimony, since these revisions were put in place, cities and counties have issued approximately a billion dollars of special assessment bonds with no defaults.

Legislative Charge 3 directs the Committee to assess whether the current oversight in place for ad valorem based bonds and assessment based bonds are sufficient to ensure stability going forward.

Analysis:

On March 27, 2018, the Committee received invited and public testimony on Legislative Charge 3 from established practitioners including financial advisors, investment bankers, underwriters, and SPD representatives.

Ad Valorem Based Bonds

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Legislative Interim Charge 3 - Special Purpose Districts Bond Reform

In reviewing the effectiveness of the current TCEQ oversight over ad valorem based MUD bonds, key industry financial advisors and representatives offered praise for the adopted set of rules that have, for decades since adoption, not only prevented any utility district from defaulting on bonds, but helped create an industry with quality financing unlike any other in the country.

Additionally, the model helped shift the burden off the public and place it on private entities, forcing developers to have “skin in the game,” while ensuring a strong partnership is maintained.

As mentioned in testimony by Howard Cohen representing Schwartz, Page & Harding, LLP, the unprecedented success of Texas’ MUD bond market is attributable directly to the added regulations put in place by TCEQ in the late 1980s, and Texas remains the only state in the country with a governmental agency overseeing ad valorem based MUD bonds. Trey Lary, attorney with Allen Boone Humphries Robinson, LLP, described the effort as “healthy regulation.” This healthy regulation has allowed a majority of MUDs with ad valorem based bonds to obtain a credit rating from credit agencies such as Moody’s Investors Service, Inc. and Standard & Poor’s Financial Services, LLC. Quality ratings allow for the lowest possible interest rates, which in turn is a benefit to the consumer.

With the added safeguards in place, the TCEQ model has been tested in man-made and natural crises, including the 2008-2009 economic recession and Hurricane Harvey in 2017; in both instances, existing districts remained viable, resilient, and avoided defaults, while new districts continued to receive TCEQ-supported bond issues.

Moreover, the oversight provided by the Texas Legislature in its role in the creation of special law MUDs (that upon passage, are subject to the same TCEQ regulations) has proven successful with no problems reported by witness testimony.

Assessment Based Bonds

The witnesses who testified, including an underwriter and representative for cities, mentioned that assessment based PID bonds have also experienced success after legislative action. Witness Tripp Davenport representing FMSbonds, Inc., attributed the success of assessment based PID bonds to the standards placed on PIDs which “far exceed...state requirements,” such as those administered by TCEQ.

Furthermore, as detailed to the Committee in oral testimony, the PIDs' history of success is exemplified by the fact that there have been zero defaults since the legislature took action. Due to

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Legislative Interim Charge 3 - Special Purpose Districts Bond Reform

an assessment based bond being typically associated directly with a municipality, a municipality is thoroughly invested in avoiding defaults for any PIDs under their purview.

The following policy findings strictly address and echo the testimony the Committee received.

Findings:

- Testimony indicated that the high level of TCEQ oversight and financial scrutiny over MUD bonds has been successful with no defaults since the current TCEQ review process has been implemented. This gives assurances to the bond market that the MUD ad valorem tax bond sector is very stable, resolute, and has worked remarkably well in Texas.
- Testimony indicated that city standards that are required to go to market on PID bonds exceed the state MUD requirements put on by TCEQ and that there were no PID defaults.

Legislative INTERIM CHARGE 4

***Municipal Management District Uniformity:** In conjunction with the appropriate legislative departments, determine whether the development of a template or standardized language for the creation of municipal management districts would provide a more effective means for legislators to ensure new special purpose districts conform to accepted standards and contain appropriate taxpayer oversight.*

Background:

The Committee has standing jurisdiction in the Senate over a majority of SPD legislation, including, but not limited to, Municipal Management District (MMD) legislation. Furthermore, a majority of MMDs formed in Texas are established through the legislature by way of special law.

In an ever growing state, MMDs play a critical role in Texas in alleviating the residential and commercial needs of communities. As indicated by testimony heard during an interim hearing in a prior legislature, since their introduction in the Houston area in the late 1980s, MMDs have been used as a way for commercial property owners to collaborate and expand their business opportunities, as well as assist local political subdivisions provide certain services to its residents. Therefore, MMDs are commonly defined by the needs of the involved community stakeholders and are often created within the corporate boundaries of municipalities for the purpose of increasing economic development, ensuring public safety, and providing revitalization and beautification measures.

The most frequent SPD the Committee reviews is a MUD, which provides water, sewage, and drainage services for an area in either the incorporated or unincorporated area of a county.

During the 80th Legislative Interim, the Committee, then Chaired by Senator Royce West, formed a workgroup that developed template language for MUD creation legislation to allow for more effective Senate review. Since then, the legislature has utilized the MUD template with no notable concerns and frequent interim Committee review of the template has affirmed its effectiveness in ensuring consistent drafting with the goal of providing greater efficiency in governance. It is notable that the template has worked for MUDs as each development typically requests the same powers from the legislature, with slight deviation in requested authorities, if at all.

During the 81st Legislative Interim, the Committee, under the leadership of Chairman West, examined the feasibility of applying the MUD template model to the drafting of MMD legislation, similar to what the Committee has been charged to evaluate this interim. The Committee, at that

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time, found that a template for MMDs would be "unworkable" due to the varying needs local officials, business communities, and developers across the state. In full, the Committee reported the following:

“While the development of a template for municipal management districts would result in the optimal uniformity of districts, it is important to note that MMDs are often created in consultation with local governments, so a complete standardization of the language used in management district creation bills, similar to what was achieved through the creation of the municipal utility district template prior to the 81st Legislative Session, would be unworkable.”

As an alternative solution, the Committee found that the legislature would benefit from the utilization of "standard language" that could also be used in drafting MMD creation legislation. Standard language takes the most commonly requested powers for MMDs and makes drafting consistent throughout all MMD creation legislation, as applicable. The use of MMD standard language has been in use ever since.

Legislative Charge 4 asks the Committee to evaluate whether the legislature can improve oversight of MMD creation legislation, possibly by developing and implementing a drafting template for use going forward.

Analysis:

On August 14, 2018, the Committee received invited and public testimony on Legislative Charge 4.

In responding to the call of the charge and to identify the most appropriate way to proceed, the Committee heard from stakeholders on their perspective of whether a template is feasible for MMDs, and whether it would be a benefit or hindrance for practitioners and stakeholders as they assist in the creation of those districts.

Upon outlining the successes of MMD standardized language since its adoption, the practitioners offered their support for the continued use of standardization of commonly requested MMD authorities. As MMDs request tailored authorities in order to fulfill the goals of its development purpose, standardized language has worked as a fungible, transparent solution that allows a unique district to have specialized legislation drafted while maintaining some overall consistency with other MMD legislation through widely utilized provisions.

REPORT ON COMMITTEE INTERIM CHARGES

Legislative Interim Charge 4 - Municipal Management District Uniformity

Additionally, when asked if the legislature has made appropriate updates to the adopted standardized language, testimony indicated that the legislature has occasionally researched the topic and made changes accordingly. Some witnesses noted that standardization could possibly be attempted in the future, if at all, by trying to align certain language for MMDs as it is found in the template for MUDs.

Another common theme expressed by the practitioners throughout their testimony was the need for the Committee (in its study of the feasibility of a potential MMD template) to remain cognizant of the fundamental differences between MUDs and MMDs. While MUDs are consistently created for the purpose of providing water, sewage, and drainage services, MMDs vary widely depending on development location, finance plans, and commercial purpose. Due to these practical differences, the practitioners cautioned the Committee of proceeding with a template for MMDs without considering the higher need for flexibility when drafting MMD creation legislation.

Other participants informed the Committee that in the event a template is adopted, the principles that should be pursued for MMDs should include transparency, periodic state review, and a clear process for dissolution of the district.

The following policy finding addresses and echoes the testimony the Committee received.

Findings:

- Testimony indicated that there exists no problem or consensus to justify an MMD template for creation legislation.

ATTACHMENTS

Attachment 1

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE G. ECONOMIC DEVELOPMENT PROGRAMS INVOLVING BOTH STATE
AND LOCAL GOVERNMENTS

CHAPTER 2306. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

[...]

SUBCHAPTER X-2. NATURAL DISASTER HOUSING RECONSTRUCTION
INITIATIVE

Sec. 2306.541. NATURAL DISASTER HOUSING RECONSTRUCTION
ADVISORY COMMITTEE. (a) The director shall appoint a natural
disaster housing reconstruction advisory committee composed of
representatives from appropriate local, state, and federal
entities and organizations and nonprofit organizations.

(b) The advisory committee shall develop a natural
disaster housing reconstruction plan. In developing this plan,
the advisory committee shall:

(1) evaluate existing systems of providing temporary
housing to victims of natural disasters and develop alternative
systems to increase efficiency and cost-effectiveness;

(2) evaluate existing models for providing permanent
replacement housing to victims of natural disasters;

(3) design alternatives to existing models to improve
the sustainability, affordability, desirability, and quality of
housing rebuilt in the event of future natural disasters;

(4) evaluate economic circumstances of elderly,
disabled, and low-income victims of natural disasters and
develop models for providing affordable replacement housing;

(5) recommend programs for the rapid and efficient
large-scale production of temporary and permanent replacement
housing following a natural disaster; and

(6) encourage the participation, coordination, and involvement of appropriate federal organizations.

(c) Chapter [2110](#) does not apply to the advisory committee.

Added by Acts 2009, 81st Leg., R.S., Ch. 1135 (H.B. [2450](#)), Sec. 2, eff. September 1, 2009.

Sec. 2306.542. HOUSING RECONSTRUCTION DEMONSTRATION PILOT PROGRAM. (a) Using the natural disaster housing reconstruction plan developed under this subchapter, the director and advisory committee shall develop, for implementation under Subsections (b) and (c), housing reconstruction demonstration pilot programs for three areas, each of which was affected by one of the three most recent federally declared natural disasters. The pilot programs must provide for the replacement of at least 20 houses in each area to test the feasibility of implementing the plan in the large-scale production of replacement housing for victims of federally declared natural disasters.

(b) The department shall provide to an interested council of government, county, or local government eligible for funding for disaster recovery under the community development block grant program:

(1) information regarding a pilot program developed under Subsection (a); and

(2) assistance in implementing a pilot program developed under Subsection (a).

(c) At the discretion of the board, the department may implement a pilot program in any of the three most recently federally declared disaster areas in which a pilot program has not been implemented by a council of government, county, or local government. The department may use any available funds to implement the pilot program.

Added by Acts 2009, 81st Leg., R.S., Ch. 1135 (H.B. [2450](#)), Sec. 2, eff. September 1, 2009.

Attachment 2



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

www.tdhca.state.tx.us

Greg Abbott
GOVERNOR

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November 15, 2017

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The Honorable Eduardo A. "Eddie" Lucio, Jr.
Chairman, Senate Committee on Intergovernmental Relations
Texas Senate
P. O. Box 12068
Austin, Texas 78711

Dear Mr. Chairman:

As you requested at the meeting of the Senate Committee on Intergovernmental Relations held in Victoria, Texas, on November 1, 2017, I have personally reviewed the report of the Natural Disaster Housing Reconstruction Advisory Committee (the "NDHRAC") Report dated November 30, 2010 (copy attached). As you know the NDHRAC was created by statute in the 81st regular session, a time when this agency had a central role in recovery from natural disasters, administering the housing portion of Community Development Block Grant – Disaster Recovery funds appropriated to the State of Texas for recovery from hurricanes Dolly, Gustave, and Ike. During the 82nd regular session, Governor Perry reassigned responsibility for that activity to the General Land Office ("GLO"), and since that time GLO has been the state's lead agency for those matters. I point out this background to call attention to the fact that although I have circulated the NDHRAC Report to my key staff members for their ideas and insights, GLO has far greater knowledge about such matters in today's environment.

That said, my observations are as follows:

- 1) Creation of a single shared database for persons who meet income and means qualifications for assistance programs could be an extremely useful tool. Such a tool could provide a single site where one could determine at a glance:
 - a. Who in a community was at an income and means level that had already been verified as qualifying them (at the time) them for a given disaster assistance program;
 - b. How to reach them; and
 - c. As additional assistance was provided, being able to keep track of how their benefit eligibility under the Stafford Act was being impacted.

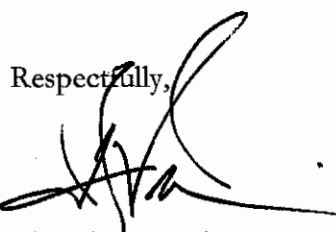
Of course such a database would need to be created in a manner that would protect confidential information, including protected information under HIPAA or other similar laws. If such a concept were pursued, it would seem logical to have the state's principal information technology



agency involved along with the agencies administering such means tested programs. Additionally, the Texas Workforce Commission ought to be considered for a role in any such endeavor.

- 2) It does not make good financial sense that the federal Stafford Act would not allow a temporary housing solution to become a permanent housing solution, but if federal legislation does not address this federal shortcoming, there may be things we could do at the state level to reconfigure a solution like Rapido to make it Stafford Act eligible. For example under SB 521 (78R) a mechanism was created to enable a manufactured housing unit to be titled as personal (temporary and moveable, as required by the Stafford Act) or real property (permanent housing). Such an approach might form the basis for Rapido's being able to meet both needs. In order to ensure that a "temp-to perm" solution would be effective it would be prudent to engage local governments, perhaps through the Texas Municipal League, to ensure that local zoning and permitting variations are considered and that local officials have a good sense of how such resources and programs would impact their jurisdictions.
- 3) It makes sense to explore developing stronger ties between Councils of Governments and Community Action Agencies ("CAAs"), possibly using CAAs to assist with case management for disaster impacted low income households. Consider using CAAs (or some other suitable case managers) to assist impacted households in decision making about possible relocation to sites less prone to flooding.
- 4) Procurement of disaster-related goods and services by both state and federal entities at the same time presents special issues and concerns. How can pre-positioned contracts be procured so that the parties obtaining those goods and services can truly rely on them both as to timely availability and as to pricing? Also consider the importance of warranty work relating to goods and services provided in response to a disaster.

Please let me know if you have additional questions or requests on these or any other matters.

Respectfully,

Timothy K. Irvine
Executive Director

cc (w/att.): Members of the Senate Committee on Intergovernmental Relations
Dan Esparza
Dilip Kanuga
Julie Frank

Natural Disaster Housing Reconstruction Plan



As required by HB2450, 81st Legislative Session
Submitted by the Natural Disaster Housing Reconstruction
Advisory Committee
November 30th, 2010

Natural Disaster Housing Reconstruction Advisory Committee Membership

Barbara Crews, Chairperson
Galveston County Restore and Rebuild

Holly Bell, Member
University of Texas at Austin, School of Social Work

Frank Cantu, Member
Texas Department of Public Safety

Stephan Fairfield, Member
Covenant Community Capital

Tom Hatch, Member
Hatch & Ulland Owen Architects

John Henneberger, Member
Texas Low Income Housing Information Services

Duke Mazurek, Member
FEMA Region 6 Recovery Division

Nick Mitchell-Bennett, Member
Community Development Corporation of Brownsville

Sterling Patrick, Member
City of Galveston, Grants & Housing Department

D.J. Pendleton, Member
Texas Manufactured Housing Association

Madison Sloan, Member
Texas Appleseed

Chuck Wemple, Member
Houston-Galveston Council of Governments

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Background

STATUTORY DIRECTIVE

The Natural Disaster Housing Reconstruction Advisory Committee was created by the 81st Legislature's HB 2450, authored by Representative Craig Eiland and Representative Ryan Guillen, and sponsored by Senator Eddie Lucio Jr. The Advisory Committee members were appointed by the Executive Director of the Texas Department of Housing and Community Affairs (TDHCA) with the purpose of developing a Natural Disaster Housing Reconstruction Plan.

In the process of developing this plan, the advisory committee was tasked with the following duties:

- Evaluate economic circumstances of elderly, disabled, and low-income victims of natural disasters and develop models for providing affordable replacement housing;
- Evaluate existing systems of providing temporary housing to victims of natural disasters and develop alternative systems to increase efficiency and cost-effectiveness;
- Evaluate existing models for providing permanent replacement housing to victims of natural disasters;
- Design alternatives to existing models to improve the sustainability, affordability, desirability, and quality of housing rebuilt in the event of future natural disasters;
- Encourage the participation, coordination, and involvement of appropriate federal organizations; and
- Recommend programs for the rapid and efficient large-scale production of temporary and permanent replacement housing following a natural disaster.

HB 2450 further states that once completed, this Natural Disaster Housing Reconstruction Plan will be used by the Executive Director and Advisory Committee to develop a Housing Reconstruction Demonstration Pilot Program to test the feasibility of implementing the plan for “the large-scale production of replacement housing for victims of federally declared natural disasters.”¹

COMMITTEE ACTIVITIES

From June to August of 2010, the Advisory Committee conducted a series of conference calls to deliberate on each of its legislatively appropriated duties and gather research on each topic. After discussing the key topics involved in reconstructing housing after a natural disaster, the Committee decided to hold three community roundtables in areas affected by recently federally declared natural disasters: Hurricanes Rita, Ike, and Dolly. The Committee completed the following community roundtable schedule:

- Harlingen Roundtable – Wednesday, August 25th, 2010, 11:00am – 1:00pm
 - Harlingen Public Library Auditorium, 410 676 Dr, Harlingen, TX 78550-5072

¹ Texas Government Code, Sec. 2306.542. Housing Reconstruction Demonstration Pilot Program. <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2306.htm>

- Houston Roundtable – Tuesday, August 31st, 2010, 10:30am – 1:00pm
 - Houston-Galveston Area Council, 3555 Timmons, Conf. Room A, Houston, TX 77027
- Galveston Roundtable – Thursday, September 2nd, 2010, 11:00am – 1:30pm
 - McGuire-Dent Recreation Center, 2222 28th Street, Galveston, TX 77550-7707

In order to get a clear understanding of current housing rebuilding activities after Hurricane Ike, the Galveston Community Roundtable was followed by a tour of a Hurricane Ike home in San Leon, TX. This was a modular home constructed by Oak Creek Homes and funded by the Galveston County Disaster Housing Department's allocation of Hurricane Ike Round 1 Community Development Block Grant funding.

Finally, during September and October of 2010, the Advisory Committee held two in-person meetings to formulate a set of recommendations for the Housing Reconstruction Plan, taking into account previous research gathering efforts and testimony heard during the community roundtables. After these meetings, staff compiled these recommendations and completed the full Housing Reconstruction Plan, which was then submitted to the Executive Director of the Texas Department of Housing and Community Affairs.

Chapter #1: Evaluating existing systems of providing temporary housing to victims of natural disasters

This chapter of the Plan discusses the existing systems used by FEMA to provide immediate, temporary housing following Hurricanes Katrina and Rita, primarily drawing from information gathered by the U.S. Government Accountability Office and testimony given to the Ad Hoc Subcommittee on Disaster Recovery of the U.S. Senate Committee on Homeland Security and Governmental Affairs. Particularly, this section looks at the consequences of flawed policy and financing decisions made at the federal level to temporarily house disaster victims. These consequences include delays in the allocation of assistance, miscommunication regarding consumer eligibility, confusion and frustration on the part of consumers, service providers, and local public officials, and ultimately a failure to aid those who needed it most. Within this chapter, the unique circumstances of low income individuals, persons with disabilities, and persons who are elderly are discussed.

Findings

BACKGROUND – THE 2005 HURRICANE SEASON

Between August 29th and November 1st, 2005, at least 400,000 people were evacuated due to Hurricane Katrina, Rita, & Wilma and thousands remained in a transitional state following these disasters, not knowing when or if they could return home. Those with the fewest resources experienced the highest level of uncertainty. Additionally, the victim's of the storm most in harm's way and most neglected by the government's response were poor and Black, many of whom were elderly or disabled.²

From September 2005 to March 2006, FEMA received over 2.6 million applications for individual disaster assistance, 66% due to Katrina. The Congressional Research Service (CRS) estimated that of the 711,698 individuals acutely impacted by Katrina, 21% had incomes at or below the poverty level and another 20% were between 100-199% of federal poverty. Additionally, of the approximately 700,000 people who lost their homes, an estimated 300,000 were low income or very low income. In the end, housing that

Affects of Hurricanes Katrina & Rita on Low Income Individuals

Before Hurricanes Katrina and Rita, those living along the Gulf Coast were already facing issues of poverty, especially amongst women: 16.2% of women in the Beaumont-Port Arthur MSA lived below the poverty line and 34.7% of female-headed families with children in that MSA lived below the poverty line. Texas ranked 44th out of 50 states for the percent of women living below the poverty line, and particularly the earnings of African-American and Hispanic women in Texas failed to exceed the national average.

Additionally, low income residents had fewer choices with respect to how to prepare for the imminent arrival of Hurricanes Katrina and Rita. People living in social isolation and poverty, especially the elderly and the disabled, have scarce economic resources and locally concentrated social networks and are therefore less able to recuperate their losses after a hurricane. Since Katrina hit at the end of the month, many residents in Louisiana who live paycheck to paycheck had scarce resources for evacuating. Furthermore, low income individuals are least likely to own vehicles, making voluntary evacuation more costly and logistically more difficult.

(Source: There is No Such Thing as a Natural Disaster: Race, Class, and Hurricane Katrina, 2006)

² Crowley, Sheila, "Chapter 7: Where is Home? Housing for Low-Income People after the 2005 Hurricanes," Routledge Taylor & Francis Group, There is No Such Thing as a Natural Disaster: Race, Class, and Hurricane Katrina, 2006

was affordable to low-income people comprised the majority of what was destroyed. The National Low Income Housing Coalition found that over 300,000 housing units were seriously damaged or destroyed by Katrina, 73% of the total housing stock in the areas affected. Of those damaged or destroyed units, 71% were affordable to low-income households, including 57% ownership units. Additionally, in March 2006 HUD reported that 27 public housing authorities (PHAs) in Alabama, Louisiana, Mississippi, and Texas had over 13,600 units that sustained catastrophic or major damage.

After Katrina, those living below the poverty line face even more dire economic circumstances. In many of the areas of Texas where the most evacuees were relocated, they were faced with high poverty rates, particularly for women and female-headed households (Dallas, Fort Worth, Houston, and San Antonio all had over 40% poverty rate for female-headed households).

TEMPORARY HOUSING PROVISION^{3,4}

The Stafford Act authorizes FEMA to expend federal funds to provide assistance to state and local communities once the President has issues a disaster declaration. Temporary housing assistance through FEMA takes two forms, the first of which is Section 403 – Public Assistance (PA) Program.⁵ Section 403 makes funds for emergency shelter available to states, local governments, and social service agencies. Section 403 has no individual eligibility requirements and no limitations/caps on the amount of federal funding provided.

Group Sites

About 72% of group site households in Louisiana and 84% in Mississippi reported being pre-disaster renters, many of which had low incomes, were elderly, or had a disability. The reported average income of households on group sites was less than half of the Louisiana state average and less than two-thirds of the Mississippi state average. Those who remained in the group sites the longest were those with limited income and limited choices to find stable employment and permanent housing.

(Source: GAO-09-796, August 2009)

- Manufactured Housing – Factory built housing designed for long-term residential use. This type of housing must be located on sites that are not in a designated floodplain area.
- Recreational Vehicles – Include park model and travel trailers; are designed for short-term use when no other options are available.
- Private Site – Unit is placed on an individual’s private property if the site is feasible and local authorities approve.
- Group Site – Unit is placed at a site FEMA has built to house multiple households. FEMA’s policy is to use commercial manufactured housing or recreational vehicle parks whenever possible, rather than build sites on parks, playgrounds, ball fields, and parking lots.

Recreational Vehicles & Manufactured Housing: During the recovery effort following Hurricanes Katrina and Rita, recreational vehicles and manufactured housing were the two most common

³ Crowley, Sheila, “Chapter 7: Where is Home? Housing for Low-Income People after the 2005 Hurricanes,” Routledge Taylor & Francis Group, There is No Such Thing as a Natural Disaster: Race, Class, and Hurricane Katrina, 2006

⁴ US Government Accountability Office, GAO-09-796, “Disaster Housing: FEMA Needs More Detailed Guidance and Performance Measures to Help Ensure Effective Assistance after Major Disasters,” August 2009.

⁵ “Far from Home: Deficiencies in Federal Disaster Housing Assistance After Hurricanes Katrina and Rita and Recommendations for Improvement,” Special Report by the Ad Hoc Subcommittee on Disaster Recovery of the US Senate Committee on Homeland Security and Governmental Affairs, February 2009.

forms of emergency temporary housing units deployed by FEMA. In most cases, FEMA placed these units on private property near the household's home (115,400 households); however 25,000 households were placed in units at over 700 group sites, including stadium grounds, school fields, and preexisting trailer parks. FEMA was unable to meet the demand for trailers, with a waiting list of over 40,000 in Louisiana. Additional problems with the FEMA trailers included being placed in unsuitable environments, resistance from local communities, inaccessible to individuals with physical disabilities, and being structurally unsuitable for hurricane-prone areas which created an unsafe living environment.

Hotels & Motels: Roughly 85,000 displaced families were placed in hotels paid for by FEMA Section 403 funds. FEMA's attempts to end this program in December 2005 resulted in a lawsuit. FEMA announced numerous deadlines for hotel aid, causing confusion and worry among hotel dwellers.

Rent Assistance: An estimated 60,000 units were rented by states, local governments, and social service agencies that agreed to pay landlords directly in anticipation of reimbursement from FEMA. After the Department of Homeland Security criticized allowing one-year leases, FEMA stated that leases would only last three months causing confusions and distress amongst landlords who were uncertain if their leases would be honored. Although FEMA was supposed to transition people from Section 403 to Section 408 Temporary Housing Assistance, 18,000 of the 55,000 households under Section 403, most of them low income, were deemed ineligible for IHP rental assistance and thus received no housing assistance after April 2006.

TRANSITIONAL HOUSING PROVISION^{6,7}

The second type of temporary housing assistance through FEMA is Section 408 – Transitional Housing Program. Section 408 makes transitional housing available directly to displaced people who meet certain criteria. The amount of assistance provided through Section 408 is based on factors such as assessments of damage, financial need, and fair market rent and individuals/households are eligible if their pre-disaster residence is rendered uninhabitable.

Following Hurricanes Katrina and Rita, the Section 408 was split into two distinct types of assistance: the first part, administered by FEMA, provided direct assistance to eligible evacuees. Part two, administered by HUD, provided voucher-like aid to eligible displaced households that were receiving HUD assistance prior to the hurricane. Despite the fact that government appropriated \$3.5 billion to fund 350,000 Housing Choice Vouchers for Katrina evacuees, this program was not used under Section 408.

Section 408 Transitional Housing Program – Part One:

FEMA provided \$2,358 to each eligible household for 3 months rent; this amount equaled the national Fair Market Rent (FMR) for a two bedroom unit. Eligibility was determined as those who

⁶ "Far from Home: Deficiencies in Federal Disaster Housing Assistance After Hurricanes Katrina and Rita and Recommendations for Improvement," Special Report by the Ad Hoc Subcommittee on Disaster Recovery of the US Senate Committee on Homeland Security and Governmental Affairs, February 2009.

⁷ Crowley, Sheila, "Chapter 7: Where is Home? Housing for Low-Income People after the 2005 Hurricanes," Routledge Taylor & Francis Group, *There is No Such Thing as a Natural Disaster: Race, Class, and Hurricane Katrina*, 2006

owned or rented a home that FEMA verified as uninhabitable, however there was no clear way for determining uninhabitable units, as no inspections were undertaken. Once this error emerged, a change in policy caused further funding allocation delays and inconsistent information dissemination. Many individuals didn't know if money could be used for things other than housing and since checks were mailed weeks before FEMA's instructions were sent, many households had already spent their funds.

People who received the initial \$2,358 had to go back to FEMA to be recertified for additional assistance. No eligibility or application procedures for ongoing assistance were ever published. Many evacuees were denied assistance, either when converting from 403 to 408 or via recertification under 408 because FEMA claimed they could go home. However, in many cases, homes were still not habitable, former landlords had raised rents or rented out the property to other people, and there were no assurances of jobs or schools.

Section 408 Transitional Housing Program – Part Two:

HUD created the Katrina Disaster Housing Assistance Program (KDHAP) for those individuals who were previously in public housing, Section 8 project based aid, Housing Choice Vouchers, Section 202, Section 811, etc. Also eligible were homeless persons who participated in HUD-funded homeless service programs. However, between 6,000 to 10,000 people resided in the affected areas who were homeless and not previously participants in HUD programs, thus ineligible for disaster aid.

Many barriers existed to families receiving KDHAP assistance. First, PHAs were required to participate and many were reluctant to become involved because there was no guarantee of assistance past the first few months and the funds provided didn't cover the cost of security deposits or utility payments, nor the search assistance needed to place a family in a home. Therefore, only 355 PHAs out of 2,600 nationwide agreed to administer KDHAP. Second, families had to know to affirmatively apply for KDHAP, separately from FEMA registration as there was no assurance that FEMA would tell a family how to apply or if they were eligible. Finally, due to PHAs' reluctance to work with homeless or previously homeless, HUD created another program called KDHAP-SN (special needs), but no guidance was issued for this program until 6 months after the hurricane hit. Because no guidance was given on how an eligible person would know that they were eligible or how to find the administering agency to contact, yet another service barrier to the most vulnerable of displaced people.

POLICY DESIGN FLAWS LIMIT ASSISTANCE TO LOW INCOME INDIVIDUALS

As the Section 403 and 408 programs were administered, many flaws appeared in the design of program rules and regulations. First, the eligibility criteria for Section 408 did not cover people who were neither homeowners nor renters – those low income persons “doubling up.” Doubling up is a common housing practice where more than one household resides in the same place because neither can afford their own homes. However, under FEMA, if two households register and give the same address, one household was disqualified – the “shared household” rule.

Second, since most urban housing markets rents far exceed the national Fair Market Rent (FMR), which is the standard used for FEMA assistance, many households receiving assistance weren't assured that they would be able to afford the rent. Additionally, FEMA funding was not allowed for

security deposits or utilities, both of which can be quite costly, further burdening poorer households. Third, FEMA only provided assistance in 3 month increments, which deterred a large number of landlords from agreeing to rent to evacuees who depend on FEMA rental assistance, due to the lack of certainty regarding when and if the assistance would be extended or renewed. Furthermore, in many locations close to the affected disaster area, the influx of evacuees and lack of vacancy caused the cost of rental housing skyrocketed much higher than the FMR.

Finally, after the initial appropriation of federal disaster relief funding, the first rebuilding supplemental appropriation, approved on December 30, 2005, reallocated \$17.1 billion to hurricane rebuilding efforts. However, the bill reduced income-targeting for the use of CDBG funds from 70% of funding to low and moderate income households, to 50% of funding. Additionally, HUD had the authority to waive the 50% requirement if a state could demonstrate compelling need. These policies effectively limited the number of low-income individuals and families receiving assistance.

THE AFTERMATH - FEMA'S NATIONAL DISASTER HOUSING STRATEGY

Acknowledging the many failures that occurred in the housing recovery effort following the 2005 hurricane season, Congress passed the Post-Katrina Emergency Management Reform Act (PKEMRA) in October 2006. PKEMRA required that FEMA develop, coordinate, and maintain a 'national disaster housing strategy' that describes, among other things, plans for the operation of temporary housing options, such as travel trailers. On January 16, 2009, FEMA released the final version of its *National Disaster Housing Strategy*, which among other things, outlines the most efficient and cost-effective way to best meet the short and long-term housing needs of individuals and households affected by a major disaster. However the Strategy does not identify alternatives to travel trailers because evaluations are ongoing, nor does it provide clear guidance on what other temporary housing options states should use instead of travel trailers while FEMA completes these assessments. The Strategy also fails to describe the specific conditions where trailer would be a viable option or those situations where trailer should not be used.

The Government Accountability Office found this gap in FEMA's Strategy troubling, seeing as travel trailers in group sites are the least preferred temporary housing option when it comes to suitability.⁸ The GAO found that after the 2005 hurricanes, travel trailers were placed in isolated locations and lacked access to needed services. However, FEMA's Strategy does not recommend any replacement option that would be deployable on the scale needed to respond to a major disaster.

The GAO study identified three factors to be used to assess how trailers in group sites compared with possible alternative temporary housing options:

- Cost – Total cost to the government for purchasing, installing, maintaining and deactivating the housing unit. The average unit cost for trailers ranged from \$75,000 to \$84,000, while the monthly rents for existing housing units were based on HUD fair market rent levels.

⁸ US Government Accountability Office, GAO-09-796, "Disaster Housing: FEMA Needs More Detailed Guidance and Performance Measures to Help Ensure Effective Assistance after Major Disasters," August 2009.

- Availability – Assessing the viability of temporary housing options. FEMA faced obstacles in locating victims close to their home communities as well as confronted unwillingness on the part of local landlords to participate in the program.
- Suitability – Temporary housing options must be in close proximity to work or transportation routes, to access health and social services. The GAO recommended utilizing existing administrative networks, like PHAs, to help find suitable housing.

The GAO study concluded by acknowledging that no single alternative to travel trailers was best suited to provide temporary housing after a disaster, but that a mix of housing options should be considered. However, while FEMA policy states that travel trailers will be used as a last resort, officials acknowledged that trailers will continue to be used following a catastrophic disaster as a main source of temporary housing.⁹

CONCLUSION

Fundamental to the future of housing in those areas affected by natural disasters, particularly along the Gulf Coast, is the question of who has the right to return. Is each displaced person who wants to come home going to be welcome? Low income housing organizations are faced with the conundrum of how to preserve affordable housing for the lowest income people, including persons who are elderly and persons with disabilities. Unless innovative housing options are implemented, the probability that enough new housing affordable to the lowest income people will be built to replace the numbers of affordable units they could afford that were lost is very low.

⁹ “Far from Home: Deficiencies in Federal Disaster Housing Assistance After Hurricanes Katrina and Rita and Recommendations for Improvement,” Special Report by the Ad Hoc Subcommittee on Disaster Recovery of the US Senate Committee on Homeland Security and Governmental Affairs, February 2009.

Chapter #2: Efforts to develop alternative temporary housing models for victims of natural disasters

JOINT HOUSING SOLUTIONS GROUP (JHSG)¹⁰

As mentioned in the previous chapter, following Hurricanes Katrina and Rita emergency housing needs were largely satisfied by the use of travel trailers, manufactured housing, and park model homes. While each of the types of housing had advantages for specific applications, it could be argued that those units were purchased based largely on their availability.¹¹ Based on the experiences in the Gulf Region, the Federal Emergency Management Agency (FEMA) created the Joint Housing Solutions Group (JHSG) in September 2006, to assess potential housing products and producers. The JHSG was created with the mission of improving FEMA's disaster housing assistance capacity by increasing the range of housing options it can provide to individuals and communities impacted by disasters.

One of the main accomplishments of the JHSG was to update the Housing Assessment Tool (HAT 2.0), a survey instrument intended for housing developers which contains 186 questions about the major aspects of potential housing products. This tool uses four criteria, including Range of Use (adaptability under various conditions), Livability (how well units accommodate for a household's daily living essentials), Timeliness (how fast units can be made ready for occupancy) and Cost (how cost-effective the unit is in absolute terms and relative to other housing options). The revised HAT was deployed February 20, 2009.¹²

Other duties completed by the JHSG included the creation of a Disaster Housing Scoping Tool to help define and project housing needs following a disaster. The primary function of the Tool is to assist FEMA planning teams to more systematically and accurately predict if a direct housing mission is required, as well as project the parameters of this mission. Additionally, JHSG created Occupant Surveys to assess the problems incurred by tenants of temporary housing and their overall satisfaction, assessed the potential of alternative temporary units, updated baselines for Alternative Housing Unit RFP, and released solicitation for Improved Travel Trailers.

As published in the 2007 FEMA Disaster Assistance Directorate (DAD), the JHSG identified seven action items that FEMA should consider implementing to leverage the lessons and knowledge gained from JHSG assessments to strengthen its temporary housing mission.¹³ They include:

- Development of Alternative Housing Options Strategy - This strategy would pull together the housing stakeholders, establish concrete alternative housing options objectives, and lay out a

¹⁰ Federal Emergency Management Agency, "Alternative Housing Pilot Program," A presentation at the National Hurricane Conference, April 9, 2009.

<http://www.hurricanemeeting.com/files/09Presentations/K1%20Naomi%20Johnson%20Ryan%20Buras.pdf>

¹¹ U.S. Department of Housing and Urban Development, Office of Policy Development and Research, "Joint Housing Solutions Group," *Cityscape: A Journal of Policy Development and Research*, Vol. 9, No. 3, 2007.

<http://www.huduser.org/periodicals/cityscape/technotes/JHSG.pdf>

¹² Federal Emergency Management Agency, Housing Assessment Tool, "Joint Housing Solutions Group," www.asd.fema.gov/inter/hat/public/aboutJHSG.htm

¹³ Federal Emergency Management Agency, "Disaster Assistance Directorate," http://www.fema.gov/media/fact_sheets/dad.shtm

plan for choosing alternative housing options, exploiting or creating new alternative housing opportunities, and operating within the context of the National Disaster Housing Strategy.

- Continued Identification and Assessment of Potential Alternative Housing Units
- Pilot of Most Promising Alternative Housing Unit(s)
- Development of Performance Specifications for New Alternative Housing Units (Other Than Travel Trailers, Park Models and Manufactured Homes)
- Procurement Plan for Pilot and Full Implementation of Alternative Units
- Increased Coordination Between JHSG and Alternative Housing Pilot Program (AHPP)
- Public Information and Outreach

Finally, beginning in 2009, JHSG awarded four contracts to TL Industries, Frontier RV, Harbor Homes, and D&D Disaster Services for the manufacture of low emission travel trailers.¹⁴ JHSG developed new performance specifications, including requirements to eliminate the use of formaldehyde emitting materials, maintain continuous air exchange, install venting and HVAC systems that meet HUD standards, and test air quality of units. FEMA intends to order at least 100 units from each contract award, with the ability to order 6,000 units, divided equally among contractors, each year for five years.

FEMA – ALTERNATIVE HOUSING PILOT PROGRAM (AHPP)¹⁵

In 2006, Congress appropriated \$400 million for a four year pilot program (Public Law 109-234) to identify and evaluate better ways of housing disaster victims. The objectives of AHPP are to:

- (1) Evaluate the efficacy of non-traditional short and long-term housing alternatives,
- (2) Identify, develop, and evaluate alternatives to and alternative forms of FEMA disaster housing,
- (3) Consider the feasibility of these options as a part of housing assistance that could be made available by federal agencies or state agencies for other disasters,
- (4) Assure that pilot projects address the needs of a variety of populations, such as persons with disabilities and the elderly, and historically underserved populations

FEMA stated that the program's implications were to increase federal options for the types of disaster recovery units, augment recovery knowledge through evaluation of the program's impact on residents' quality of life, increase capacity at the state and local level, and enhance collaboration amongst federal, state, and local governments and the private sector.

Background of AHPP

On September 15, 2006, the AHPP Guidance and Application Kit issued and by October 20th, 29 projects were submitted to FEMA. Ultimately, five projects were chosen in four states: Louisiana, Mississippi, Texas, and Alabama. Projects were scored based on five factors, including: the manner in which they improve upon existing temporary housing and long term recovery; the extent to which the option can provide ready for occupancy housing with time frames and in quantities sufficient to meet disaster needs; the life cycle cost, including cost to acquire, transport, install, and

¹⁴ RV Business, "FEMA Awards Contracts to Four Trailer Makers," April 8, 2009, www.rvbusiness.com/2009/04/fema-awards-contract-to-four-trailer-makers

¹⁵ FEMA, "Alternative Housing Pilot Program," A presentation at the National Hurricane Conference, April 9, 2009

maintain housing; the capacity of the approach to be utilized in and adapted to a variety of site conditions and locations; and the extent to which local officials and communities are part of or support the program.

As one of the goals of the AHPP was to enhance cross-agency collaboration, FEMA and HUD explored the possibility for greater partnership through the program's implementation and evaluation. Both agencies played a role in funding the projects, monitoring compliance, providing technical assistance, evaluating the results of the program, and perform national outreach to disseminate these results. Additionally, the state grantee was given a significant role in administering the AHPP. States managed the project by submitting input on the design of units, selecting suitable sites for placement, select eligible applicants, and maintaining the general scope of the project. The state grantees were also responsible for ensuring that project met the various program requirements, including environmental and accessibility standards. A final report of the impacts and success of the AHPP is expected to be released by FEMA and HUD in December of 2011.

Projects Undertaken through AHPP^{16,17}

City of Bayou La Batre Project, Alabama. Bayou La Batre was awarded \$15.67 million to develop 194 single-family modular homes built using cement fiber materials. The one and two bedroom layouts are immediately deployable as temporary housing, while the three and four bedroom layouts could be permanently installed and are UFAS compliant. Homes are transported on one truck and can be deconstructed and reset on another foundation. In terms of siting, Bayou La Batre proposed building a disaster housing group site, outside the storm surge zone, that can also serve as a permanent sub-division for families. The state claimed that this project gained substantial community support.

Cypress Cottage Partners Project, Louisiana. Cypress Realty Partners were awarded \$74.54 million to develop and manage 475 infill housing units in four locations: the Treme neighborhood, Jackson Barracks, Lake Charles, and Abbeville. The project designed two housing models, the Katrina Cottage (single family home with 2 and 3 bedroom layouts) and the Carpet Cottage (one story multifamily offering 1, 2, and 4 bedroom layouts). Cypress promoted these multiple layouts as allowing for the provision of disaster housing to a diverse population. A partnership between Cypress Group and Lowe's created production capacity to build and deploy these Cottages quickly. Finally, the state sought to facilitate affordable homeownership of these cottages through the eventual decommissioning of units for use as permanent housing.

Green Mobile Project, Mississippi. Referred to as the Mississippi Eco-Cottage, this project was awarded \$5.89 million to create 100 energy efficient and affordable housing units that can serve as temporary or permanent dwellings. Eco-Cottages emphasized innovative site design, green building technologies, durability, and interior design that can be adapted to a variety of family needs. Additionally, plans were non-proprietary, allowing the designs to be used nationwide.

¹⁶ Department of Homeland Security, Office of Inspector General, OIG-07-39, "Evaluation of the Federal Emergency Management Agency's Alternative Housing Pilot Program," April 2007.

¹⁷ FEMA, Fact Sheet – Awards, "Selected Grant Awards for Alternative Housing Pilot Project," www.fema.gov/media/fact_sheet/ahpp_awards.shtm

Heston Group Project, Texas. The Heston Group was awarded \$16.47 million to construct 250 single-family, pre-fabricated, panelized housing units. Featured designs were two, three, and four bedroom layouts, all UFAS compliant, which can each fit into an 8' x 20' shipping container. The Heston Group maintained that these housing units could be transported by truck, barge, or train, ensuring quick delivery. Additionally, units could be pre-positioned, stored flat, and reused. Finally, Heston Group boasted that these houses could be constructed in 8 hours by a 6 person crew, with minimal skills and training needed.

NOTE: The Heston Homes project was unsuccessful because of design flaws in the units produced and the inability of the Heston Group to perform to its contractual requirements. For further information, please see Appendix A.

*Mississippi Alternative Housing Program.*¹⁸ The Mississippi Emergency Management Agency (MEMA) was granted \$281 million to build 3,100 housing units. The main models developed were the Park Model, a one bedroom, 400 sq ft unit, and the Mississippi Cottage, two and three bedroom units between 728 and 840 sq ft. All units feature hurricane straps and anchor attachments for added protection against storms and are wind resistant up to 150 mph. Alternative housing units will be placed on individual lots, commercial group sites, or other multifamily sites identified by non-profit organizations or local governments

¹⁸ Mississippi Emergency Management Agency, Mississippi Alternative Housing, www.msccottage.org/reservist

Chapter #3: Obstacles to Implementing Temporary to Permanent Housing: A Case Study of the Alternative Housing Pilot Program in Louisiana & Mississippi

What ultimately arose out of the projects implemented by the Alternative Housing Pilot Program were housing models that could be created for use as immediate emergency housing, but could also be transitioned into permanent housing. This idea of “temp to perm” disaster housing received much positive attention from state housing and emergency management officials, but was met with strong resistance on the part of local public officials and communities. Ultimately, this resistance created many challenges to realizing the full potential of the AHPP projects as long-term recovery solutions.

Cypress Partner Project, Louisiana¹⁹

In November 2008, the National Building Museum held a lecture in which representatives from the Louisiana Recovery Authority (LRA) and Cypress Realty Partners evaluated the Cypress Partner Project implemented through the AHPP. Their evaluation is discussed below.

FIRST STEPS – OCTOBER 2005 TO DECEMBER 2006

Through the Mississippi Renewal Forum convened in October 2005, Andres Duany and Marianne Cusato created the Katrina Cottage model, designed to be a safe, affordable homes that could be designed and built for less than the life cycle cost of temporary FEMA travel trailers and mobile homes. Lowe’s Home Improvement then partnered with Cusato to design 15 different floor plans and material packages for Mississippi and Louisiana customers to select from and purchase. Katrina Cottages ranged from 500 to 1500 square feet.

During the winter and spring of 2006, the LRA launched a community planning initiative, conducted through a series of citizen-outreach meetings, called “Louisiana Speaks.” Through Louisiana Speaks, over 27,000 citizens participated in the creation of long-term plans for rebuilding their communities in a manner that is safer, stronger, and more sustainable. In March 2006, six months prior to FEMA’s announcement of the AHPP, Louisiana Speaks meetings led by Andres Duany were held in Lake Charles, Abbeyville, and St. Bernard Parish, where stakeholders engaged in planning and design charettes. Through this process a pattern book was published with the architectural and design specifications agreed upon by the public. Then, once the AHPP guidance was released, LRA issued a Request for Ideas (RFI) that required applicants to be responsive to these designs.

Cypress Realty Partners, which had already purchased Katrina Cottages for development of an infill site in Old South Baton Rouge, responded to the RFI. They assembled a submission team of Andres Duany, Marianne Cusato, Lowe’s as the material providers, and Worthington Industries as the steel framing provider. Their submission included seven different home designs, incorporating several models from the Katrina Cottage series, as well as a multifamily design. Cypress also reached out to the local leadership that participated in Louisiana Speaks in order to get public support for the designs. In December 2006, the Cypress Partner Project was awarded \$75 million

¹⁹ National Building Museum, Community in the Aftermath Lecture, November 2008

from FEMA and the governor selected the Louisiana Housing and Finance Agency to administer the program.

CYPRESS UNITS – SITING, DESIGN, MATERIALS, & COST

Designs. All designs are “temp-to-perm,” meaning they can be used for short term temporary housing and then transitioned to permanent housing. Additionally, all homes are designed to be easily expanded.

- Design #1: 612 sq ft, two bedroom, one bath; can be expanded to 1,080 sq ft
- Design #2: 910 sq ft, three bedroom, one bath; can be expanded to 1,800 sq ft
- Design #3: 936 sq ft, two stories, two bedrooms, 1.5 bath; can be expanded to 1,200 sq ft
- Design #4: Expanded version of design #1 – 1,080 sq ft, three bedroom, two bath
- Design #5: 1,112 sq ft, three bedroom, two bath; ADA compliant
- Design #6 & 7: Single story multifamily structures; ADA compliant
 - Six different sizes, from a 655 sq ft one bedroom, one bath to a 1,220 sq ft three bedroom, two bath

Materials. The Cypress partner project chose to use materials that were hurricane resistant as well as energy efficient. First, the units utilized HardiPlank, a fiber cement siding for exteriors that has a 50 year warranty. Second, steel framing was installed, to withstand Category 4 strength winds as well as resist possible rot and mold. Third, double paned window with insulated glass that suppresses radiated heat flow. Finally, appliances were installed that meet Energy Star standard for energy efficiency. Additionally, for infill lots in New Orleans, Cypress is using Structurally Insulated Panels (SIPs), which are energy efficient and durable.

Siting. Contract with LRA is for three new group site communities in Jackson Barracks, Lake Charles, and New Orleans. Jackson Barracks was slated for 59 single family and 32 multifamily cottages, the Fields Neighborhood of Lake Charles had 34 larger single family cottages planned, and the Fischer Housing Development in New Orleans was slated for 124 single-family homes. In addition to group sites, Cypress planned to create 36 scattered site, modular homes in Lake Charles and 137 scattered site, modular homes in New Orleans. Finally, Cypress planned to develop 42 single-family homes in an infill subdivision in Hidden Cove, Baton Rouge and 27 single-family modular homes in an infill subdivision in Harbor Estates, Westwego.

Cost. The seven housing types range in cost from \$100,000 to \$135,000, which is inclusive of everything from foundation, steel framing, materials, labor, and site infrastructure.

CHALLENGES IN IMPLEMENTING PROJECT

In March 2008, Governor Jindal moved the administration of AHPP over to the LRA. Upon taking over the program, the LRA identified the following on-going challenges:

Obtaining suitable sites for construction. AHPP was predicated on developing both group sites on raw land as well as infill sites in New Orleans. For the group sites, the LRA received resistance from local communities in getting appropriated sites that were environmentally acceptable. For the

infill sites, adjudicated properties were not held free and clear, thus making the process to obtain those properties very lengthy.

Constitutional impediments. State of Louisiana prohibits the transfer of property from one state entity to another without going out to public auction. This hampered the LRA's ability to use former FEMA temporary housing sites and transform them into permanent communities. In the end, infill properties were purchased by the state through their Road Home Program in conjunction with the New Orleans Redevelopment Authority.

Misconceptions. Local officials and the public did not understand that the project was a permanent housing solution. Additionally, a stigma persisted that the AHPP units would lower the property values of the surrounding neighborhood.

HOUSING PROGRESS^{20,21}

Jackson Barracks: \$16 million project. Infrastructure design and environmental assessment completed October 2008, infrastructure bids completed November 2008, and construction began December 2008. Cypress has completed full infrastructure to site and construction of the 59 single-family homes and is currently constructing the remaining 32 multifamily units.

Fields Neighborhood, Lake Charles: \$4.3 million project. Subdivision approved in September 2008, infrastructure design and environmental assessment completed December 2008, construction began February 2009. Cypress has completed construction on all 34 single-family homes.

Fischer Housing Development, New Orleans: \$18 million project. Cypress is currently completing partial infrastructure to site and constructing the 124 single-family homes.

Lake Charles Scattered Sites: \$4.8 million project. Cypress is currently constructing and placing the 36 single-family modular homes.

New Orleans Scattered Sites: \$20 million project. Cypress is currently constructing and placing approximately 137 single-family modular homes.

Harbor Estates, Westwego: \$3.4 million project. Currently constructing and placing 27 single-family modular homes.

Hidden Cove, Baton Rouge: \$5.3 million project. Infrastructure design and environmental assessment completed January 2009, construction began March 2009. Cypress has completed construction on all 42 single-family homes.

²⁰ Louisiana Housing Pilot Program, Powerpoint Presentation, "Alternative Housing Pilot Program," November 2008 <http://lra.louisiana.gov/assets/docs/searchable/meetings/2008/11/111808AHPP.pdf>

²¹ Cypress Realty, "FEMA Alternative Housing Pilot Program in Louisiana," <http://www.cypressgroupdc.com/Projects.php>

Mississippi Alternative Housing Program²²

FEMA established an interagency agreement with HUD to evaluate the Alternative Housing Pilot Program (AHPP). FEMA contracted with Abt Associates Inc. to conduct this evaluation and in February 2009, the first case study was published, assessing the Mississippi Alternative Housing Program (MAHP) administered by the Mississippi Emergency Management Administration (MEMA).

In Mississippi, 3,075 cottages were constructed and over 2,800 were deployed by MEMA. These cottages were designed to be converted to permanent use. However, despite the cottages' disaster-resistant construction and high quality, many municipalities have banned or severely restricted the permanent placement of cottages on the mistaken assumption that these cottages are indistinguishable from mobile homes. Examples of excessive restrictions on cottages include veto power of any resident within 160 feet of a proposed cottage site, requirements of pre-Katrina title and homestead exemption, and prohibitions against conversion to rental use. Additionally, in some cities such as Gautier, even the largest cottages fall short of zoning codes which mandate homes in residential areas to be at least 1,325 square feet.

Despite advocacy efforts and litigation, the conversion of individual cottages to permanent use remains stymied by case management complications, prohibitive elevation and foundation costs, and local government opposition. As a result, only 42% of cottages have been converted to permanency and only 31% in Hancock County, where the largest amount of cottages were originally placed.

FIRST STEPS

MAHP adopted the Incident Command System (ICS) management approach, which was organized around five major functional areas: command, operations, planning, logistics and finance, and administration. MAHP immediately established detailed goals and performance standards to support the program's vision and codified them in a Performance Management Plan (PMP). Within the first three months of receiving the AHPP funding, MEMA had created a new organization focused solely on MAHP, conducted outreach to over 14,000 families, and negotiated MOUs with 14 local governments.

A headquarters office was established in Gulfport, along with a transition site for the receipt of Cottages. Additionally, MAHP established smaller field offices in Hancock, Harrison, and Jackson Counties for the use of site inspectors. MEMA contracted with engineering consulting firm PBS&J to provide management and technical support to MAHP. Significant operational, financial, and administrative support was also provided by the State Department of Finance and Administration (DFA). Finally, MAHP coordinated closely with the Governor's Office of Recovery and Renewal.

PARK MODEL & MISSISSIPPI MODEL COTTAGES

Manufacturing & Installation. Once cottage designs were complete, MAHP issued an RFP and held pre-bid conferences with interested manufacturers. MAHP procured units from six different vendors operating in 10 separate locations. Although the original RFP called for manufacturers to transport the Cottages directly to the sites and install the units themselves, MAHP determined that

²² "Developing a More Viable Disaster Housing Unit: A Case Study of the Mississippi Alternative Housing Program."

a separate haul and install contract would be negotiated and that a transition site would be needed to hold the units. A transition site allowed for the inspection and repair of units and was needed when sites were not yet ready for installation. Direct contracting with local haul and install contractors also allowed MAHP to have more control over timing and ensure that installation was coordinated with permitting and applicant preparation.

Quality Management. Upon arrival at the Gulfport transition site, each unit received close visual inspection to check construction features, paint, kitchen and bathroom fixtures, and functionality of windows and doors. Utilities and appliances were tested. While all manufacturers were required to use materials of equal quality, the quality of the finished product varied considerably. Numerous discussions were needed amongst MAHP staff and manufacturer representatives.

MAHP staff paced deliveries and deployments so that fewer than 300 units would be at the transition site at any given time. An inspection of units by FEMA and HUD experts in December 2007 determined that MAHP accessible units did not meet UFAS and changes had to be made to the specification of future units, but no retrofitting of existing units or exchanges were made.

Eligibility & Application. Permanent resident of Hancock, Harrison, or Jackson counties who were currently residing in a FEMA provided travel trailer or mobile home were eligible applicants for MAHP. There was no application process for the program, as eligible participants were automatically registered for the program by MEMA. Then, through a proportional random selection process individuals were selected and notified by phone and mail.

Outreach & Selection. A call center was established in Gulfport to contact the 14,000 selected families and demand turned out to be much smaller than initially assumed. The call center had difficulty reaching applicants using FEMA's contact information database and many letters were returned as undeliverable. Due to the Governor's insistence, a second call center was opened in Jackson to take questions about the program and an attempt to hand deliver the 2,000 returned letters was made. Demand remained low in the three coastal counties causing the program to be expanded in early 2008 to include Pearl River and George Counties.

CHALLENGES IN IMPLEMENTING TEMPORARY HOUSING

Local Resistance. Due to the overwhelming demands of recovery on local authorities, many officials did not see housing as an immediate priority, instead focusing efforts on restoring the basic infrastructure and economy of the community. Some community resistance was related to misperceptions about MAHP units – bringing in more “temporary” disaster housing to an area that already had been pushing to remove the FEMA trailers was seen by local communities as contradictory and detrimental to rebuilding permanent housing. Additionally, local leaders, having seen FEMA give multiple extensions for travel trailer occupancy, feared that a similar extension process for the Cottages was inevitable, even after assurance by MAHP of a March 2009 demobilization deadline.

Additionally, communities expressed concerns about Cottages not fitting with the style and size of many neighborhoods. Local officials argued that small Cottages would do less to restore the tax base than larger, more expensive homes or condos. Finally, MAHP's proposal to develop a group site met the most resistance of all. Possible recreation of the aesthetic and social problems caused

by the FEMA trailer parks made communities very concerned and as a result, MAHP ultimately used existing commercial mobile home parks in all 14 jurisdictions.

Memorandum of Understanding. Entering into MOUs with each jurisdiction turned out to be more difficult and time consuming than MAHP staff initially expected. MOUs were tailored to meet the needs of each jurisdiction, with modifications focusing on concerns regarding the quality of units, unit installations, and the use of units for permanent housing. Many communities limited the possibility of placing MAHP units by only permitting units on private residential lots, only approving units where a FEMA travel trailer previously existed, requiring applicants to provide evidence that they were rebuilding a permanent unit in order to obtain a permit, or authorizing placement of units only where local zoning allowed modular or manufactured homes.

MAHP staff and contractors were frustrated by the differing requirements across jurisdictions. Additionally, many jurisdictions frequently modified their requirements and did not always communicate these changes with MAHP staff. At the same time, local jurisdictions were frustrated by MAHP's lack of knowledge about jurisdictional boundaries.

Site Approval & Installation. The biggest constraint on program participation was the availability of an eligible site. However, upon finding a site, additional challenges arose. MAHP housing advisors were teamed with applicants to explain program requirements, assist them in obtaining permits from local jurisdictions, and filling out several complex forms. Site approval challenged MAHP organizationally, as a lack of coordination between PBS&J inspectors and housing advisors led to confusion regarding which sites and which applicants had completed the necessary steps for approval. The result was a backlog of cases where housing advisor tasks were completed and inspector tasks were not or vice versa.

Coordination issues also arose after the sites were approved, as haul and install contractors, inspectors, housing advisors, applicants, building officials, and the utility company all had to work in tandem to make the unit ready for occupancy. Additionally, MAHP found that some manufacturer installation instructions were unclear and had to be modified.

Occupancy Standards & Maintenance. Initially MAHP established occupancy standards to simulate disaster standards, but realized that these did not work well for a pilot program implemented two years later. A liberalization of standards frustrated participants who had received their units prior to the decision, as families of the same size were now receiving larger units.

For the move-in process, housing advisors again had to walk applicants through complex documents, including the Lease Agreement, Maintenance Agreement, and Right of Entry/Ingress-Egress Statement. It was difficult to determine whether a particular maintenance problem was a warranty item that would be handled by the manufacturer, or a non-warranty item to be handled by a MAHP selected contractor. Additionally, the responsibilities of the participant when it came to maintenance differed between the FEMA and MAHP programs, causing confusion (MAHP required residents to address routine, minor maintenance needs, FEMA did not).

TRANSITION TO PERMANENT HOUSING

MAHP anticipated that Cottages would be converted from temporary to permanent housing by installing units on permanent foundations or incorporated into multifamily rental developments. However, local governments were resistant to these permanent housing projects and especially to the concept of developing group sites. Additionally, the organizational start-up and temporary housing activities alone were greater priorities for the first nine months of the program. Thus, minimal attention was given to planning for the transition to permanent housing until April 2008.

Once an emphasis was placed on permanent housing, MEMA's first step was to draft an RFP to procure the project management role. The Hagerty Consulting Group was chosen for their housing development policy expertise. Next, engineering specifications were developed for the permanent foundations and installation design and procedures were revisited. Additionally, MEMA worked with the state legislature to amend a statute, which allowed MEMA to sell, transfer, or lease units to non-profit organizations.

CHALLENGES TO PERMANENT HOUSING TRANSITION: APRIL 2008 – AUGUST 2008

The Disposition Plan. In designing the Dispositions Plan, Hagerty Consulting encountered difficulty in accessing reliable and updated information of MAHP participants because the information collected by housing advisors during their monthly visits was never entered into the MAHP database for analysis. Specifically, MAHP did not have current income information to determine what types of permanent housing resource participants could afford.

Compliance. One of the impediments to transition to permanent housing was that during the temporary housing phase, roughly 300 Cottages had been placed in Coastal High Hazard Areas (Velocity-Zones). However, FEMA prohibited the permanent installation of Cottages in these areas, meaning that all units would have to be demobilized. Another challenge concerned elevation - IRC specifies that Cottage elevations may not exceed 5'7"; however federal elevation regulations were changed after Katrina to require a much higher elevation. This effectively prohibited permanent installation of Cottages, even if participants owned their own land. Additionally, cost of elevation was also a feasibility issue, with MAHP estimating an additional \$10,000 per unit to elevate a unit 5'7", on top of the \$20,000 base installation cost. It is possible that this cost would be passed onto the participant purchasing the unit.

Community Approval. Obtaining local jurisdiction approvals was a technical challenge, as participants have to comply with local zoning and code requirements. For example, above ground utility lines that were acceptable for temporary units were not permitted long-term. Other units had to be moved to meet local set-back requirements that were previously waived. In some jurisdictions, two structures cannot remain permanently on the same lot, so owners were forced to choose between continuing to repair their damaged home or keeping their Cottage.

Several jurisdictions have 1,000 sq ft minimum requirements for residential units, which disqualified both the Park Model and the Cottages. In response, Habitat for Humanity launched a pilot program in Hancock County to pursue options for adding additions to the Cottages to mitigate this requirement.

By the summer of 2008, Hancock, Harrison, and Jackson County approved permanent placement of MAHP units, but only for areas zoned for mobile, manufactured, or modular homes. Some incorporated jurisdictions, such as Biloxi, Pass Christian, and Gautier remain adamant that no

Cottages will be permanently placed, regardless of location. Many local leaders made these decisions having never personally seen the inside of a Cottage. Additionally, many communities, given their experience with FEMA, were not convinced that the MAHP demobilization deadline was real, assuming MAHP would extend deadlines for residents who were not finished rebuilding. Others feared that Cottages would remain permanently by default.

Homeownership Program. MAHP staff reported that participants were very frustrated with the lack of information about a purchase plan. In June 2008, MAHP undertook a Permanent Housing Survey to figure out the needs of program participants. Survey findings revealed that of the 1,166 pre-disaster homeowners and 636 pre-disaster renters, 72% and 92% respectively were interested in purchasing their Cottage. However, about ¾ of both groups indicated that they could only afford to pay between \$0-\$400 per month in mortgage, utilities, taxes, and insurance. Based upon MAHP preliminary estimate that \$400 is the minimum threshold for ownership expenses (maintenance, taxes, insurance, utilities) other than the purchase price, it appears that a significant number of the interested occupants would not be able to afford a Cottage, even if it were provided mortgage-free.

In addition to the lack of affordability of the unit, MAHP required anyone who purchased a unit to maintain homeowner/hazard insurance on the unit and if required, flood insurance, creating yet another expense. Thus, for many program participants, their only option was to pursue financing from a lending institution. However, with low incomes and poor credit scores, many found it difficult to secure financing. Additionally, many lenders have minimum required loan amounts for their existing products that were higher than the amounts needed by participants.

FURTHER IMPEDIMENTS TO PROGRESS: NOVEMBER 2008-AUGUST 2009

November 2008-February 2009^{23,24}

In November 2008, Hancock County had 1,147 cottages still in use: 138 cottages in Bay St. Louis, 210 in Waveland, 121 in Pass Christian, and 678 in unincorporated Hancock County. MEMA officials pleaded with incorporated jurisdictions to extend the deadline for removal of cottages past March 31, 2009 so that program participants could have the opportunity to convert their cottage into permanent housing. Although Gulf Coast Housing Director Gerald Blessey acknowledged that permanent housing efforts had not moved as quickly as anticipated, MEMA was offering to sell cottages to residents on a sliding scale, based on income, with prices ranging from \$500 to \$26,000. If allowed by these jurisdictions, the cottages would be removed from their trailer beds and placed on permanent foundations as modular homes. Once this has occurred, the cottages meet all building code standards that apply to modular homes.

However, the Bay St. Louis and Waveland City Councils and the Hancock County Board of Supervisors all voted to remove all MEMA units from residentially zoned neighborhoods by the March 31, 2009 deadline and to only allow residents to buy their cottages in the few areas zoned for mobile home parks and commercial parks. City Councilmember's claimed the cottages were staunchly opposed by constituents who had rebuilt their permanent pre-disaster homes and thought

²³ Dwayne Bremer, "Cottage Crisis Looming," The Sea Coast Echo, November 21, 2008. Retrieved from the Mississippi Center for Justice, http://www.mscenterforjustice.org/news-article.php?article_id=92

²⁴ Dwayne Bremer, "Bay Council says cottages must go," The Sea Coast Echo, December 17, 2008. Retrieved from the Mississippi Center for Justice, http://www.mscenterforjustice.org/news-article.php?article_id=90

the cottages would decrease neighborhood property values. Many cottage residents did not want to move into commercial parks and current parks have little vacancies.

March-June 2009²⁵

In response to outcry by program participants, the Mississippi Center of Justice rallied eight cottage residents to sue the City of Waveland, stating that the Board adopted ordinance restricting future use of cottages was unfair and forced residents from living within the jurisdiction. On June 3, 2009, the Waveland Board voted to rescind 15 of the 16 restrictions. However, this only affected the 30 cottages remaining in the city, as the new placement of cottages remained prohibited.²⁶

As the March 31st deadline loomed closer, MEMA began to remove cottages from these jurisdictions, placing them in temporary storage sites, including Gulfport where 670 cottages now lay vacant. As of June 2009, 1,800 families remain in temporary cottages and 20,000 families were still living in temporary FEMA trailers and apartments.

August 2009

Table 1: Mississippi Cottage Conversion Rate²⁷

| | Occupied September 2008 | Approved to Buy | Percent Retained |
|------------------|--|----------------------------|-----------------------------|
| Hancock | 1,077 | 330 | 31% |
| Harrison | 934 | 438 | 47% |
| Jackson | 750 | 368 | 49% |
| Other | 42 | 31 | 74% |
| Coastwide | 2,803 | 1,167 | 42% |

Many community organizations, who had been promised allocation of cottages for owner-occupied and rental uses, continued to face challenges with the tangled approval and compliance processes imposed by federal and state agencies. These organizations included: Enterprise Corporation of the Delta, Mercy Housing and Human Development, Habitat for Humanity, and the North Gulfport Community Land Trust.

In the end, many individuals who applied for purchase of a permanent cottage are still waiting with uncertainty, as the state has delayed developing long-term solutions, not in small part due to local government restrictions and their refusal to grant permits or alter zoning codes.

HOUSING PROGRESS:

Community Organizations. In early 2008, a renewed interest in acquiring Cottages among community organizations surfaced. This likely stemmed from the Mississippi Development

²⁵ Spencer S. Hsu, “Permanence Eludes Some Katrina Victims: Many Still Live in Trailers, Rentals,” *The Washington Post*, June 13, 2009.

²⁶ Dwayne Bremer, “Waveland will allow cottages to stay,” *The Sea Coast Echo*, June, 3, 2009. Extracted from the Mississippi Center for Justice, http://www.mscenterforjustice.org/news-article.php?article_id=108

²⁷ The Steps Coalition, “Hurricane Katrina: Has Mississippi Fallen Further Behind?: Trends and Challenges in Mississippi’s Disaster Recovery,” Updated September 2009.

Authority's reallocation of \$241 million in CDBG funding from the Homeownership Assistance Grant Program to the Long Term Workforce Housing Program (LTWHP). LTWHP provides grants and loans to non-profit and for-profit organizations to help develop long term affordable housing and a second and third rounds of funding were released April 2008 and September 2008. In July 2008, MAHP initiated a Letter of Interest application process for community organizations to propose permanent housing projects.

Some organizations have seen success in placing MAHP units. Habitat for Humanity worked with Lexington Homes, one of the cottage manufacturers, to design an addition to the units. They received approval from Hancock County to site these units, with the expanded square footage, in infill lots. Additionally, Renaissance Development Corporation is working to provide relocation and permanent placement for all 300 Cottages that were temporarily installed in Velocity Zones, starting with 40 approved in Hancock County.

Housing Choice Vouchers. In December 2007, Housing Choice Voucher funds previously obligated by the Mississippi Regional Housing Authority (MHRA) were freed up, enabling MHRA to partner more actively with MAHP on permanent housing efforts. First, MAHP transitioned all 323 Cottages in commercial mobile home parks to the South Mississippi Development Corporation (SMDC), a nonprofit subsidiary of MHRA. SMDC will lease the units and MHRA will offer Vouchers to current commercial park occupants. Second, MHRA has proposed three new permanent developments using 227 new and refurbished Cottages, owned and managed by SMDC as rental housing. Units will be available to families that have Vouchers and also to market-rate renters. Finally, MRHA through SMDC, is taking ownership of 80 units of Eco Cottages sited in Picayune.

Chapter #4: Evaluating existing models for providing permanent replacement housing to victims of natural disasters

This section of the Plan evaluates the federal government’s response to the need for permanent housing options to replace damaged or destroyed housing following a natural disaster. While policy actions were taken following Hurricanes Katrina and Rita to utilize both single family as well as multifamily rental and homeownership solutions, gaps remain in the ability to finance permanent replacement housing.

Findings

*FEDERAL ASSISTANCE AFTER THE 2005 HURRICANE SEASON*²⁸

Background. After Hurricanes Katrina and Rita, federal assistance for the repair or replacement of permanent housing was made available to homeowners and rental property owners in three forms: grants, loans, and tax incentives. Those programs serving homeowners only included the Individuals and Households Program: Repair or Replacement Assistance and the Home Disaster Loan Program. Programs serving homeowners or renters included the CDBG program, the Hazard Mitigation Grant Program, and some tax incentives. Programs serving renters only included the Capital Fund Emergency/Natural Disaster Funding, GO Zone LIHTCs, Physical Disaster Business Loan, and Public Assistance for Permanent Work.

State Use of Permanent Housing Financing. To make CDBG funds available for the repair and replacement of permanent housing, both Louisiana and Mississippi created new programs for homeowners and small rental property owners:

Louisiana created the Road Home Homeowner Program for homeowners to rebuild their homes on their own property or sell their property and relocate. Also created was the Road Home Small Rental Property Program which made forgivable loans in two funding rounds. At first funding came as a reimbursement, but in December 2008, an up-front financing option was added.

Mississippi created the Homeowner Assistance Program for homeowners that sustained flood damage. Also created was the Small Rental Assistance Program for owner in Hancock, Harrison, Jackson, and Pearl River Counties. Four types of assistance were provided, including: rental income subsidy, repair or reconstruction of Katrina-damaged property, reconstruction or conversion reimbursement of non-Katrina-damaged property, and new construction reimbursement. Finally, Mississippi created the Long Term Workforce Housing Program to provide grants and loans to local governments, non-profits, and for-profit organizations to provide long term affordable housing stock, benefiting households earning 120% AMI or less.

Challenges to Receiving Permanent Housing Financing. Homeowners and rental property owners faced challenges in applying for and use federal assistance. Challenges included gaps in

²⁸ US Government Accountability Office, Report to Congressional Requesters, GAO-10-17, “Disaster Assistance: Federal Assistance for Permanent Housing Primarily Benefited Homeowners; Opportunities Exist to Better Target Rental Housing Needs,” January 2010.

financing needed to complete repairs, delays in the availability of funds, and adverse economic conditions, including high insurance premiums, high construction costs, and tightening credit markets.

Public Housing Authorities (PHAs) also faced considerable challenges in obtaining funding for the recovery of public housing units. Although 80% of the 7,000 public housing units in New Orleans were damaged by Hurricane Katrina, less than \$30 million was made available for damages to all PHAs nationwide through the Capital Fund Emergency/Natural Disaster Funding Program.

Results of Permanent Housing Allocation. In both Louisiana and Mississippi, more homeowner units were damaged than rental units, but the proportional damage to rental stock was greater. However, federal assistance addressed the repair and replacement needs of 62% of damaged homeowner units, but only 18% of damaged rental units. Federal programs provided assistance to 303,000 homeowner units, compared to 43,000 rental units and 115,000 homeowner units received funding from two or more programs. Louisiana and Mississippi awarded roughly \$11 billion of their CDBG funds to homeowner programs while only allocating \$1 billion to the owners of small rental properties. For example, demand for the Road Home Small Rental Property Program was 7 to 8 times what the funding could support. Additionally, the completion of CDBG-funded small rental units in Louisiana and Mississippi has been very limited, with only 14% of 10,115 rental units in Louisiana and 25% of 4,242 rental units in Mississippi complete as of August 2009.

*PKEMRA CHANGES PERMANENT HOUSING OPPORTUNITIES*²⁹

Before passage of the Post-Katrina Emergency Management Reform Act (PKEMRA) in October 2006, direct assistance for permanent housing was limited to “insular areas outside the continental United States and in other remote locations when alternative housing resources are not available.” FEMA’s rationale was that repetitive repairs to homes in a vulnerable area were not sound investments of federal aid and that construction of permanent, disaster resistant housing was economically sensible.

However, PKEMRA amended this section of the Stafford Act by adding “semi-permanent” to the type of housing that could be constructed, and by striking the term “remote,” in order to substantially broaden FEMA’s options in considering temporary housing alternatives in certain situations. PKEMRA also create the Individuals and Households Pilot Program (IHPP) for FEMA to lease private apartment units and make repairs to those units. Repairs to multifamily rental housing stock could now be considered by FEMA as an alternative permanent housing solution to single family rental or homeownership options.

*FEMA’S INDIVIDUALS AND HOUSEHOLDS PILOT PROGRAM (IHPP)*³⁰

Background. Following the passage of PKEMRA, IHPP was created by FEMA to evaluate the efficacy and ability to provide timely and cost-effective housing to individuals and households

²⁹ McCarthy, Francis X. CRS Report to Congress, “FEMA Disaster Housing: From Sheltering to Permanent Housing,” Congressional Research Service 7-5700, September 16, 2009.

³⁰ Homeland Security, Federal Emergency Management Agency, “Individuals and Households Pilot Program: Fiscal Year 2009 Report to Congress,” May 19, 2009.

affected by a disaster through the use of repair to multifamily rental property. The pilot was tested in Cedar Rapids, IA following May 2008 tornadoes and in Galveston, TX after Hurricane Ike.

Lease Agreement. FEMA required property owners to modify the standard lease to include the provision that the monthly rent for the FEMA applicant would be \$0. This was done to facilitate the transition of applicants to long-term or permanent housing at the end of the contract period. Applicants may choose to stay at the property and enter into a standard lease agreement with the owner. In Cedar Rapids Iowa, the Cedar Valley apartment owner agreed to \$0 leases in exchange for FEMA funding repairs to 7 units and paying operating costs for 14 months. In Galveston Texas, the Carelton Courtyard apartment owner agreed to \$0 leases in exchange for FEMA repairs to 32 units and paying operating costs for 30 months.

Cost Comparison. FEMA compared the cost of repairs and monthly operating cost of each unit against the cost of providing manufactured homes under Section 408. FEMA used acquisition, installation, and monthly maintenance costs for manufactured homes for the comparison.

- Iowa Pilot
 - Cost of Providing 7 Manufactured Homes - \$439,376
 - Cost of Pilot Repair to 7 Units - \$76, 854
 - Savings to Federal Government - \$362,522
- Texas Pilot
 - Cost of Providing 32 Manufactured Homes - \$2,650,624
 - Cost of Pilot Repair to 32 Units - \$897,358
 - Savings to Federal Government - \$1,753,266

FEMA NATIONAL DISASTER HOUSING STRATEGY – PERMANENT HOUSING

On January 16, 2009, FEMA released the final version of the *National Disaster Housing Strategy*, which has a *Disaster Housing Community Site Operations Annex*. This Annex states that FEMA is responsible for closing group sites and assisting households in transitioning to permanent housing.³¹ However the annex is lacking several important pieces of information relating to how this transition will occur. First, the Annex does not explain how other federal or state agencies will be involved in completing tasks associated with transitioning a group site household to permanent housing and what mechanisms will be used to ensure that victims can find a permanent housing unit. For example, unlike the 2007 FEMA Gulf Coast Recovery Office Housing Action Plan, the annex does not specify HUD’s role in transitioning families to permanent housing.

Additionally, neither the Strategy nor the Annex address the cost of helping households transition to permanent housing, the staffing resources needed to complete this task, the type of training that should be provided to staff, or the source of resources necessary to achieve FEMA’s goal of closing group sites and transitioning families to permanent housing. This is a step backwards from the efforts made by FEMA’s Transitional Recovery Offices in Mississippi and Louisiana to develop housing plans that discussed the resources needed for transitioning from group sites. Finally, the Strategy does not describe or anticipate the challenges associated with helping people find permanent housing after a natural disaster.

³¹ US Government Accountability Office, GAO-09-796, “Disaster Housing: FEMA Needs More Detailed Guidance and Performance Measures to Help Ensure Effective Assistance after Major Disasters,” August 2009.

The absence of detailed information in the Strategy and its annex on the partnerships that FEMA needs to form, the resources it needs, and the mechanisms that FEMA is to use to address the challenges specific to a disaster when closing group sites and transitioning households to permanent housing can lead to delays in helping disaster victims return to more stable and conventional living arrangements.³²

³² US Government Accountability Office, GAO-09-796, “Disaster Housing: FEMA Needs More Detailed Guidance and Performance Measures to Help Ensure Effective Assistance after Major Disasters,” August 2009.

Chapter #5: Designing alternatives to existing models to improve the sustainability, affordability, desirability, and quality of housing rebuilt in the event of future natural disasters

Findings

In the wake of recent natural disasters, among the many lessons learned is the need for more effective and extensive pre-disaster mitigation measures, including housing practices to help reduce the likelihood of property damage and loss of life. A study by the Multi-Hazard Mitigation Council (MMC) for FEMA found that every \$1 spent on loss prevention saves taxpayers an average of \$4 in future reduced losses.³³ Coming up with disaster resistant housing models before the next high-impact disaster occurs has become a key priority. Additionally, creating innovative design strategies to create disaster resistant homes includes looking to thinking outside the box, to incorporate best practices in the field of energy efficiency and sustainability.

WAYS TO MAKE HOMES MORE RESISTANT TO DISASTERS

1. Promote and support smarter and safer construction practices and home improvements, particularly measures that increase the structural integrity of homes and protect them from water intrusion.
2. Utilize technologies and other practices that can mitigate flood damages.
 - *Dry floodproofing*: help create waterproof or water-resistant seals around the exterior of the home.
 - *Wet floodproofing*: serves to make uninhabited parts of the home (garages, unfinished basements) resistant to flood damage.
 - *Elevation*: raising major home appliances and the electrical system (electric panel board, service lines, wiring, outlets, etc.).
3. Promote measures and products for mitigating severe wind and rain³⁴:
 - Wind-resistance for the envelope of the home include the installation and reinforcement of thicker, sturdier roof coverings, installation of secondary water barriers beneath the roof covering, use of pressure resisting windows, use of a pressure resisting garage door, and installation of storm shutters.
 - Measures to provide wind-resistance for the uplift load path include roof deck connection to framing and connectors for continuous load path from roof to foundation.
 - Wind-resistant measures for the Lateral Load Path include sheathing for shear walls and anchorage for shear and overturning.

³³ Multi-Hazard Mitigation Council of the National Institute of Building Sciences, “Natural Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities,” December 2005.

³⁴ Hurricane Risk Mitigation Leadership Forum Series, “Presentations - Texas Risk Mitigation Leadership Forum” <http://www.mitigationleadership.com/newsite/presentations.cfm?f=TRM>

4. Develop and enforce better building codes, zoning ordinances, and land use planning strategies at the local level. FEMA only updates floodplain maps periodically and new developments built in and around floodplains can increase the area at risk of flooding (increasing impervious surfaces).
 - Utilize ‘Code Plus Programs,’ such as IBHS (Fortified for Safer Living & Fortified for Existing Homes) or FLASH (Blueprint for Safety).
 - Implement continual updates to statewide residential building codes. The Texas Legislature mandated municipalities adopt the 2006 International Residential Code (IRC) and International Building Code (IBC).

HOW PRIVATE INDUSTRY CAN HELP CREATE DISASTER RESISTANT HOUSING

1. Develop cost-effective products and construction methods
2. Work with designers to utilize cost-effective techniques
3. Work with builders
4. Develop construction aids – Document to allow construction of affordable housing without having to hire an engineer (example - Simpson Strong Tie’s *High Wind Framing Connection Guide*).
5. Work to incorporate new technology into building codes
6. Work with retailers
7. Educate consumers
8. Partner with non-profit organizations with similar interests

LINKING EFFORTS TO IMPROVE DISASTER RESISTANCE & ENERGY EFFICIENCY

Solutions in Action

*Soldiers Grove, Wisconsin.*³⁵ After enduring repeated flooding of the Kickapoo River, the village worked with the Army Corps of Engineers to relocate its downtown using federal disaster recovery funds. Originally, the Army Corps proposed constructing a levee however the levee would have cost \$3.5 million more than the total assess value of all property in the floodplain. Therefore, the city chose to relocate 24 apartments, 10 houses, and 30 businesses and built the new downtown as a solar village, with all buildings heated by solar energy. Additionally, several homes in the flood-prone area were raised above the 100 year floodplain and the floodway was converted to a riverside park and recreation area. The total relocation cost was roughly \$7 million, compared to the \$8 million projected cost for the proposed levee.

*Greensburg, Kansas.*³⁶ After a tornado struck the town in May 2007, Greensburg developed a reconstruction plan that incorporated both disaster resistant and energy efficient elements into new homes. The non-profit group Greensburg GreenTown set up the “Chain of Eco-Homes Competition” in 2009. Besides incorporating disaster resistant and eco-friendly elements, applicants were required to keep the buildable design cost under \$110 per square foot. Over 250 teams from 38 states and 13 countries entered designs and 12 eco-homes were chosen and have initiated construction. These 12 homes feature a variety of building techniques, prices, sizes,

³⁵ David Salvesen, Emergency Management Institute. Federal Emergency Management Agency “Breaking the Disaster Cycle: Future Directions in Natural Hazard Mitigation” 2003.

³⁶ HousingPolicy.org “Linking Disaster Resistance and Energy Efficiency,”
http://www.housingpolicy.org/toolbox/strategy/policies/distrest_energeff.html?tierid=113297

energy efficiency features, and green living products and services. One design, the Silo Eco-Home³⁷, has been completed and two more, the Meadowlark House³⁸ and the Eco-Homestead³⁹, are in progress.

*Chesapeake, Virginia.*⁴⁰ The 1998 FEMA-sponsored Wind Summit inspired a public/private partnership to create a hurricane resistant home called the Hurricane House. Created by Jack Jackson, it is a display home at the Estates Carriage House (single family community) in Chesapeake, Virginia. Built with wood frame construction and has insulation values that are higher than is typical in the region (R-15 walls, R-19 floors, R-30 in the roof). Hurricane House also includes numerous additional features to increase hurricane resistance and energy-efficiency, including: wind-resistant doors, double-glazed, laminated windows, a 12-inch thick reinforced-concrete ceiling but to withstand 250 mph winds, and a "safe room" that doubles as a walk-in closet. Finally, Hurricane House also incorporates some alternative construction wall assemblies can provide substantial strength for hurricane resistance while also delivering inherent energy efficiency gains.

Gautier, Mississippi. In October 2005, Habitat for Humanity International launched the demonstration phase of its "home in a box" initiative, as part of Operation Home Delivery. This initiative sought to mobilize partners across the country to build house frames, package the frames in shipping containers, and send them into Hurricane Katrina affected areas.⁴¹ One of the demonstration models, called ecoMOD, was a partnership between the University of Virginia and the Habitat for Humanity of the Mississippi Gulf Coast. The ecoMOD team designed an energy efficient and environmentally sustainable prefabricated home, with an emphasis on natural ventilation, thermal efficiency, and cost-savings strategies for materials.⁴² The prototype is built from an innovative steel and foam panel system that is highly insulated and resists hurricane –force winds and mold. Besides placing the roof and windows in a way that encourages natural ventilation, the house also incorporates a photovoltaic solar panel array for hot water and a heat pump/heat recovery system for heating and air conditioning. The 1,087 square foot, three bedroom home, built with sweat equity, cost approximately \$65 per square foot.

STATE DISASTER MITIGATION FINANCING – BEST PRACTICES

My Safe Florida Home Program⁴³ - My Safe Florida Home Program was established in 2006 through a \$250 million appropriation by the state. It was administered by the Department of Financial Services, which oversees activities and allocates funding. The program provided free hurricane mitigation inspections for single-family homes and grants to households to fund mitigation retrofits. It targets low- and moderate-income households, providing grants only to

³⁷ Greensburg GreenTown, "Silo Eco-Home," <http://www.greensburggreentown.org/silo-eco-home/>

³⁸ Greensburg GreenTown, "Meadowlark House," <http://www.greensburggreentown.org/meadowlark-house/>

³⁹ Greensburg GreenTown, "Homestead House," <http://www.greensburggreentown.org/homestead-house/>

⁴⁰ Christina B. Farnsworth, "Building for Disaster Mitigation," *Home Energy Magazine*, January/February 2000.

⁴¹ Habitat for Humanity, "Hurricane Response: Habitat receives unprecedented help in an unprecedented effort," <http://www.habitat.ca/hurricanekatrinasponsec54.php>

⁴² John Quale and Kristina Iverson, "A Sustainable Housing Response to Hurricane Katrina," *Cityscape: A Journal of Policy Development and Research*, Vol. 10, No. 3, 2008.

⁴³ My Safe Florida Home, "About the My Safe Florida Home Program," <http://www.mysafefloridahome.com/abouttheprogram.asp>

homes with insured values under \$300,000. From 2006 to 2009, the program has provided free inspections to more than 400,000 homeowners and has funded retrofits for nearly 33,000 homes. However, due to budget constraints, the program expired on June 30, 2009.

South Carolina Hurricane Damage Mitigation Program (SC Safe Home Program)⁴⁴ - Established by the Omnibus Insurance Reform Act of 2007, the SC Safe Home Program offers grants to residents for making their homes more resistant to the damaging effects of high winds from hurricanes and severe storms. The program is operated by the South Carolina Department of Insurance, the Program provides grant dollars to individual homeowners to make their property more resistant to hurricane and wind damage.

SC Safe Home Program is funded through a percentage of the premiums collected from the state's Wind Pool, which is an association of insurance companies which makes disaster insurance available to homeowners in the coastal area who are not able to buy it through the standard insurance market. Funds can be used for the following mitigation improvements/retrofits including: roof deck attachment, secondary water barrier, roof covering, bracing gable ends, reinforcement of roof-to-wall connections, opening protection, exterior doors, including garage doors, tie downs, problems associated with weakened trusses, studs and other structural components, and repair or replacement of manufactured home piers, anchors and tie-down straps.

Similar to the My Safe Florida Home Program, the SC Safe Home program provides grants only to low- and moderate-income households and to homes with insured values under \$300,000. To date, the program had provided 600 grants to homeowners in the state totaling \$3 million. Homeowners completing mitigation projects funded through the program have reported savings of up to 24 percent in their property insurance premiums.

⁴⁴South Carolina Department of Insurance, "About SC Safe Home," <http://www.scsafehome.sc.gov/About/>

Chapter #6: Encouraging the participation, coordination, and involvement of appropriate federal organizations

UTILIZING FEDERAL RESOURCES TO MAKE HOMES MORE RESISTANT TO NATURAL DISASTERS

Pre-Disaster Mitigation (PDM) Program (FEMA)⁴⁵

The Pre-Disaster Mitigation Program provides cost-effective investments before disasters occur to reduce the vulnerability of communities in the future. The range of eligible projects includes retrofitting public buildings, acquiring and relocating properties out of a flood plain, elevating structures, flood-proofing public buildings, developing mitigation plans, etc. However, PDM can only be used for mitigation projects, not disaster preparedness. A 2007 CBO report on PDM noted a proportional cost savings benefiting two FEMA programs: its disaster relief programs and its National Flood Insurance Program

In FY2008 Congress appropriated \$114 million to 149 grantees, 79% of which were planning grants.

State and local cost share is 25% of the grant. Then, starting in FY2009, Congress directed FEMA to implement a state minimum of \$500,000 for eligible projects, making PDM both a competitive and formula-driven program. Additionally, Congress gives out directed grants (earmarks) through PDM, which accounted for 27% of the total PDM appropriation for FY2009.

Projects undertaken with PDM funds⁴⁶:

Bay Area Rapid Transit (BART) District Mitigation Project. Used grant to raze the above ground portion of BART's Train Operations Center and move the operations underground to mitigate earthquake damage

Barry County, Michigan Hazard Mitigation Plan. County developed an inventory of natural hazards affects its communities and created a mitigation plan to identify natural hazards, assess vulnerability, and develop methods to eliminate effect of hazards.

Mid-Columbia & Southeast Oregon Hazard Mitigation Planning Initiative. Planning process engaged communities to identify risks and develop mitigation actions that address infrastructure and service needs, specific land uses, engineering standards, and building codes.

San Francisco Medical Center Seismic Saw-Cut Project. Used grant to install a seismic expansion joint between the Medical Center and the Medical Science Building.

Pima, Arizona, Canada del Oro Acquisition Project. Grant funded the voluntary acquisition of 50 single family homes, mobile homes, and commercial properties in the Canada del Oro Valley floodplain to be converted into permanent open space.

⁴⁵ Francis X. McCarthy and Natalie Keegan, Congressional Research Office, CRS Report 7-5700, "FEMA's Pre-Disaster Mitigation Program: Overview and Issues," July 10, 2009.

⁴⁶ Federal Emergency Management Agency. "In Action -- The Pre-Disaster Mitigation Grant Program." 2006.

Darlington, Wisconsin Plan and Acquisition Project. From 2002 to 2006, grants funded flood proofing of 19 commercial buildings, and the acquisition and removal of 14 buildings situated in a floodplain.

Hazard Mitigation Grant Program (HMGP)(FEMA)

The Hazard Mitigation Grant Program provides funding specifically after a disaster to implement mitigation measures to help reduce damages to public or private property from future disasters. FEMA can offer states up to 15% of the total disaster recover grants it has awarded them and can fund up to 75 percent of the eligible costs of each project. States or local grantees must provide a 25 percent match, which, as with the PDM Program, can come from non-federal sources or CDBG program funds. Eligible uses are similar to those under the PDM program.

Flood Mitigation Assistance (FMA) Program (FEMA)

The Flood Mitigation Assistance Program provides funds for projects that reduce or eliminate the long-term risk of flood damage to buildings, homes, and other structures that are insured under the National Flood Insurance Program (NFIP). Similar to the PDM and HMGP, FEMA provides 75 percent of the funding for eligible costs, and the grantee is responsible for the other 25 percent.

Disaster Recovery Enhancement Fund (HUD)⁴⁷

In June 2009, HUD announced the \$312 million Disaster Recovery Enhancement Fund (DREF), created to encourage states to undertake long-term disaster strategies that focus on reducing the risk of damage from future natural disasters. This fund is reserved for states that spend their CDBG funds on specific disaster recovery activities likely to reduce the extent of damage in the future.

These projects may include: Buyout payments for homeowners living in high-risk areas; optional relocation payments to encourage residents to move to safer locations; home improvement grants to reduce damage risks (property elevation, reinforced garage doors and windows, etc.); improving and enforcing building codes; and developing forward-thinking land-use plans that reduce development in high-risk areas.

To be eligible for DREF, the individual mitigation measure must mitigate and/or reduce risk beyond the pre-disaster condition. DREF funds cannot be used as a substitute or match for FEMA HMGP funds and can only be used in counties officially covered by a disaster declaration in 2008.

POSSIBLE FUTURE FEDERAL FINANCING SOLUTIONS

Weatherization Assistance Program⁴⁸ - During the current Congressional session, Senator LeMieux introduced S.2818 which would amend the Energy Conservation and Production Act

⁴⁷ US Department of Housing & Urban Development, News Release, "DONOVAN ANNOUNCES \$64 MILLION IN DISASTER ASSISTANCE TO FLORIDA: \$312 million available to encourage States to reduce damages from future disasters" June 10, 2009.

⁴⁸ Open Congress, "S.2818 - A bill to amend the Energy Conservation and Production Act to improve weatherization for low-income persons, and for other purposes," http://www.opencongress.org/bill/111-s2818/show#bill_list

(ECPA) to allow incentives for energy-related home retrofitting activities that are hazard mitigation home improvements. The bill would increase the amount of allowable expenditures to low income homeowners from \$6,500 to \$8,500, for retrofit projects which would result in both disaster resistance and energy efficiency improvements.

HOME STAR Program (Cash for Caulkers)⁴⁹ - Introduced by the White House in March and passed by the House in May, the Home Star bill would use rebates and tax incentives to spur more Americans to make their homes energy efficient. It would also improve home resistance to natural disasters. “Silver Star Rebates,” provide up to \$1,500 per household for upgrades to insulation, duct sealing, water heaters, HVAC units, windows, roofing, and doors. “Gold Star Rebates,” provide up to \$3,000 per household for a whole home energy audit and subsequent retrofit tailored to achieve 20% energy savings.

Predisaster Hazard Mitigation Enhancement Program⁵⁰ - Introduced in June 2009 by Representative Bennie Thompson, H.R. 3027 purpose is to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act, to provide grants to eligible entities to assist hazard mitigation strategies that save lives, improve the structural integrity of property affected by natural disasters.

Hazard Mitigation For All⁵¹ - Introduced in June 2009 by Representative Bennie Thompson, H.R. 3026 purpose is to amend the United States Public Housing Act of 1937 to establish a predisaster mitigation program to benefit public and assisted housing residents, improving the resilience of resident-inhabited residential structures to withstand storms and other natural disasters, through restoration, reconstruction, replacement, or retrofit initiatives in advance of such storms and disasters. Additionally, this program is to be used only for residents of assisted housing whose family incomes do not exceed 80 percent of area median income.

⁴⁹ The White House, Office of the Press Secretary, “Fact Sheet: Homestar Energy Efficiency Retrofit Program,” <http://www.whitehouse.gov/the-press-office/fact-sheet-homestar-energy-efficiency-retrofit-program>

⁵⁰ Open Congress, “H.R.3027 - Predisaster Hazard Mitigation Enhancement Program Act of 2009,” <http://www.opencongress.org/bill/111-h3027/text>

⁵¹ Open Congress, “H.R.3026 - Hazard Mitigation For All Act of 2009,” <http://www.opencongress.org/bill/111-h3026/text>

Chapter #7: Recommendations for the rapid and efficient large-scale production of temporary and permanent replacement housing following a natural disaster

In preparing this Plan, the Natural Disaster Housing Reconstruction Advisory Committee (the “Advisory Committee” or the “Committee”) organized its recommendations in two main categories: recommendations for policies and practices to be established before a natural disaster strikes and recommendations for immediate and long-term recovery following a natural disaster. The Advisory Committee acknowledged the pitfalls of previous attempts to bifurcate post-disaster recommendations into temporary housing and permanent housing proposals and instead chose to address them as part of a single process in the long-term recovery of disaster victims. Additionally, the Advisory Committee agreed that the implementation of these recommendations requires extensive involvement at the local administrative level, focused chiefly through Councils of Governments (COGs).

Pre-Disaster Recommendations

Overarching Recommendations

Currently, the federal authorities, as well as the funding allocations for immediate disaster recovery versus long-term disaster recovery, are on separate trajectories. Immediate response to a natural disaster is primarily administered by and coordinated through FEMA at the federal level, and the Department of Public Safety’s Division of Emergency Management (DEM) at the state level. The local levels of government chosen by DEM and FEMA to allocate this funding and undertake pre-disaster planning are the city and county governments. These city and county governments create Local Emergency Management Plans (LEMPs), which must be approved by both FEMA and DEM in order for that jurisdiction to receive disaster funding.

In contrast, the long-term housing rebuilding effort undertaken after a natural disaster is primarily administered and coordinated through HUD at the federal level and, as designated by the Governor, the Texas Department of Housing and Community Affairs (TDHCA) and the Texas Department of Rural Affairs (TDRA) at the state level. The local level of government designated by the Governor, included in the development of an Action Plan by TDHCA and TDRA, and approved by HUD to allocate this long-term funding and undertake long-term housing reconstruction planning is the COGs. The affected COGs develop, in a public participation-driven process, Methods of Distribution (MODs), which must be approved by TDHCA and HUD for housing projects in order for that COG and/or the subrecipients it has designated to receive CDBG disaster funding.⁵² This entire process is informed by the State of Texas analysis of impediments to fair housing choice (the “AI”).

These two processes, one for immediate recovery and the other for long-term rebuilding, have yet to be coordinated in a cohesive manner. The Committee believes that in order to prepare effectively for and respond to a natural disaster, local entities must work together to create a continuum of

⁵² Texas Department of Rural Affairs & Texas Department of Housing & Community Affairs, *Plan for Disaster Recovery – Revised Amendment No. 1*, Revised May 25, 2010.

assistance from pre-emergency mitigation planning to long-term housing reconstruction, with strong linkage and open channels of thoughtful communication at all stages of the recovery effort. Thus, the Committee's overarching recommendations are in large part directed towards recommendations that will create stronger connections between these interrelated disaster recovery efforts at the local level, ensuring more efficient and effective communication and partnership between local city and county jurisdictions and their respective COG.

1.A. Extend existing Local Emergency Management Plans to include long-term housing reconstruction policies and guidelines.

Instead of these local jurisdictions undertaking a completely new planning effort, which could be costly and time consuming, the Advisory Committee decided that their recommendations should be programmed into existing local planning efforts. Particularly, the Advisory Committee saw an opportunity to insert the recommended policies found within this chapter into the existing LEMPs required by the Texas Department of Public Safety's DEM.⁵³ This would extend the LEMPs to address the full continuum of pre-emergency to long-term housing planning and procedures.

The components of these long-term housing plans are discussed further in Recommendations #2-6.

1.B. COGs should provide technical assistance to local jurisdictions in the creation of the long-term housing reconstruction portion of their LEMPs. COGs should also be required to show that they have utilized these LEMPs when creating their Methods of Distribution (MODs) or applying for funding under competitive state and federal disaster programs.

The Committee recognizes that cities and counties may not have the staff capacity or the technical expertise to complete long-term reconstruction planning on their own. Additionally, the Committee recognizes the cost of preparing such plans and the need to provide a financial incentive for them to expand their LEMPs to include such long-term housing reconstruction solutions. Therefore, the Committee recommends that COGs should take the lead in orchestrating technical and financial assistance to local jurisdictions in their development of long-term housing reconstruction plans. Furthermore, each COG will produce an Emergency Housing Procedures Manual to serve as a standardized set of procedures that jurisdictions can turn to when implementing their LEMPs after natural disasters. The components of this Manual are discussed further in Recommendation #7.

As a financial tool to provide incentives to undertake this process, the Committee recommends utilizing the state's annual CDBG allocation (separate from CDBG disaster recovery funding), particularly through the creation of a \$1 million annual set-aside within the Planning and Capacity Building Fund⁵⁴ for 'Disaster Housing Reconstruction Planning.' Through a phased process, each year four COGs would receive \$250,000 each to allocate toward Local Emergency Management Planning efforts as well as the creation and maintenance of the Emergency Housing Procedures Manual.

⁵³ Texas Department of Public Safety, Texas Division of Emergency Management, "Local Emergency Management Plan and Annexes" <http://www.txdps.state.tx.us/dem/pages/downloadableforms.htm#annexindex>

⁵⁴ Texas Department of Rural Affairs, "Planning Fund," <http://www.tdra.state.tx.us/TxDRA/programs/TxCDBGhomepage/txcdbgGrants/pcb.aspx>

Finally, in order to ensure that the planning efforts conducted by local city and county jurisdictions are recognized and considered by the appropriate COG when that COG is applying for state and federal disaster funding, the Committee recommends that COGs be required to show how their Methods of Distribution (or other application) reflect and adhere to the vision and intent of the local jurisdictions, as laid out in their LEMP's housing reconstruction plans.

Implementing Overarching Recommendations

2. As part of the long-term housing planning effort, risk assessment and cost benefit analysis of mitigation approaches should be undertaken at the local level.

The Advisory Committee acknowledged that prior to Hurricanes Katrina and Rita, at-risk communities in Texas were largely unaware of how vulnerable their housing stock was to damage or complete destruction by a natural disaster. Although substandard housing conditions had become prevalent in many local jurisdictions, these entities had not conducted a risk assessment of their housing stock.

“But one of the key points that she [Chula Sanchez] left out that they really should be applauded for was in cooperation with the city they actually really pushed for hazard mitigation and elevating these homes to two foot above the base foot elevation. But that actually needed a lot of community buy in. So that even though the City Council didn't necessarily adopt the two foot above base foot elevation, all these homes that are to be reconstructed within the City of Galveston and furthermore, any homes to be elevated within the City of Galveston will be elevated to two foot above base foot elevation.” –*Matthew Erchull, CMD, City of Galveston*

The Advisory Committee recommends that communities incorporate pre-disaster assessment and mitigation efforts in their LEMPs. The first step in the assessment would be extensive data gathering on the number of owner-occupied, rental, and accessible units for special needs populations that are substandard or otherwise at risk of damage from a natural disaster. This should include an exposure assessment, using information from the Texas Department of Insurance to identify and establish an inventory of those households in areas prone to flood and windstorm damage that are uninsured. Additionally, part of this data gathering process would include calculating the value of losses to the residential stock.

Some COGs have already gathered some of this data through their Mitigation Action Plans. A FEMA-approved Mitigation Action Plan is required for eligibility for grant funding through FEMA's pre-disaster grant programs (discussed in Recommendation #3). Local jurisdictions are encouraged to incorporate their region's Mitigation Action Plan into the risk assessment portion of their LEMPs.

Additionally, upon assessing those housing units at greatest risk of damage, the Committee recommends that the local entities create a referral process to connect households to the Texas Windstorm Insurance Association to assess wind and hail insurance. The Advisory Committee wants to ensure that this risk assessment process not have the unintended consequence of triggering code enforcement activity in a manner that could result in the loss of housing for many individuals and families, predominantly families of lower income.

3. Local jurisdictions should be encouraged to apply for federal mitigation grants.

The Advisory Committee discussed several federal funding sources for disaster mitigation that could be obtained by local communities, including:⁵⁵

- Hazard Mitigation Grant Program (HMGP)
- Pre-Disaster Mitigation (PDM)
- Flood Mitigation Assistance (FMA)
- Repetitive Flood Claims (RFC)
- Severe Repetitive Loss (SRL)

Table 1: Eligible Activities by Program⁵⁶

| Eligible Activities | HMGP | PDM | FMA | RFC | SRL |
|--|------|-----|-----|-----|-----|
| 1. Mitigation Projects | √ | √ | √ | √ | √ |
| Property Acquisition and Structure Demolition | √ | √ | √ | √ | √ |
| Property Acquisition and Structure Relocation | √ | √ | √ | √ | √ |
| Structure Elevation | √ | √ | √ | √ | √ |
| Mitigation Reconstruction | | | | | √ |
| Dry Floodproofing of Historic Residential Structures | √ | √ | √ | √ | √ |
| Dry Floodproofing of Non-residential Structures | √ | √ | √ | √ | |
| Minor Localized Flood Reduction Projects | √ | √ | √ | √ | √ |
| Structural Retrofitting of Existing Buildings | √ | √ | | | |
| Non-structural Retrofitting of Existing Buildings and Facilities | √ | √ | | | |
| Safe Room Construction | √ | √ | | | |
| Infrastructure Retrofit | √ | √ | | | |
| Soil Stabilization | √ | √ | | | |
| Wildfire Mitigation | √ | √ | | | |
| Post-Disaster Code Enforcement | √ | | | | |
| 5% Initiative Projects | √ | | | | |
| 2. Hazard Mitigation Planning | √ | √ | √ | | |
| 3. Management Costs | √ | √ | √ | √ | √ |

First, the Hazard Mitigation Grant Program (HMGP) provides funding following a Presidential major disaster declaration to prevent or reduce future losses to lives and property through the identification

⁵⁵ US Department of Homeland Security, Federal Emergency Management Agency, “FY 2011 Hazard Mitigation Assistance (HMA) Unified Guidance,” <http://www.fema.gov/library/viewRecord.do?id=4225>

⁵⁶ US Department of Homeland Security, Federal Emergency Management Agency, “FY 2011 Hazard Mitigation Assistance (HMA) Unified Guidance,” <http://www.fema.gov/library/viewRecord.do?id=4225>

and funding of cost-effective mitigation measures and the minimizing of costs of future disaster response and recovery. This program is administered at the state level by the Texas Department of Public Safety.

Second, the Pre-Disaster Mitigation (PDM) program provides funding for mitigation projects that produce a sustainable reduction in risk to people and property from natural hazard events or for planning activities that deliver a FEMA-approved local mitigation plan. PDM grants are awarded annually, and small impoverished communities may be eligible for up to a 90 percent Federal cost share. Third, the Flood Mitigation Act program was created to assist States and communities implement measures that reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insured under the National Flood Insurance Program.

Fourth, the Repetitive Flood Claims (RFC) program has a goal of reducing flood damages to individual properties for which one or more claim payments for losses have been made under flood insurance coverage and that will result in the greatest savings to the National Flood Insurance Fund (NFIF) in the shortest period of time. Finally, the Severe Repetitive Loss (SRL) program has a goal of reducing flood damages to residential properties that have experienced severe repetitive losses under flood insurance coverage. SRL is potentially the most useful of the mitigation grants as regards housing, as it allows housing replacement, similar to the CDBG Owner Occupied program. SRL and FMA are managed by the Texas Water Development Board.

A mitigation project that consistently ranks highly in the State mitigation grants are property acquisition/demolition projects; commonly known as 'buyouts'. Counter-intuitively, the buyouts, which destroy houses, are actually a housing assistance program, and are the assistance that is available soonest after the event. Affected citizens receive pre-flood market value for their damaged house, and take those funds to quickly move on, purchasing or renting existing vacant housing in the area.

The Advisory Committee encourages local jurisdictions to apply for these relevant funding sources. The Committee also recommends that the Texas Department of Public Safety and the Texas Water Development Board conduct outreach to disaster-prone areas, to educate local public officials on the availability of these five funding opportunities. The Texas Department of Public Safety's applicant briefings on the availability of HMGP funding can be a model for this outreach.

4. Local jurisdictions should be required to have a contingency plan for pre-approval of third-party entities to conduct expedited permitting and inspections.

Public input received during the community roundtable process revealed that one of the biggest obstacles to the rapid housing reconstruction after a natural disaster was the lengthy process of obtaining the initial building permit and then once the home was completed, having it inspected and approved for occupancy. Many jurisdictions are not able to operate at full capacity immediately following a disaster and are overwhelmed by the volume of permitting and inspections requests received by homeowners seeking to rebuild their properties.

"I think we also have a lot of challenges with local ordinances and permitting processes and getting that streamlined before a disaster so that we know that after a disaster something different is in place if that's needed. A good example would be just the timing for the permit process for some of the repairs, having an expedited process...And I think along with that,

more efficient systems for rebuilding and new homes that need to be brought in in a recovery situation and making sure that process is expedited for permitting.” *Amanda Timm, Executive Director, Local Initiative Support Corporation*

“And our suggestions are some -- and one -- for example, there are residential inspectors in place, licensed by the State of Texas. After an emergency hits, the community should be able to use them.” – *Sunny K. Philip, City Manager, City of La Feria & Representative of South Texas Collaborative for Housing Development*

Therefore, the Committee first recommends that jurisdictions create a pre-approved set of criteria that a housing design must meet in order to receive a permit, as mentioned in Recommendation #2. Second, the Committee recommends that the jurisdiction pre-qualify professionally certified inspectors to act on behalf of the jurisdiction. This can be accomplished through an intergovernmental agreement with another city, to supplement government staff working on permitting and inspections in the event of a disaster. An alternative would be to subcontract with private inspectors, entering into pre-positioned contracts for private inspectors to fulfill the responsibilities or permitting and inspections for a set time frame following a disaster. Either option ensures that, in the event of a disaster, qualified personnel would have already been selected and would be able to take immediate action.

Alternatively, in large disaster events that result in a federal declaration, stricken communities can request code enforcement support from the State through the Public Works Response Teams (PWRTs). These PWRTs are coordinated and deployed by the state but use local public works personnel that make themselves available outside their normal jurisdictions under state control.

5. Local jurisdictions should create an agreement with Texas Historical Commission to pre-approve an expedited historical clearance for repair and rehabilitation of historic properties.

Under the Antiquities Code of Texas, project sponsors are required to obtain permits from the Texas Historical Commission (THC) for work proposed on designated historic buildings. Additionally, state and federal historic preservation laws require that qualified professionals be employed on historic preservation projects. Property owners and project sponsors have legal responsibilities when:

- A project involves federal funds, licenses, permits, or approval;
- Project land is owned or controlled by a state agency or an political subdivision of the state; and
- A historical designation or covenant requires review of proposed work.⁵⁷

The Advisory Committee recommends that local jurisdictions create an agreement with the THC that if certain historic property is damaged beyond an identified threshold (40-50%), then the local jurisdiction has the authority to automatically demolish and reconstruct the property. Those properties meeting an exceptional historic standard, such as a property on the Federal Historic Register, would be exempt from this agreement and would still go through review by the THC.

⁵⁷ Texas Historical Commission, “Finding & Hiring Qualified Historic Preservation Consultants,” <http://www.thc.state.tx.us/publications/guidelines/HiringPresConsul.pdf>

6. Local jurisdictions and COGs should adopt the “Hurricanes Ike and Dolly Round 2 Housing Guidelines” as the pre-approved, clear, standardized set of procedures for case managers to use to direct homeowners through each step of the rebuilding process.

Housing reconstruction can be a lengthy and confusing process, with many mandatory rules and regulations to follow. Additionally, case managers are not always versed in the rebuilding process and are forced to learn as they go. Furthermore, if these regulations changes midway through the rebuilding process, it leads to frustration and delay.

“Another issue that was touched on earlier that we have seen affect the recovery dramatically is the issue of heirship and clear title and property tax issues. They are extremely prohibitive in low income communities to the recovery process. And I know that we really see a major hurricane preparedness initiative in helping families resolve their estate issues and getting folks on payment plans for property taxes because that's what holds the system up, and when they're dealing with a lot of other stressors that come after a storm, it is very difficult to work through that process. One of our rough figures is, just from our home repair process, about 50 percent of the houses that applied for assistance could not get assistance through the public sector resources that were available because of proof of ownership issues, tax issues, clear title, things like that.” - *Amanda Timm, Executive Director, Local Initiative Support Corporation*

“It takes too long to get the word out. It takes too long to let the people know what the resources are. After a while, you don't even know who is out there that still needs help... So we need to find a better way to disseminate that information when funds become available.” - *Lina Mendez-Romero, Administrator, Brownsville Housing Authority*

“And there needs to be some understanding at the State level, a guidebook saying that if the community wanted to take the step further, and help out their own residents, these are the things you need to follow.” - *Sunny K. Philip, City Manager, City of La Feria & Representative of South Texas Collaborative for Housing Development*

“A lot of the people that we're dealing with, whether it be a mobile home unit or now with the Galveston County or City of Galveston or Harris County program, they really are over their heads. I guess there's a better way of saying it. They do need some training, they need some assistance. You were talking about the case management. They need some case management.” - *William Sullivan, Sullivan Interests, Ltd*

“But if there's one issue that I would like to hit: there's so many agencies and it's almost like it takes forever to get anything done. And I know the homeowner says that. But I can say, as somebody who's been involved with all the agencies, that it's kind of crazy...Whatever you do, please try to put it in clear terms so that when it goes down people will understand it.” -*Jim Hall, Nehemiah's Vision*

In order to educate both the case manager and the displaced homeowner, the Committee recommends that local jurisdictions and COGs adopt the “Hurricanes Ike and Dolly Round 2 Housing Guidelines,” developed through the Conciliation Agreement process, as a uniform set of

guidelines outlining each step in the rebuilding process.⁵⁸ These Guidelines include information on: qualifications and eligibility for federal funding, damage assessment of home, timeline for rebuilding, title/deed requirements, legal referral, permitting process, elevation requirements, choices for housing models, inspection processes, etc.

The Committee recommends that these Guidelines be agreed upon/approved by the local jurisdiction as the definitive protocol in the instance of a disaster. Additionally, these guidelines should be translated into multiple languages.

7. COGs should create an Emergency Housing Procedures Manual, to be used by local jurisdictions for the implementation of housing rebuilding programs. As part of the Emergency Housing Procedures Manual, COGs should work with local architects to pre-permit a set number of housing designs and pre-bid the winning designs to contractors.

Moving beyond the local planning efforts, the Committee saw a need for a standardized set of procedures that jurisdictions can turn to when implementing a housing rebuilding program. Therefore, they recommended that each COG create an Emergency Housing Procedures Manual to serve as these uniform guidelines.

As part of the Procedures Manual, the Committee wants to ensure that the construction of homes following a disaster is efficient, but also meets the community's standards concerning quality and aesthetic. Therefore, the Committee recommends that prior to a disaster, COGs release a Request for Qualifications (RFQ) to local architects for housing reconstruction designs. These designs would be required to meet essential engineering and aesthetic specifications. Once these designs had been vetted through a public input process and the governing entity had chosen a set of housing designs and layouts (1 bedroom, 2 bedroom, etc.), they could be reviewed for advanced permitting and windstorm approval by the Texas Department of Insurance.

Upon permitting, these designs can then be submitted to contractors for bidding. These bids would serve as a basis for contingency contracts for a five year period and could be renewed. The Advisory Committee found that pre-bid contracts would be more cost effective than post-disaster bidding, when jurisdictions are less able to negotiate and more susceptible to the price demands of developers. However, the Committee acknowledged that supply costs are subject to change following a disaster and may have to be renegotiated, or a separate third-party supplier contract entered into.

“We can gear up housing faster than any industry, quicker than any industry because we can utilize so many plants, you know, across Texas, Louisiana, Alabama, wherever. We can always tap product from somewhere. Knowing that a disaster is coming in if we have pre-qualified specs then we can already have those houses built.” - *Tommy Blanchard, World Wide Homes*

In some arenas, use of pre-procured contractors has proven successful. Prior to Hurricane Ike, the Houston-Galveston Area Council (H-GAC) was able to pre-negotiate contracts for debris removal through a cooperative purchasing program. Each local jurisdiction within the H-GAC was able to pick a contractor from a pre-qualified list. The contracts were then tested during the 2008 hurricane season, and the process was found to be very successful.

⁵⁸ Texas Department of Housing & Community Affairs, CDBG Disaster Recovery, “DRAFT Round 2 Housing Guidelines,” <http://www.tdhca.state.tx.us/cdbg/ike-and-dolly/index.htm>

Pre-Disaster Recommendations Requiring Legislative Action

8. County governments should be granted the authority to enforce residential housing codes for disaster purposes in wind zone, storm surge, and floodplain areas.

Residential housing codes create a high standard for the durability of housing stock and help to ensure that homes are resistant to natural disasters. Without the ability to enforce building codes, jurisdictions are left vulnerable to the creation of housing stock that is built to lower standards and is more likely to suffer damage in a natural disaster than other homes, built to building codes, could generally withstand.

“You have the reverse problem, you have no codes to enforce also in the unincorporated areas, so anything can get built.” –*Carol Borrego, Fort Bend County Community Development*

“And in your choosing, if you have not done that yet, what's specifically geared toward a project that is rural? Because rural - there are more rural in Texas than there are metropolitan areas. And the rules are different...Codes set aside, in most, no, in every part of 1,000 square miles of Polk County you can bring a manufactured home and drop it anywhere you want to.” - *Larry Shine, President of Texas Voluntary Organizations Active in Disaster*

Currently, county governments are not required to adopt residential housing codes, such as the International Residential Code (IRC). The IRC was adopted as the municipal residential building code for the state of Texas in 2002, setting design and construction standards for one- and two-family dwellings. The Advisory Committee recommends that the IRC standards be enforced at the county level in regions identified as floodplains, wind zones, and storm surge areas.

It should be noted that while counties (less than 250,000) in population do not themselves have code enforcement authority, they may enter into an inter-local agreement to allow member incorporated communities to enforce their local building codes within the 1.7 mile extraterritorial jurisdiction boundary. This can partially reduce the amount of unregulated space in a county.

9. The Texas State Data Center should undertake a statewide Geographic Information Systems (GIS) planning effort, to pull together variables useful for disaster housing reconstruction planning.

Many local jurisdictions do not have the financial capability or expertise to consolidate multiple data sources on the effects of a disaster and the damage caused or to map these variables. Therefore, the Committee recommends utilizing the Texas State Data Center to map this information. Particularly, looking at historical data on the number of owner-occupied, rental, and accessible units for special needs populations that were damaged or destroyed by previous natural disasters, the vulnerable geographic areas identified by FEMA and DPS, FEMA damage claim data, Texas Department of Insurance and Texas Windstorm Insurance Association data on insured and uninsured homeowners, and Census data on the demographic characteristics of low income households and those living in substandard housing.

Post-Disaster Recommendations

10. **Encourage local jurisdictions to engage in partnerships with organizations that can provide immediate assessment of damage and housing need, such as the faith based community and the architecture community.**

As identified in the testimony given during the community roundtables, many volunteers are strategically positioned following a natural disaster to aid the government through a rapid needs assessment. Following Hurricane Ike, the Texas chapter of the American Institute of Architects immediately set up a temporary office to field requests to help with damage assessments.

“Just within two months after the storm Mario's on the sea wall opened and it was the only meeting room. And a group of architects from Houston came to me because I was displaced in Houston, and said, Chula, what can we do to help. Three of those architects had projects in Biloxi with the program there so they knew about design build, getting it built on budget on time. And then we came and this is exactly what they wanted to talk about, rebuilding fast, efficient, culturally appropriate, all those things...And so from that and the involvement with those architects at the University of Houston Architecture School, and then later, the University of Texas San Antonio Architecture Department came here. And over the course of the past almost two years they have catalogued existing conditions, they've designed homes very specific to the program. We've presented those for the Recovery Program.” –*Chula Sanchez, Architect, Chair of the U.S. Green Building Council for Galveston County*

Similarly, faith based groups organized through the Southern Baptist Convention, Southeast Texas Interfaith Organization (SETIO), and Voluntary Organizations Active in Disaster (VOAD) conducted a widespread needs assessment and started case management services within days of the disaster.

“What works very well is working very well through VOAD is that there are groups that do case management. There are groups that do assessments. There are groups that do the actual rebuild part. And when we work in concert together, what happens is, you have the assessments coming in with the names, addresses, phone numbers and all of that. Then you have the people such as United Methodists who do a great job with the case management. Then they start working the case management aspect of it. And then when it comes out to the other side, they say, okay. We have this family, this family, this family. They are ready for a house...So there is a whole process there; we are able to work through VOAD to make it a concert. And that is our goal, is to bring everybody together.” - *Jim Richardson, Disaster Relief Director, Southern Baptists of Texas Convention*

“As a long-term recovery organization we begin to solicit applications immediately. We'll put an outpost in the affected area. We'll put signs all over the community, in the business places and the churches, so that people know that they can come and sign up to get help. By the time the first FEMA officials are ready to start talking, we've already gathered 4- to 500 applications for assistance. Our crews are already on the ground.” – *Bob Williamson, Southeast Texas Interfaith Organization*

“If you really want to find out, you know, what the communities want you've got to pass the incident management part of recovery directly into the hands of the communities, the nonprofits, the CDCs. FEMA has been working diligently to wash their hands and get out of the housing business. They're not an agency that is in housing. If you look at their mission, they don't that's not what they're there for. But the communities, the grassroots organizations know what each community needs. They know most of them want to move back into what they lost. The second thing the nonprofits can help with is they can prioritize very easily where from a case management point of view who needs what first.” – *Michael Morgan, President/CEO, Critical Response Networks*

The Advisory Committee recommends utilizing these organizations to quickly triage the damages to the community's housing stock, identify which units can be salvaged, and identify which individuals and families have been displaced.

11. Local jurisdictions should work with FEMA's case management contractors to ensure a continuity of case management services.

Quality case management is key to ensuring that a displaced family understands the housing options available to them and is able to obtain that housing. However, previous disaster recovery efforts have been hampered by fragmented case management. Faith based organizations provide case management immediately following a disaster. Once the Social Services Block Grant (SSBG) is allocated to local jurisdictions, case management services are turned over to FEMA's contractors, typically local non-profit organizations.

“You know, today you go to talk to people and you say, ‘You need to talk to your case management.’ And the response is, ‘Which one?’ Is it the DHAP? Is it the housing? Is it Catholic Charities? Is it ICNA? Is it Jesse Tree? So that's the first starting point. And so empowering those organizations with funds to gear up on case managers that remain in the community once again, that are here from the community that's been impacted and provide jobs, as well to additional people is my recommendation of the highest priority in this area.” – *Joe Compian, Gulf Coast Interfaith and Catholic Campaign for Human Development*

“And my last comment, I think, is that please in the future planning make sure that case management lasts as long as the housing program does. We're in a bind because the RISE program and the SSBG funds are about to stop, and my one and only housing case manager is freaking out.” – *Joanne Callahan Ducharme, Director, Montgomery County Community Development*

“The case management is critical and activating that more quickly is essential...And I think dealing with the case management issue and having some sort of bridge funding that's pre-approved and we know we can activate immediately after a storm can help us identify things more quickly.” – *Amanda Timm, Executive Director, Local Initiative Support Corporation*

“In case management right now, we can't take any new cases because our project is closing, and just Galveston alone we have over 500 homeowners that we've case-managed, we've done all that we can for them, and they're sitting there waiting to find out if they're going to be eligible for CDBG money, they're in the process. And we're going to be leaving, next month, them to their own means, and they're not going to know. And SSBG is another one. The SSBG money stops this month and yet these people are waiting for that money. And it's all a matter of

synchronization, and synchronization, I think, has to do with long-range planning, and so if you can keep the planning going on how we can synchronize all these resources and these events and continue to work on that, that would be great.” – *William Sullivan, Sullivan Interests, Ltd*

In order to minimize confusion amongst displaced families, local jurisdictions should coordinate and facilitate a transition process, by which the faith based case manager and the SSBG case manager are engaged in ongoing communication with each other, to hand over case management processes successfully.

12. The Texas Department of Housing & Community Affairs and Texas Health and Humans Services Commission should convene Hurricane Ike and Dolly case managers to develop standards and procedures for case management following a disaster.

Following a natural disaster, many case managers are unprepared to provide the types of assistance that displaced families will require in order to locate emergency housing and maintain housing stability. Case managers may not know who the housing experts are or how to gain the knowledge they need to pass on to their clients. As a consequence, households are often left to figure it out on their own, passed from one person to the next.

Having just provided assistance following Hurricanes Ike and Dolly, local case managers contracted through SSBG and CDBG funding have the experience and knowledge regarding the best practices in helping a displaced family receive assistance and rebuild their home. The Committee sees the opportunity to convene these individuals in order to create a set of case management procedures for future disasters.

13. Local jurisdictions should utilize the state’s network of modular and manufactured housing developers to rapidly construct and deliver homes immediately following a natural disaster. These homes can also be utilized as permanent housing solutions in the future.

Following a natural disaster, the most rapid means of housing displaced individuals and families (other than travel trailers, which are rapidly deployed but have unacceptable problems when used on an extended basis) is through the use of manufactured or modular housing. As stated in testimony given by manufactured housing developers, local production facilities would be able to ramp up production and delivery in a matter of weeks.

“So with the industry in Texas, we can produce 10 to 15 homes a day out of the factories that we're doing without giving up our existing business. If we were to concentrate solely on it, you could double that, 30 to 50 houses a day, easily...If we were going to concentrate on the International Residential Code, it would limit it to the factories that are capable of doing that. If you're going to go with the Manufactured Housing Code, then it would probably triple that amount, easily triple that amount that was available.” - *Keith Alexander, President of Southwest Manufacturing, Palm Harbor Homes*

“We have two manufacturing facilities in Texas and both of them are Energy Star certified and both of them are certified under a certified Green Program. We have the capacity to build both short-term and long-term housing. We could build up to 50 homes a week after ramping up for 30 days to ship into the disaster area. That's temporary housing. We'd easily build 40 permanent houses, also each week following that. Today if we had a disaster today we could

provide up to 200 homes immediately to the disaster area right from our own inventory.” – *Ronnie Richards, American Home Star/Oak Creek Homes*

Additionally, all homes go through full inspection prior to delivery and modular homes are built to IRC Code, while manufactured homes are built to HUD code. TDHCA guidelines require Windstorm II rated manufactured homes in Coastal counties. Another factor in favor of manufactured and modular homes is that they can be built to match the specific design characteristics and overall aesthetic of a neighborhood. Finally, these homes can be quickly installed as temporary housing structures and then transitioned to permanent structures over time. They can also be expanded upon, for households seeking to add to the core unit.

“And we have to have a Texas Department of Insurance type inspection to our plant when the home's being built, because there's different requirements to put them down here on the coast. So there's a third-party engineering firm that seals those and goes and actually inspects them. Then when the home is delivered there's inspecting the foundations and all the other parts of that, too, and the way they're installed... Then we have to have another if it's coming down here, we have to have a third-party engineer that's a Texas professional engineer come in and watch to make sure that the right numbers of nails are going in, that they're using all galvanized strapping and galvanized tacks and all that kind of stuff. So they have to be they do an inspection in the plant. It's pretty substantial.” – *Ronnie Richards, American Home Star/Oak Creek Homes*

“We're absolutely capable of producing any home that's acceptable in any economic area or any architectural desired area. For example, our industry has placed houses -- we've got some houses in Tarrytown, we've got houses in the historical architectural areas of New Orleans. So it all comes down to what are the specifications that TDHCA or FEMA or whomever would want in that area and we can provide that.” - *Keith Alexander, President of Southwest Manufacturing, Palm Harbor Homes*

Currently, many local jurisdictions affected by Hurricanes Rita and Ike are contracting with manufactured housing developers. Testimony revealed that not only these developers more efficient in economies of scale, but it is also easier for the local jurisdiction to deal with just one prime contractor, that takes care of all site preparation, inspections, delivery, and installation. Jurisdictions found that using one contractor made bidding quicker, easier, and required less staffing on the part of the jurisdiction.

“Montgomery County went with 100 percent modular housing for replacement housing. We did that for several reasons. We went with it because we believed that was going to be more efficient in economy of scale...We sold it to our commissioners by pointing out that it's a vast improvement over the housing that our low income people were living in in the first place. So whatever concerns people have with modular housing, it is still a vast improvement...We went with modular housing because it's a whole lot easier to deal with one prime contractor. Our prime contractor, who is M-Space and is one on their list, he takes care of getting the slab dropped and all the inspections and making sure the tie-downs are correct, and he coordinates the delivery, and it allows me to have fewer staff. So in the long run, all these offsets to my square footage costs are paying off.” –*Joanne Callahan Ducharme, Director, Montgomery County Community Development*

The Committee recommends that local jurisdictions contract with manufactured housing developers to provide modular and manufactured homes immediately following a natural disaster. Particularly, the Committee encourages that these contracts be pre-bid contracts, as mentioned earlier.

14. Immediately post-disaster, where a widespread contiguous geographic area is affected, local jurisdiction should hold neighborhood design forums, where architects are commissioned to conduct a design consultation for all homeowners.

In order to ensure resident buy-in, local jurisdictions must present opportunities to provide input and to choose which housing designs best fit their neighborhood aesthetic. Design details such as the paint color, materials used, height of the home, pitch of the roof, and character of the façade are all key elements.

“I think, related to the types of housing being discussed, we want to emphasize, because of the character of neighborhoods and because of what communities are built of, that the local context is taken into consideration regarding appearance.” - *Amanda Timm, Executive Director, Local Initiative Support Corporation*

“People need choices. That's a really big part of going back to people. They really need to be able to go and say, you know, not just is it pink or blue. People when they have a choice they buy in to where they're living. They take care of it. They love it. And a building will only last as long as it's loved.” - *Chula Sanchez, Architect, Chair of the U.S. Green Building Council for Galveston County*

“If you give the people choices they feel like they've bought into something. And I think that is probably the biggest thing, because we do that in southeast Texas. If you'd talk to your city and you get the city or your local officials behind you and working and that could be you all getting you getting in and working with the nonprofits, it makes it go a lot easier. I mean, it really does...But it does give you an opening to get in there and to speak. And the people in Port Arthur, when they had a choice it moved so much easier and so much faster.” – *Jonnye Williamson, Southeast Texas Interfaith Organization*

The Committee recommends that, in addition to procedures found in the “Hurricanes Ike and Dolly Round 2 Housing Guidelines,” local jurisdictions should commission architects in advance to lead community forums. At these forums, homeowners would see a selection of site plans from which to choose. The architects would engage residents in a neighborhood design process, explaining specific design specifications and answering questions, ultimately moving to help community support coalesce around a menu of acceptable designs.

15. Local jurisdictions should enter into a three party construction agreement with the household and the builder for the ownership of the home.

Currently, for those homes being reconstructed with CDBG funding awarded for areas affected by Hurricanes Rita, Ike, and Dolly, the local jurisdiction (city, county, or COG) will enter into a construction agreement with both the developer and the applicant household when transferring ownership. This three party process is beneficial to the homeowner for multiple reasons. Many times households do not have experience communicating with builders; so the local jurisdiction is able to provide their expertise. Additionally, after the household moves in, should something go wrong with

the home, the households are provided comfort in knowing that the local jurisdiction will be involved in holding the builder accountable for maintenance and repairs.

16. The State should convene an advisory body of engineers, design experts, and insurance risk assessors to undertake an Economic and Design study, evaluating the cost-benefit tradeoffs between insurance provision and construction of hardened structures.

The costs of maintaining flood insurance, windstorm insurance, and hazard insurance are prohibitive to low income families. Those households who are unable to afford insurance on their government funded, reconstructed home will likely decide to forgo insuring their home, making their home susceptible to destruction and making the family susceptible to displacement following the next natural disaster. This is an inefficient use of taxpayer dollars. The Committee discussed the possibility of lengthening the time that the State provides insurance coverage on a reconstructed home from one year to five years; however this expense would likely reduce the total number of homes that could be reconstructed following a disaster.

“Another incident we have, of course, is the insurance. Our typical client, homes have been given through the Rita Program that are valued at about \$85,000, that's typical on the tax rolls. With our tax structure in Jasper and the homes, those folks are typically paying about \$1,400 a year. Then we start dealing with them on the insurance, and many of these have poor credit which results in a high insurance rate.” – *McNeal Adams, Lone Star Youth Council, Inc.*

Given that many reconstructed homes will likely remain uninsured, an alternative solution proposed by the Committee would be to create hardened structures, resistant to a natural disaster. These homes would include thicker cement board siding, steel insulated doors, shuttered windows, and a thicker non-shingled roof structure. However, hardening a structure can add up to 20% to the cost of constructing the home, again causing a reduction in the total number of homes that could be reconstructed by the State. Additionally, in the past hardened structures have been met with community resistance, as the design elements are deemed aesthetically incompatible with the surrounding neighborhood.

Thus, the Committee recommends that the Texas Department of Housing & Community Affairs form an advisory body, consisting of design experts, engineers, and insurance risk assessors, to evaluate the cost-benefit tradeoffs between a lengthened state provision of insurance and the construction of hardened structures. The body would be required to deliver its findings to TDHCA in an Economic and Design Study.

17. Following a disaster, the Office of Public Insurance Counsel (OPIC) and the State Bar of Texas should provide education and outreach to low income households regarding insurance protection for homes that have been reconstructed.

Many homeowners are inexperienced in negotiating insurance rates and filing insurance claims. The Office of Public Insurance Counsel (OPIC) represents the interests of consumers as a class in insurance matters, advocating for consumers in rate, form, and rule proceedings primarily at the Texas Department of Insurance (TDI). To accomplish its mission, OPIC’s responsibilities include: reviewing rate and policy form filings, and working with TDI and insurance companies to negotiate

changes advantageous to consumers; and providing information to consumers regarding insurance coverage and markets.⁵⁹

Additionally, the State Bar of Texas provides pro-bono legal advice and assistance to consumers on disaster-related issues, such as insurance. The Hurricane Ike Legal Task Force created a Resource Manual for volunteer attorneys and case managers fielding legal questions from those affected by Hurricane Ike.⁶⁰

The Committee recommends that the OPIC and the State Bar of Texas conduct extensive outreach to low income consumers following a disaster, holding educational meetings to advise households on insurance costs, legal requirements, and the consequences of not maintaining insurance. Additionally, these organizations should make consumers aware of the possibility of relocation, which can be financed through FEMA’s Hazard Mitigation Grant Program.

18. The state should establish an advisory committee of architects and engineers, to develop a set of solutions to issues of visitability in reconstructed housing following a natural disaster.

According to Texas Government Code, Section 2306.514, “If a person is awarded state or federal funds by the department to construct single family affordable housing for individuals and families of low and very low income, the affordable housing identified on the person's funding application must be constructed so that:(1) at least one entrance door, whether located at the front, side, or back of the building:(A) is on an accessible route served by a ramp or no-step entrance.”⁶¹ This statutory requirement is more commonly known as the state’s visitability law.

As noted in previous chapters, when reconstructing housing following a disaster, the current cost of making a property visitable for persons with disabilities is quite high, particularly in areas with elevation requirements. Additionally, there are many obstacles to the creation and maintenance of ramps or lifts on the exterior of a property. Many lots in more dense locations, such as Galveston, are not large enough to provide ramps which extend from the ground to the entrance of the housing unit, which may be fourteen feet in the air. Additionally, in coastal locations along the Gulf, the salt and moisture in the air can quickly rust the metal components of a lift, making the lift unusable and the cost of maintenance prohibitive to some low income households.

“And that also, the one that you're going to see today has a lift that was like, \$15 or \$20,000 on it for, you know, handicapped use...We're using lifts and it is expensive. The cost of those ramps is significant, though, too.” *Ronnie Richards, American Home Star/Oak Creek Homes*

“If you have to elevate a home, we do pier and beam construction. But we have to elevate it. And we have the standards TDHCA has, where you have to have at least one zero step

⁵⁹ Texas Sunset Advisory Commission, Commission Decisions – Office of Public Insurance Counsel, *Agency at a Glance* (April 2010) http://www.sunset.state.tx.us/82ndreports/tdi/tdi_dec.pdf

⁶⁰ Hurricane Ike Legal Task Force, *Resource Materials for Responding to Legal Questions from those Affected by Hurricane Ike* (September 26, 2008) <http://www.texasbar.com/Content/NavigationMenu/ForThePublic/DisasterReliefResources/HurricaneIkeDisasterLegalResourcesManual.pdf>

⁶¹ Texas Government Code, Title 10, Subtitle G, Section 2306.514. *Construction Requirements for Single Family Affordable Housing* <http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2306.htm>

entrance. Which means, we have had to put in a lot of ramps for people who have no one who is disabled. Which is more time, and people don't like it. Those take a lot of time, and keep us from being able to respond quickly.” - *Ann Williams-Cass, Executive Director, Proyecto Azteca & Equal Voice Network*

“But a lot of the houses in Sabine Pass were we needed handicapped ramp and we need ramps. And I've seen some around here going up. They look like a zig-zag going. It's a huge issue. And when you get a 70 or 80 year old little lady that, you know, wants to get back in her house and she you know, we have a little old lady in Bridge City that's 90 years old and she just wants to get in her house before she dies. I mean, you know. And you see these [ramps] they're, I'm sorry. They're ugly.” – *Jonnye Williamson, Southeast Texas Interfaith Organization*

“I hear everybody saying that elevators or lifts are the way to go. But I have concerns about them in Galveston with the salt air. I live out in the west end of the island. And I have neighbors who are quite affluent and still complain about how much it costs to maintain them. And I'm worrying about low-income people maintaining them.” - *Laura Murrell, Galveston Recovery Housing and Outreach and Gulf Coast Interfaith*

Therefore, the Committee recommends that the Texas Department of Housing & Community Affairs form an advisory committee, bringing together architects and engineers, particularly those who have expertise in accessibility modifications, to discuss and make recommended solutions regarding issues of visitability for reconstructed housing following a natural disaster.

19. To ensure both the durability and sustainability of reconstructed housing, rebuilt homes should be required to include disaster resistant building materials as well as meet ENERGY STAR rating standards.

As mentioned in Recommendation #1, many of the households displaced after Hurricanes Rita, Ike, and Dolly were living in substandard housing units that were susceptible to substantial damage from a natural disaster. Additionally, substandard homes are unable to provide sufficient heating and cooling to a home, often causing low income households to be strapped with high energy bills that they cannot afford. In order to ensure that these households are protected from future displacement, the Committee strongly encourages investment in high quality, durable housing materials and design that also add to the energy efficiency of the home.

“You have fewer people with emergency housing needs, if you have more people living in quality housing to begin with. Because the houses stand up to a storm better...If everybody's houses are in better shape, fewer people are going to need emergency assistance.” - *Emily Rickers, Texas Rio Grande Legal Aid*

“We're talking about families that typically, in our program, the typical family probably makes about \$700 a month. So utilities, this is another area that we have to work with families on because, again, most of them this month their utility bills were around \$300 a month.” - *McNeal Adams, Lone Star Youth Council, Inc.*

“And sustainability is about the whole neighborhood as well and paying attention to that, but also emphasizing the importance of addressing air quality inside the home, the indoor air quality.” - *Amanda Timm, Executive Director, Local Initiative Support Corporation*

Certain materials and building technologies provide greater resilience in the face of severe storms while simultaneously making the home more energy-efficient.⁶² The expanded use of such materials could provide a more cost-effective way for new and existing homes to be more resistant to disasters and more energy efficient.

“But the one that the most important one that did make it is to build to 145 miles an hour. I think that's critical for rebuild, because if it doesn't stay put we lose our tax base. I forgot to mention all the debris, the building debris that goes in landfills. And we're all paying for that. I mean, it's life cycle it's huge life cycle. So upping the wind code for me is really paramount to all of it. Durability and maintenance is number one for sustainability...And so I think when you start writing your specs for rebuild on these 60 homes those specs are key. It's just it's the bible to rebuild...And it goes into durability, energy efficiency and air quality, because most of these a lot of these recovery homes are for families with children and older people.” - *Chula Sanchez, Architect, Chair of the U.S. Green Building Council for Galveston County*

ENERGY STAR is a joint program of the US Environmental Protection Agency and the US Department of Energy, created to save money and protect the environment through energy efficient products and practices.⁶³ To earn the ENERGY STAR, a home must meet strict guidelines for energy efficiency, making them 20–30% more efficient than standard homes. Homes achieve this level of performance through a combination of energy-efficient improvements, including:

- Effective Insulation Systems
- High-Performance Windows
- Tight Construction and Ducts
- Efficient Heating and Cooling Equipment
- Qualified Lighting and Appliances

The Advisory Committee recommends that the ENERGY STAR rating standard be adopted by local jurisdictions as a requirement for all homes reconstructed following a natural disaster, to provide better protection and prevent displacement in the event of future disasters.

20. Local jurisdictions should develop standards for the potential expansion of reconstructed housing units over the long-term.

During the immediate disaster recovery phase, many homes will be placed that serve as a temporary or interim housing structure. Households may later choose to expand upon these original units, adding extra rooms onto the building.

“For the size of the homes, we are looking at setting them up fast, having them long term, eventually transitioning to permanent structures.” - *Martin Medina, Director of Strategic Initiatives, Affordable Homes of South Texas, Inc.*

⁶² Center for Housing Policy & National Housing Conference, *Make Homes More Resistant to Natural Disasters: Incorporate Materials and Technologies that Provide Both Disaster Resistance and Energy Efficiency*
http://www.housingpolicy.org/toolbox/strategy/policies/distrest_energeff.html?tierid=113299

⁶³ U.S. Environmental Protection Agency & U.S. Department of Energy, *How New Homes Earn the ENERGY STAR*,
http://www.energystar.gov/index.cfm?c=new_homes.nh_verification_process

The Committee recommends that as part of their housing reconstructions planning effort, local jurisdictions include guidelines, for architects and builders, for those instances of housing expansion. These guidelines should require that housing additions meet the same building codes and permitting requirements that the original structure was required to meet.

21. Local jurisdictions should partner with local non-profit organizations or local financial institutions to provide financial literacy and homebuyer education to households receiving reconstructed homes.

Many households receiving a reconstructed home are not knowledgeable about the financial responsibilities involved in becoming a homeowner. Possible consequences of not understanding these responsibilities include foreclosure and displacement.

“People that are going to get reconstructed homes need those home ownership classes probably even more. It's a hard sell in our community to provide a lot of money because basically we're putting in more money than the homeowner has equity, so they're upside down. And again, it's tough to do, especially now when times are bad. We couldn't do it when times were good so it's really difficult to do when times are bad...It's part of the provider infrastructure. What's missing, I think, is someone to be able to go in and provide it. Because it's not coming from us, so they're not so suspicious, oh, you're just telling me that. It needs to be from another source that they trust and can answer all their questions away from us.” - *Carol Borrego, Fort Bend County Community Development*

The Committee recommends that local jurisdictions require applicant households to attend in-person financial literacy training and homebuyer education classes prior to receiving their home. The household's case manager would provide information about the classes and assist the family in becoming enrolled.

Good financial literacy training and planning can be provided through Neighborhood Housing Services of America. Additionally, groups such as Habitat for Humanity have created partnerships with local banks to provide this education.

“We provide our homeowners financial literacy and budgeting classes through Capital One Bank and they do it for free. There's some type of ordinance where banks are supposed to do some type of community outreach. So we just set the classes up and we set them all together and we give them some equity hours for going to the classes, and we find that real valuable for them.” – *Natalie Ainsworth, Bay Area Habitat for Humanity*

Post-Disaster Recommendations Requiring Legislative Action

22. Following a disaster, tax appraisal districts should automatically freeze property taxes to the pre-disaster value of properties owned by low income households and allow for a gradual increase up to the value of the reconstructed home.

Of all the barriers to permanent housing for low income victims of natural disasters mentioned at the community roundtables, the issue most frequently discussed was property taxes. After the rebuilding efforts following Hurricane Rita, many low income households are struggling to afford the increase in

property taxes on their reconstructed homes. This potential increase to their property taxes has also made families weary of accepting government assistance for Hurricanes Ike and Dolly.

“My biggest barrier in my program, the thing that is pulling people out of my program right and left at this point, at this late hour, is that they're realizing that we're vastly improving their living conditions and their tax burden, and the increased taxes on the properties are not being offset by our predictions of improved electrical bills. And the ones that are worried about paying their taxes are pulling out of my program and I can't get them to stop. So we are hemorrhaging eligible clients right now on that issue alone...And we have talked to our tax assessor-collector and there ain't going to be no freezing of the taxes and there ain't going to be no exemptions or waivers or nothing for anybody except the seniors on the rolls.” –*Joanne Callaban Ducharme, Director, Montgomery County Community Development*

“Where you put a family in an \$80,000 home, but they can't afford a mortgage. They can only do a \$40,000 home. So you write down with soft money. You get grants or whatever. But appraisal districts are going to charge. They are going to assess the property at \$80,000. And they are going to charge your taxes at that. Next year, it might be 90 or 100. And everybody knows that the incomes of low-income families do not grow in proportion to inflation or the way expenses are.” –*Apolonio Flores, Consultant, Rio Grande Valley Housing Authorities*

“In Fort Bend County we are rapidly growing, so our property taxes are killing everyone. I've kind of personally been appalled with the fact that if we do reconstruct a house, I have one right now that's probably on the tax rolls for maybe \$15,000, that's the improvement of the property, and we build a home that's going to be about \$60,000, their taxes are probably going to go up about four times, the person probably cannot afford it. With all our other HUD programs that we administer, we always do some underwriting. We look that those people should not pay more than 30 percent of their income for all housing costs which include payment, taxes and insurance. We're setting up to fail because you're looking at ratios of maybe 40 percent, 50 percent.” –*Carol Borrego, Fort Bend County Community Development*

“The other thing is one of the problems that we ran into in the with the government efforts to rehouse initially was taxes. There's a family of moderate income that's living in a \$30,000 house and you come in there and build them a \$100,000 house and now all of sudden their tax bill is high.” –*Bob Williamson, Southeast Texas Interfaith Organization*

During the 81st legislature, HB 770 became law amending the Texas Tax Code for appraisal values on disaster damaged homes. The Committee recommends that new legislation further amends the new rules, and low income households that are either damaged or destroyed be exempt from all increased property taxes for a set period of time following the reconstruction of their home. After this time frame, the tax appraisal district would gradually increase the portion of the total valuation paid by the household over time by an amount not greater than five percent annually. This critical stabilization would help to ensure that over time households that had been hit by natural disasters would restore themselves to stable home owners capable of meeting the obligations that go with that home ownership.

23. Encourage the state to prevent the stripping of disaster loans and issue a five year prohibition on cash out home equity loans for government funded reconstructed homes, allowing exceptions approved by the state for *bona fide* emergencies.

In previous instances, after the provision of zero percent interest government loans to households, subprime lenders have approached these homeowners to offer them cash out refinancing at high interest rates. Households who took out one of these home equity loans defaulted, as they could not afford the loan they were offered, and the lender repossessed their home. To prevent this predatory practice, the state legislature passed Texas Finance Code, Section 343.101, stating that “A lender may not replace or consolidate a low-rate home loan directly made by a government or nonprofit lender before the seventh anniversary of the date of the loan unless the new or consolidated loan has a lower interest rate and requires payment of a lesser amount of points and fees than the original loan or is a restructure to avoid foreclosure.”⁶⁴

In order to prevent this predatory practice from happening to natural disaster victims who received government funding for housing reconstruction, the Committee recommends that Section 343.101 be expanded to include government issued deferred forgivable loans.

Additionally, the Committee sees the need for increased monitoring of the deferred forgivable loans issues for housing reconstruction after natural disasters. These loans act as grants, with no repayment to the state, as long as the household remains in the home for ten years. However, because there is no lien placed on the property by the state, and the property is not filed in the county courthouse, it becomes very difficult for the state to monitor these households, to ensure their residence in the home. Therefore, in order to ensure that the households themselves do not cash out on their government funded reconstructed property, the Committee recommends that the state require a five year prohibition on home equity refinancing, with ability to obtain exception approval for *bona fide* emergencies.

⁶⁴ Texas Finance Code, Title 4, Subtitle B, Section 343.101 - Refinancing
<http://www.statutes.legis.state.tx.us/Docs/FI/htm/FI.343.htm#343.105>

Conclusion

NEXT STEPS

In coordination with TDHCA, the Natural Disaster Housing Reconstruction Advisory Committee is currently using the findings and recommendations found in the Housing Reconstruction Plan to develop guidelines for the implementation of the Housing Reconstruction Demonstration Pilot Program. As directed in statute, this Pilot Program should test the feasibility of implementing the plan for the large-scale production of replacement housing for victims of federally declared natural disasters. In accordance with the Conciliation Agreement and the *State of Texas Plan for Disaster Recovery – Revised Amendment No. 1*, funds for the Pilot Program will be awarded in the following jurisdictions: Harris County, Galveston County, and the Lower Rio Grande Valley Development Council region.

Based upon the Housing Reconstruction Plan, the Advisory Committee has brainstormed ideas for the implementation of the Pilot Program, specifically looking at the following categories: Project Administration, Housing Design, Housing Production and Delivery, and Client Support Services.

Appendix A: The Heston Home Project and Why it Did Not Work for Texas

In connection with FEMA's efforts to identify and test possible alternatives to the FEMA trailer FEMA issued a Notice of Funding for the Alternative Housing Pilot Program (AHPP). TDHCA submitted six proposals; FEMA selected one and funded TDHCA to carry out the program for the State of Texas. The solution selected to be tested under this program was the "Heston Home," a panelized, containerized housing unit. The company that manufactured the units was located in Italy, but an affiliated company in the United States, Heston LLC ("Heston"), was selected as a sole source provider to oversee the deployment of this unique product under the test conditions required by FEMA.

The goal of the Texas AHPP was to provide between 40 and 50 permanent homes in the East Texas region and an estimated 20 units for a group site to be placed in the City of Houston/Harris County. Heston was to construct these homes in East Texas and the group site for the City of Houston to determine if the product could be used as a travel trailer substitute, if the product could be mobilized and deployed quickly and whether the technology was appropriate in a disaster response situation.

Despite Heston's expressed application representations regarding capacity, the company ultimately proved ill-equipped to perform as required. After various issues had been identified by TDHCA (lack of ability to adapt to changing program circumstances, lack of production, staffing issues, and failure to address concerns that were raised during monitoring) and Heston was advised of needed corrections however formal notice of a default and opportunity to cure was given when Heston failed to address the issues. The agreement was formally terminated on July 31, 2009.

In assessing Heston's activities in order to address their final draw under the contract, a number of concerns were identified, including:

- Significant costs that had been submitted for reimbursement which, upon review, did not appear to be adequately documented to support payment;
- Submitted requests for reimbursement of ineligible costs;
- Apparently duplicative costs for services procured in connection with the installation of homes; and
- Defective installation and/or damaged homes.

In addition, Heston had a record of incurring costs which, although they might be for allowable activities, were so excessive as to indicate imprudence. Upon further scrutiny, some of these costs appear to have been duplicative, not allowable, and/or possibly fraudulent. Other costs were supported by statements or invoices, but were not reimbursed without adequate support. . TDHCA identified Heston failed to appropriately pay subcontractors for invoices paid by TDHCA. These matters are being investigated, and no final payment will be made to Heston until and unless these issues are resolved and appropriately documented.

Examples of defective installation and/or damaged homes are as follows:

Electrical Wiring— The homes have been shown to be at risk of electrical failure. Master electricians spent days in several of the units attempting to follow the wiring system and determine what was causing the problems. In one unit, none of the outlets worked correctly. Two of the homes appear

to have been wired opposite of what they should have been; when lights were turned on in one room it blew the fuses in other parts of the home.

Plumbing - Problems such as poor drainage, lack of capacity to handle constant use, leaks and other problems have plagued three of the units but most specifically the unit in Port Arthur. Additionally, the sewer drains in two houses drained toward the home, not away from it.

Air Conditioning Units - A/C units in three of the homes have shorted out repeatedly and constantly cycle causing the homes to overheat or become too cold. In one of the homes the A/C units only worked briefly or did not work at all. The A/C units installed in the AHPP homes are not typical wall units seen in homes but instead are typical of the wall units found in hotels and motels. Servicing of them has been difficult due to the unconventional model type and the unavailability of repair companies in the area that are familiar with the model type.

Poor Quality of Materials - Due to possible leaks at the seams where the units were put together, as well as a missing A/C sleeve, water is able to intrude after running down exterior walls causing failure of the sub-floor in one unit in particular. Floors have become mushy and buckled within days of heavy rain leaving room for mold intrusion. In three of the homes, light could be seen at points where the home was put together, around the windows, and air conditioning units.

Energy Efficiency - Despite claims that the units would be energy efficient, homeowners have reported that their electrical bills have actually increased during the winter months. Due to the lack of industry typical insulation, when the heat was on, the hot air went to the ceiling causing it to be very warm, but the floor area was ice cold. One homeowner registered a 20+ degree difference from floor to ceiling.

Repairs were necessary to correct these deficiencies.

As a result of the Heston contract termination, the Department posted a Request for Proposal (RFP) for a contractor to complete the remaining portion of the program (the Houston group site and maintenance on existing East Texas units). The response deadline for the RFP was March 1, 2010 in order to allow time to coordinate with the City of Houston (the City) with regard to the logistics of the group site.

However, following an extended negotiation and planning period with the City, the City and TDHCA decided not to pursue the group site application of AHPP any further due to the difficulty the City encountered with locating the funding necessary for the group site. Due to the complications that arose in trying to finalize a group site and the decision to remove the City from the program, the previously posted Request for Proposals (RFP) to solicit the participation of a replacement contractor for the Heston Group to install the AHPP units on the group site was cancelled.

On Tuesday, June 8, 2010, TDHCA staff held a conference call with FEMA HQ to discuss next steps for the program in light of the decision made regarding the Houston group site. FEMA and TDHCA both agreed that it would be appropriate at this point to begin grant close out activities, bringing the Houston group site planning and the Texas AHPP as a whole to an end.

Appendix B: Evaluating Permanent Manufactured Housing Costs

Shifting away from federal policymaking and funding resources, this chapter of the Plan looks at the costs to deploy manufactured homes that can be transitioned from temporary to permanent housing.

COMPARISON OF HUD, MODULAR, AND SITE-BUILT HOMES

HUD Code Home. The cost breakdown for a HUD built manufactured home that comes closest to what a site-built includes (100% drywall, stainless or rubbed bronze with glass fixtures, cement-type siding, etc.) is as follows:⁶⁵

| Item | Cost |
|--|---|
| 3 bedroom, 2 bath, 1,984 sq. ft, HUD Code manufactured home, comparable to a site-built home | \$50,000-\$70,000 (\$25-\$35 a sq ft) |
| Site and delivery costs, freight, AC, set-up & skirting, and profit for the manufacturer | \$24,000-\$30,000 (\$12-\$15 a sq ft) |
| Site improvements (water well, septic, driveways, etc.) and cost of land | \$30,000-\$50,000 (\$15-25 a sq ft) |
| Total Cost | \$120,000 to \$148,000 (\$60-\$75 a sq. ft.) |

Given the assumption that site-built home prices range from \$100 to \$115 a square foot, a HUD built homes is priced at 60%-75% of a site-built home. Smaller and lesser priced HUD homes can cost as little as 50% of a site-built home.

⁶⁵ Estimates given by Keith Alexander of Palm Harbor Plant, Austin, TX. NOTE: Cost factors added into this analysis include the cost of the land.

Modular Home. The cost breakdown for a Modular home that comes closest to what a site-built includes (100% drywall, stainless or rubbed bronze with glass fixtures, cement-type siding, etc.) is as follows:⁶⁶

| Item | Cost |
|--|---|
| 3 bedroom, 2 bath, 1,984 sq. ft, HUD Code manufactured home, comparable to a site-built home | \$50,000-\$70,000 (\$25 to \$35 a sq ft) |
| Manufacturers transition a HUD home to a Modular (on-frame) home | \$4,000 to \$6,000 (\$2-\$3 a sq ft) |
| Transition unit to off-frame | \$1,000 to \$2,000 (\$0.5 to \$1 a sq ft) |
| Residential 6/12 pitch roof | \$2,000 to \$3,500 (\$1 to \$1.75 a sq ft) |
| Site and delivery costs, with freight, AC, delivery, set-up & skirting, and a profit for the store | \$30,000 to \$40,000 (\$15-\$20 a sq ft) |
| Pour a pier and beam stem wall foundation system and for a crane to pick up and set the home | \$8,000 (\$4 a sq ft) |
| Site improvements (water well, septic, driveways, etc.) and cost of land | \$50,000-\$60,000 (\$25-\$30 a sq. ft.) |
| Total Cost | \$145,000 to \$189,000 (\$72-\$95 a sq. ft.) |

Given the assumption that \$100-\$115 a sq. ft. is reasonable for a site-built home price, a modular home only has a 10%-15% price advantage over site built. In today's market, with so many site-builders cutting their costs and giving away construction to keep their employees and sub-contractors from leaving, manufacturers are seeing almost no price advantage when comparing modular to site built, with most deals somewhere between 0% - 7% advantage. The biggest thing manufacturer's offer right now is stability and a 60-120 day time frame for construction and move-in, as compared to 6-12 months for a site-built home.

ELEVATION COSTS

The Advisory Committee sought estimates regarding the added cost to manufactured and modular housing for coastal homes to be elevated above minimum Base Flood Elevation (BFE). According to FEMA, "The BFE refers to the elevation associated with the 100-year flood, or it is a flood with a 1 percent chance of occurrence in any given year."⁶⁷ American Homestar, a manufactured housing producer which completed elevation projects in Sabine Pass following Hurricane Rita, gave

⁶⁶ Estimates given by Keith Alexander of Palm Harbor Plant, Austin, TX. NOTE: Cost factors added into this analysis include the cost of the land.

⁶⁷ Federal Emergency Management Agency, "Managing Floodplain Development Through The National Flood Insurance Program," http://www.fema.gov/plan/prevent/floodplain/nfipkeywords/base_flood_elevation.shtm

estimated elevation costs. American Homestar placed modular homes and HUD homes on the elevated foundations 12 feet above BFE.

The total cost to elevate a 30 x 42 double section was approximately \$60,000. The breakdown of this total includes: ramps and decks - \$15,000; piling and banding - \$20,000; crane and set - \$6,000 to \$10,000; and lifts - \$20,000.

Appendix C: Community Roundtable Public Participation

Harlingen Roundtable – August 25th, 2010

Apolonio Flores
Martin Medina
Lina Mendez-Romero
Sonny Philip
Jim Richardson
Emily Rickers
Ann Williams-Cass

Houston Roundtable – August 31st, 2010

Natalie Aimsforth
Keith Alexander
Carol Borrego
P.K. Carlton
Tanya Debose
Joanne Ducharme
Gordon Knight
Don McCann
Rick Patino
Jennifer Post
Victor Rivera
Billy Sullivan
Amanda Timm

Galveston Roundtable – September 2nd, 2010

Bilal Abdullah
Tommy Blanchard
Joe Compian
Matthew Erchull
James Hall
Michael Morgan
Laura Murrell
Ronnie Richards
Chula Sanchez
Larry Shine
Bob Williamson
Jonnye Williamson