

# California Debt Limit Allocation Committee

Jesse Unruh Building  
Room 587  
915 Capitol Mall  
Sacramento, CA 95814

**February 12, 2020**

Meeting Minutes

## OPEN SESSION

### 1. Call to Order and Roll Call.

State Treasurer Fiona Ma chaired the meeting of the California Debt Limit Allocation Committee (CDLAC). Mr. Agee called the meeting to order at 11:00 a.m.

Members Present: Fiona Ma, CPA, State Treasurer; Gayle Miller for Governor Gavin Newsom and Anthony Sertich for State Controller Betty Yee

Advisory Members Present: California Housing Finance Agency (CalHFA) Executive Director Tia Boatman Patterson and Zachary Olmstead for California Department of Housing and Community Development (HCD) Acting Director Doug McCauley.

### 2. Approval of the Minutes of the December 11, 2019, December 23, 2019, and January 15, 2020 meetings.

Ms. Boatman-Patterson pointed out a correction on the December 11, 2019 Meeting Minutes change the statement about the allocation of state tax credits from 500 billion to 500 million.

**MOTION:** Mr. Sertich moved to approve the three sets of Meeting Minutes. Ms. ~~Boatman-Patterson~~ Miller seconded and the motion passed unanimously by a roll call vote.

### 3. Executive Director's Report.

Executive Director, Judith Blackwell spoke about aligning both CDLACs and CTCACs regulations to the extent possible as it relates to housing in order to get the new funding out as quickly and efficiently as possible. Ms. Blackwell also spoke to efficiencies made

in the application review process and to the hiring of new staff in order to eliminate wasteful time and alleviate the administrative burden placed on staff.

Mr. Sertich asked if there was any updates to the CTCAC/CDLAC strategic planning

Ms. Blackwell stated their primary objective is to get the funding out for the new state tax credit program and will address the alignment issues with their strategic planning consultant at a later date.

The Board agreed that there needs to be a complete overhaul of the CDLAC regulations beginning with emergency regulations that address at-risk preservation projects, CDLAC scoring metrics to address current priorities, refining allocation under multifamily projects and a possible set-aside for CalVet bond cap.

Mr. Sertich raised issues with regard to the allocation deadline to I-Bank for the Virgin Train project.

Ms. Blackwell stated that the \$300 million allocation to I-Bank is still protected for the Virgin Train project. In case the project does not go through, the money will not be lost and will be allocated elsewhere.

Ms. Boatman-Patterson called for CDLAC to issue a more recent demand survey to better understand the State's priorities and to get a better handle on the State's needs for bond allocations.

Ms. Blackwell stated she would direct CDLAC staff to issue another survey focused on the demand for multifamily housing.

Mr. Olmstead stated the demand survey needs to be better detailed with quantifiable metrics in order to better align CDLAC's housing pools with the administration's goals and priorities.

Ms. Ma referred to disaster credits and but this in regarding CTCAC's 9% program which was not a part of today's discussion.

Ben Barker with the California Municipal Finance Authority stated that a carry forward needs to be filed with a specific issuer in a specific category and filed to the IRS by Friday of this week. The Board discussed the issue of being able to use the funding toward affordable housing if it is not put to use by the Virgin Trains project. Jovan made a call to I-Bank to clarify how the tax form was filed.

Jeree Glasser-Hedrick with Jamboree Housing clarified the issue of carrying the Virgin Trains funds forward and explained how it has worked in the past. She also echoed Ms. Boatman-Patterson's request to further define CDLAC's allocation pools.

Eric Tiche with CalVet stated they are continuing to issue mortgage revenue bonds despite whether or not having received a bond allocation from CDLAC. If an allocation is not received, the funding will come directly from CalVet's funds but at the cost of future funding. CalVet will start re-issuing mortgage revenue bonds once CDLAC has made a decision on its funding sources. The Board discussed the demand for mortgage revenue bonds issued to veterans by CalVet in years prior and noted that an allocation will be made accordingly, roughly \$100 million in general obligation bonds and \$80 million in revenue bonds.

Caleb Roope with the Pacific Companies stated he has convened a working group of 25 developers to go review CTCAC and CDLAC regulatory changes and develop a set of consensus recommendations on California's affordable housing delivery system. He plans to update the Committee at each Board Meeting with their work.

Ms. Boatman-Patterson stated that CDLAC should ~~utilize the working group to flush out inconsistencies with their~~consider using the working group to review inconsistencies with scoring and follow up with an updated demand survey.

Agenda item number four was stricken from the agenda and moved to later meeting date with a 10-day notice. The Board discussed how best to proceed on this item as it concerns CalHFA funding.

## **5. Meeting Dates Revision (Action Item)**

The Board discussed the meeting dates, emergency regulations and application deadlines for the CDLAC program. The Board decided to move the Meeting date to Friday April 3 at 11am; this meeting will be concerning CDLAC's emergency regulations. The Board also set April 14 as another meeting date. The Board also kept the option open for having a May or June meeting.

Ms. Boatman-Patterson asked a procedural question surrounding the CDLAC regulation change process. Mr. Walker clarified that if the regulation changes were voted on April 3, the Office of Administrative Law would have five days to review them before they become effective and filed with the Secretary of State, so April 8 is when the changes would become effective, in time for the April 17 application deadline.

Renee Webster-Hawkins with the Pollution Control Finance Authority asked for clarification on the meeting calendar for CDLAC and requested that it stay the same for exempt facilities. The Board agreed to keep the date the same at May 20 for exempt facilities financing.

**MOTION:** Ms. Miller moved the approval of the new meeting dates and deadlines, Mr. Sertich seconded and the motion passed unanimously via a roll call vote.

**6. Consideration of Appeals and Applications for an Allocation of the State Ceiling on Qualified Private Activity Bonds for Qualified Residential Rental Projects and Awards of Allocation.**

Program Manager, Muri Bartkovsky presented agenda item number six and stated that there were 4 MIP projects, and 24 general pool projects seeking bond allocations. The Executive Director accepted two waivers for projects over \$50 million. She also mentioned there were four appeals and explained the various scenarios if the appeals were granted by the Board. Staff recommends that the Board approve the projects on the list as presented in the final staff recommendations.

The Board discussed the various appeals on the agenda and the scenarios that would result if they were approved.

Ms. Blackwell reviewed the actions that staff took in analyzing the applications and stated that staff started with the CTCAC list to incentivize production. Although this was a short-term solution, she knows that this created longer lasting issues, which are evident due to today's appeals. The Executive Director's worked together in determining the best route in scoring the applications and this is what they had come up with.

The Board members stated that this was a major concern due to the lack of policy direction and communication between CDLAC and CTCAC. The rules of the application process have not been clear to the development community and this was a major issue.

Ms. Miller stated that CDLAC needs to clear up their scoring process for the March meeting in terms of who is leading for the January applications so that the Board does not find themselves in a similar situation. She emphasized that conversations need to be held surrounding a full rework of CDLACs regulations.

Ms. Blackwell stated there were three options the Board has at their disposal, 1. To deny the appeals 2. Approve the appeals and bump other projects or 3. Approve the appeals and take allocation from the next round of funding. The third option would be contingent upon decisions that must be made at the CTCAC Board to also reallocate funding.

The Board discussed the appeals and asked staff for greater clarity on the CTCAC and CDLAC lists. The most significant decision the board needs to make is to determine whether CTCAC and CDLAC will be leading in terms of the scoring ahead of the regulation change deadline. The Board wants to see statistics in regards to dollars per unit produced and total units produced. The Board is currently being presented with the number of units per state tax credits, which is not sufficient in determining which agency should lead.

The Board discussed which projects were on both the CDLAC and CTCAC lists. Ms. Boatman-Patterson stated that legally and at a fundamental level, if a project was not awarded the bond then they could not ~~use their~~receive tax credits. Staff stated that all the applicants on CDLAC's list met minimum threshold requirements. The Board asked staff

questions regarding the total number of applicants on CDLAC's lists and how the numbers changed with different variations of the list.

Mr. Kass stated that he did not have the numbers readily available but that he would follow up with the Board on this topic.

Matt Franklin with MidPen Housing presented the appeal for the Fire House Square development in Belmont California. He noted that his project scored 125 points on the CDLAC scoring lists but staff subsequently decided to pull the project from the final recommendation list. He noted there is nothing in the CDLAC regulations that states projects can be skipped in this way. He referenced section 5321 from the CDLAC regulations and section 42 from the federal IRS code. Mr. Franklin mentioned the various partners involved in the project and emphasized that staff cannot make up the rules at the last minute.

Charles Stone with the City of Belmont stated the importance of the Fire House Square project to the City and emphasized the dire need for affordable housing in the area. He delivered a sincere story of why the project is so important to him and asked the Board to approve the project.

Hugh Bower with the Office of Assembly Member Kevin Mullin stated that the Assembly Member was in strong support of the project and referenced the letter that was sent to CDLAC staff. He noted that the project is not a cure for San Mateo's housing shortage but that it is a step in the right direction.

Caitlin Armstrong with the Office of Senator Jerry Hill mentioned the problematic nature of using a metric that looks at units per tax credit dollar. The project is shovel ready and needs the state as a partner. She strongly asked the Board to reconsider their decision.

Ms. Boatman-Patterson asked MidPen how much of a gap the project would have if ~~they did not receive the bond allocation today~~ it received bonds but was not awarded state tax credits.

Mr. Franklin stated that he does not have the answer to that question.

Ms. Boatman-Patterson asked ~~if the Board could~~ what the impact would be to add more bond authority, \$87 million to be exact, to the current application cycle, go further down the CDLAC list, and award more projects. The Board weighed this option and discussed the potential outcomes. The Board emphasized that this change does not guarantee that projects who receive a bond allocation today, will also receive a state tax credit.

Mr. Franklin stated that the Board should let the CTCAC list govern the awards if they want reach further down the CDLAC list and award more projects. He emphasized the rules surrounding the joint application process.

Ms. Miller echoed Mr. Franklin's statement and stated that the Board should respect all of the program's rules but all developers will be held to the six-month performance period to secure their funding sources or return the bond allocations. Ms. Miller mentioned she would like to make two separate motions at the appropriate time.

Mary Stompe with PEP Housing stated that their project was on both the CDLAC and CTCAC lists and gave a brief summary of the project, which was located in Petaluma, California. She noted that the area was hit hard by the recent wildfires, which resulted in the destruction of 6000 units. Her project will provide permanent supportive housing for 19 senior veterans. Unfortunately, her project did not make it on CDLAC's final recommendation list. She recited CDLAC's regulations and noted that the program rules must be followed. The project is shovel ready but they need both federal and state tax credits to secure financing. Ms. Stompe asked the Board to review the projects once again and allocate bonds based on CDLAC rankings, not CTCAC rankings. She noted that projects must have a bond allocation in order to use their tax credits.

Jim Carney with the City of Petaluma spoke in support of PEP Housing's project and supported that it will provide much needed affordable housing to an area that was recently devastated by wildfires. He added that the Board's goal should be to produce as much housing in the area as possible.

Mr. Barker spoke in regards to the bond issuance process and stated that bonds always come before tax credits. He also stated that he was attending the meeting today in support of projects that were appealing to the Board.

Ms. Miller asked if the applicant would be willing to resubmit their application if given the opportunity to do so.

Ms. Stompe stated that she would be willing to resubmit her application for the federal four percent program as long as they Board follows CDLAC's program requirements.

Mr. Olmstead state that there is a new pool of money available for disaster credits but re-applying to the pool would delay their application by up to a year.

Ms. Stompe stated the re-application process would add significant delays and development costs.

Mr. Carney urged the Board to move forward with approving the project and since projects will continue to incur additional costs the longer, they are delayed.

Marie Allen with Affirmed Housing presented the appeal for Windsor Point, a 50 unit, shovel ready affordable housing project that will be serving low-income veterans and others facing homelessness and mental illness. She gave a brief history on the project and stated that she was under the impression the CDLAC list was going to govern the awards process. Her second statement was concerning the issue of scattered sites and that all scattered sites projects must be acquisition/rehab. She referenced 19 projects that were

scattered sites and awarded bonds in years prior and noted that there have been no changes in CDLAC's regulations that change how projects are scored.

Mr. Spencer stated that CDLAC regulations only speak to acquisition/rehab projects under the scattered sites term. It is up to the committee whether to approve scattered Sites projects.

Mr. Sertich referenced Section 5250 of the CDLAC regulations and stated it does not preclude new construction projects.

Mr. Spencer sympathized with the appellant since the regulations in Section 5250 can easily be miss interpreted.

Ms. Allen stated that her request today was for the Board to approve scattered sites as a minimum threshold requirement for the Windsor Point project.

Mr. Sertich stated he would be willing to make a motion to approve scattered sites as a minimum threshold requirement for the Windsor Point project. He also stated that Section 5250 of the CDLAC regulations should be amended to include new construction projects.

Ms. Miller stated that she wanted to hear the rest of the appeals before making a decision on the appeals before them today.

Kursat spoke on behalf of the appeal for the Encanto Gateway project, a 65 unit large family project in San Diego, in partnership with Mr. Barker. He stated they submitted an appeal for points but their appeal was denied. He noted that since the project did not receive state credits, they decided not the appeal to the Board in regards the bonds portion. He added that their project is currently on the CTCAC waitlist. Kursat stated that he was respectful of the Board's decision.

Luke Watkins with Neighborhood Partners, LLC stated he is a smaller developer from Davis who is trying to get a project of eight units built by June for the elderly living in nursing homes in Dixon. He stated his project was on the CDLAC list but that it will likely die since he will not be able to close the project in time. The Board made the decision to award bonds on a competitive basis based on the efficient use of credits per unit built. He stated this criteria was arbitrary to the goals of the state, which aim to maximize housing projection. If the goals are to maximize production and house more people, then the total cost of the project should be the underlying tiebreaker. He does not understand why CDLAC decided to go competitive even though program regulations do not require them to. As a result, the program will produce 300 less units overall. Mr. Watkin stated that the solution would be to allocate more state tax credits. A process was created by the Board, which completely ignored the statutory process in place.

Mr. Sertich stated there would always be winners and losers in a competitive program and it is the Board's responsibility to come up with the best approach to award the funds.

The Board discussed the idea of reaching further down the CDLAC list and awarding an additional six projects that were appealing today in an effort to be fair due to the inconsistencies with the program. Those projects were Fire House Square, Boyd Street Apartments, The Plateau, Emani Apartments, Madera Village, Windsor Point and River City Senior Apartments. All totaling to about \$118.5 million more in allocations, which will be taken out of the next round of awards.

Ms. Blackwell stated that she does not have an objection to this approach; she had actually supported the idea when the funding was being allocated in order to not choke the program.

Daniel Falcon with McCormick Baron Salazar spoke on behalf of the Twin Rivers project and stated that he was in support of the idea of expanding the bond allocation but emphasized that the Board cannot make a decision in regards to CTCAC at this meeting. He recommended that the Board award the additional bond cap for the projects that did not receive the tax credits and allow a six-month period to secure other means of financing but require the developers to return the bonds if they cannot secure financing.

Marina Wiant with the California Housing Consortium stated she is working on staffing and coordinating the working group that Mr. Roope had mentioned. She referenced a letter that the Consortium had sent to CDLAC and echoed Mr. Franklin's comments. She noted that reaching deeper into the CDLAC list and awarding more bond cap will have tradeoffs and emphasized that these are reasons why good public policy decisions must be made at the Board level. She also stated that they worked very closely on AB 101 for many months and the statute does not direct the credit efficiency requirements, which a policy decision was done through the regulations.

Patrick Sabelhaus with the California Coalition for Affordable Housing stated that these are all tough policy decisions for the Board but that he is confident and optimistic that the Board is heading in the right direction for prioritizing projects that are the most cost efficient with utilizing the state credits per unit. He applauded CalHFA for prioritizing Mixed Income Projects that are requesting the least amount of gap financing on a per unit basis, following it up with a cost efficacy metric to guide the winners and losers of the program. He also added that the Governor's message in the budget document was clear in asking the Board to examine cost efficiency and implement it in some manner that will provide better unit production numbers overall. Mr. Sabelhaus agrees with most of the people who provided public input today and stated that these were all great projects. He recommended that the Board reach further down into the CDLAC list and approve the appeals that were compelling and address the issue when the Board reconvenes for the CTCAC meeting.

William Leach with Kingdom Development stated he is a huge proponent of the efficient allocation of scarce state resources. He was supportive of going deeper into the CDLAC list to award more projects and stated that state tax credits are meant to serve as a gap-funding source and should be treated as such. The Board could decide to be more lenient to developers and not issue fines or negative points for returning their bond allocation in



a timely manner if they cannot secure financing, as long as staff can re-allocate the bonds in a timely manner.

Sarah Lester, Program Analyst with CDLAC gave the Board some historical context in regards to why new construction projects were excluded from Section 5250 of the CDLAC regulations pertaining to scattered sites.

Ms. Blackwell stated she would like to reserve the chance to come back to the Board to ask for another schedule change to if they are going to move forward with letting applicants re-apply to the January 15 round.

The Board requested to recess the meeting so that CDLAC staff can have an opportunity to draft a new revised list with a scoring cut off 115 points with the corresponding bond volume cap

While staff worked on revising the list, John Wang with Orrick and bond council to I Bank was present to answer and questions surrounding the carry forward associated with the Virgin Train's project. He mentioned a looming deadline of February 15 by which a tax form needs to be filed with the IRS to carry forward the \$300 million. The tax form has already been filed but can be amended prior to the deadline. CDLAC's government code sections requires an action of this Board in the form of a Resolution in order for bond volume cap to be transferred from one entity to another one entity. I Bank would also have to take an action (either before the February 14 deadline in the form of a resolution or after in the form of a ratification) to transfer the bond volume cap to CMFA, the beneficiary of the reversion of 2019 bond cap. He stated that they could file an amended form to IRS noting that they are carrying forward zero bond cap from 2019 along with a filing from CMFA carrying forward the \$300 million that was transferred to it for the purposes of affordable housing. Both forms would have to be postmarked by no later than February 15 in order to meet the tax law requirements.

The Board will reach out to I-Bank to request a resolution to be postmarked before the February 15 deadline and ratified at a later Board meeting after the fact. Ms. Miller will reach out to Lenny Mendonca with the Governor's Office of Business and Economic Development on how best to proceed.

After her phone call with Mr. Mendonca, Ms. Miller stated that she would like to make a comment pursuant to a Board action item from a previous CDLAC Committee Meeting for informational purposes only. She stated that pursuant to the CDLAC Board action and minutes on December 11, if CDLAC funding were not completed by February 15, pursuant to the IRS deadline, the \$300 million was reverted back to CMFA but since that did not happen, she wanted to very her understand that the funds will revert back to CMFA, and pursuant to her conversation with Mr. Mendonca, the I-Bank Board will ratify the changes at their next Board meeting on February 26, with the \$600 million allocation coming out of the 2020. The revision back to CMFA will specifically be used for affordable housing.

The Board discussed the new list of projects in rank order produced by CDLAC staff using CDLAC program rules. The Board was still unclear in regards to the list and the information presented by staff. Due to the uncertainty surrounding how the scoring was going to work, the Board was concerned that if they allocated the bonds today, projects may have not fully reviewed their scores since it was not originally a part of the awarding mechanism. Mr. Sertich was concerned that there may have been projects that were not focused on their CDLAC scores.

Mr. Kass stated that staff received a few appeals for additional points. The Board discussed the rankings and scores of the projects on the revised CDLAC list.

Ms. Boatman-Patterson stated she wanted the applicants to know that just because you get a bond award does not mean that you will also receive a tax credit allocation.

Ms. Miller made four motions but only one passed by a roll call vote.

**MOTION:** Ms. Miller moved that moving forward; CDLAC should lead the discussion surrounding bond allocations and then move on to the state tax credit discussions at the CTCAC Board Meeting.

**MOTION:** Ms. Miller moved to allow letting applicants re-apply in the January 15 round, allowing staff more time to re-review the applications.

**MOTION:** Ms. Miller moved to approve that all projects that scored above the 115 CDLAC point threshold be eligible for a CDLAC bond allocation, those applications included the current CDLAC list plus the following projects: Willow Glen Apartments Fire House Square, Boyd Street Family Apartments, Emani Apartments and River City Senior Apartments.

**MOTION:** Ms. Miller moved to allow scattered sites projects to fall under new construction, which qualified the Windsor Points project at 115 points under the CDLAC score, with \$15.2 million in bond allocation. Mr. Sertich seconded and the motion passed unanimously by a roll call vote

Mr. Olmstead stated that the new list presented by staff does not encompass projects that were on the previous list and have now fallen off. He recommend that staff notify the public regarding the change.

Mr. Kass explained the revisions that were made to the list with the existing appeals, which caused the scores of the projects to change.

Ms. Miller echoed the policy issues the revised CDLAC list speaks to, that CDLAC should lead the discussion surrounding bond allocations. She recommended that the Board reconvene in 10 days with a new list that has been distributed to the public so that everyone is fully informed of the changes and are on the same page in terms of policy direction.

Ms. Blackwell stated that postponing Board action for 10 days would delay the entire application calendar.

Ms. Blackwell stated the other option would be to recess and reconvene at a later date so that they do not have to give a 10-day notice for a new Board Meeting.

Mr. Walker stated that this would work but that the Board would have to specify the date and time for the next meeting, as well as the location.

The Board gave staff additional instructions with regard to drafting the revised CDLAC list and made sure that staff would post it on their website for everyone to see. Staff acknowledged the instructions given.

The intent of the Board is to go deeper into the CDLAC list and exceed the \$650 million bond cap. The Board also intends to have a conversation about resolving this issue going forward for purposes of clarity. The Board also gave CTCAC a heads up that depending on the actions taken, it may have an effect on projects that are receiving tax credit allocations. The original CDLAC scoring will be posted, which is different from what is currently posted on the CDLAC website.

There were public comments from the audience in regards to questions and the expectations surrounding the new CDLAC list, which will maintain staff's recommendation.

Ms. Ma stated that the Board will recess the meeting and will reconvene in Room 587 at 9:00am on Tuesday February 18. The Board recessed on agenda item number 6 at 4:15pm with no action taken.

### **Tuesday February 18, 2020**

The Board reconvened from recess at 9:07am in Room 587.

Ms. Blackwell referred to changing the at-risk definition and asked the Board for clarification.

The Board clarified that the January 15 applications will be held to the at-risk definition.

Senior Attorney, Spencer Walker raised concerns in regards to the at-risk definition as an underground regulation but was comfortable with it passing as a limited waiver.

Ms. Boatman-Patterson asked if CDLAC could move forward with a self-scoring system to save staff time.

Ms. Blackwell stated CDLAC is moving forward with using self-scoring as a tool, which is moving through CDLAC's regulation change process.

Mr. Kass noted the changes on the new list of projects and explained how the projects were ranked according to the Board's request.

Mr. Olmstead and Ms. Miller raised concerns with regard to existing appeals on the CDLAC list that was published on February 12<sup>th</sup> and raised serious concerns about a much larger conversation to be had surrounding policy.

Ms. Boatman-Patterson clarified the information that was missing from the revised CDLAC list and asked Mr. Kass to name the projects.

Mr. Kass noted the six projects that were missing from the list for purposes of informing the public.

The Board discussed the best route forward in order to identify which projects are being awarded a bond but did not receive a tax credit allocation in order to provide the projects with time to secure financing. Everyone agreed that the CDLAC regulations are overdue for an update and that the Board cannot make policy decisions without following the regulation change process.

Ms. Ma asked if there would be an impact on the CDLAC list with regard to the \$300 million that was rolled over from 2019.

Mr. Walker stated that he is not sure if there will be an impact if the \$300 million is rolled over.

Mr. Barker stated his agency will be able to use the funds immediately and that there are projects waiting in line to receive funding. With the caveat that the \$300 million will be used now compared to later. Ms. Boatman Patterson informed the Board that 2019 bond allocation could not be paired with 2020 state tax credit awards.

The Board and Mr. Barker hashed out additional details surrounding the funding of the \$300 million for the Virgin Trains project and other multifamily housing development projects using 2019 and 2020 funds.

Mary Stomp with PEP Housing asked the Board to respectfully reconsider their decision on issuing bond allocations because it was done not according to CDLAC regulations. She referenced that if this route is taken, their project will not receive federal and state tax credits. She mentioned that the project is shovel ready and that their project should not be penalized for a mistake made by staff. The Board informed Ms. Stomp that a bond allocation from CDLAC does not necessarily mean that their project will automatically qualify for tax credits.

Marisol Prieto Valle from Senator Bill Dodd's Office spoke to the Board in support of the project.

The Board explored whether the project would qualify to receive an allocation from a State pool of TCAC funding coming from a disaster pool but it would require a new TCAC application and a delay to the project and, therefore, the project would incur additional costs.

Ms. Miller stated the applicant has one of three options, 1. To re-submit their application for the January 15 deadline, 2. To appeal to CTCAC, and 3. The Board approves to fund up to \$650 million at this meeting.

Jim Walin, Director at PEP Housing stated they were looking to break ground within the next few weeks rather than 18 months out and noted that the residents that will be living in the property are voting taxpayers.

Daniel Falcon with McCormick Baron Salazar asked if his project would be funded with the Board's current decision.

The Board clarified that Mr. Falcon's project would be the seventh project to be funded on the list.

Marina Wiant with the California Housing Consortium raised significant concerns with the direction the Board was moving in citing the poor use of policy and penalizing projects at the expense of other projects. She urged the Board to allocate at the \$650 million per Mr. Sertich's recommendation.

Doug Shoemaker, President of Mercy Housing echoed Mr. Wiant's comments and stated that the Board should make their decision based on program regulations. He warned the Board to not make political decisions, which undermined the integrity of the program.

Matthew Franklin with MidPen Housing stated that although the Board is trying to pursue a policy where no project is penalized, since these are joint applications, there will be a group of penalized projects regardless of the fact. He emphasized that the regulations must be followed. He referenced a conversation he had with the Mayor of the City of Belmont and the Speaker Pro Tem's Office regarding the confusion surrounding the CDLAC process. He emphasized that the list needs to be cleaned up to ensure accountability. He also referenced the Governor's agenda surrounding poverty and stated that this process does not align with the Governor's goals. The list that was produced by staff did not comply with CDLAC regulations.

Ms. Miller stated that staff would not be in this position today if CTCAC and CDLAC had the policy discussions that the Board had asked for back in September.

Mr. Franklin stated the majority of the discussion has been surrounding how to not penalize the seven projects at the bottom of the CDLAC list at the expense of other projects vs framing the conversation about how to clean up the policy moving forward.

Mr. Sertich stated that the Board had previous conversations emphasizing that they wanted the CDLAC scoring system to dictate the CDLAC awards, with projects on the CTCAC waiting list being conditional upon receiving a bond allocation. He emphasized that the policy needs to be cleaned up so that staff has a clear direction to follow.

Pedro Galvao with the Non-Profit Housing Association of Northern California spoke in support of their developer members who build affordable housing in the Bay Area. He stressed there needs to be transparency and clarity in the program so that the development community has clear direction and stability moving forward. CDLAC regulations need to be followed and staff needs to stick to the \$650 million pool.

Todd Cottle with C and C development spoke on behalf of the Groves Project in Orange County. He noted that their project was below the point threshold on the new CDLAC list. He spoke to the various efficacies of the Groves Project and explained how the project would best utilize the bonds. He requested that staff fund the full \$650 million pool and include the seven additional projects below the point threshold.

William Leach with Kingdom Development stated he is the general partner on two of the projects on the CDLAC list, which are going to be funded regardless. He noted issues with the policy direction that was given months ago, which are now conflicting with CDLAC regulations. In order to protect the Board from legal ramifications, he recommended that the Board raise the bond cap to \$871 million and fund every single applicant but ask that projects do not take the reservation if they cannot use it. This will eliminate the issue of skipping applicants. He also noted that staff provide a penalty waiver if bonds are not used within 6 months.

Ms. Miller stressed that this is the reason why she wanted the Board to have the policy conversation ahead of the award date. The Board needs to clarify what it means to win both parts of the joint application.

Mr. Sertich stated that CDLAC should award to the amount allocated to each of CTCAC's pools and offered his recommendation for how to administer the awards going forward.

Ms. Miller agreed with Mr. Sertich and stated that announcements to the general public need to be made well in advance of the meeting date to ensure clarity and that the Board needs to have set direction ahead of each Board meeting.

The Board discussed in greater depth the procedures surrounding any future awards and pool allocations for CDLAC moving forward.

Ms. Ma asked if there were any public comments surrounds Mr. Leach's proposal to raise the bond cap to \$871 million.

Various developers from the community stated that Mr. Leach's recommendation would still disadvantage certain developments at the expense of other projects so regardless of the outcome, there are going to be winners and losers. The CDLAC rules must be

followed. Raising the bond cap to \$871 million will not set a public policy but instead be considered as taking the easy way out of the issue at hand. In addition, the community does not support going below the \$650 million.

Ms. Boatman-Patterson ~~proposed the opposite of what Mr. Leach proposed and stated that projects must have both bonds and tax credits~~inquired as to what the impact would be to fund only projects that were on both the bond and state tax credit lists.

Ms. Wiant stated that this method would in fact underutilize the recourses available which is not good public policy.

Mr. Sertich stated this method would go against what CTCAC approved at their last meeting.

Caleb Roope with the Pacific Companies stated that competing directions have created the issue at hand and stated that is the Board decides to raise the bond cap to \$871 million; a conversation needs to be had at the CTCAC Committee regarding the state tax credit awards in order to make projects that were otherwise on the waiting list whole again. A decision on this issue today would raise policy implications for CTCAC at a future date. He emphasized that developers relied upon the direction of unit efficacy, which was given to them at an earlier date prior to submitting applications. He closed his comment by stating that staff needs to provide clear direction moving forward and anticipate the issues that going to arise from allocating above the \$650 million limit.

Mr. Olmstead stated that he recommends not going above the \$650 million limit because it will create more issues for the Board down the road.

Ms. Blackwell stated that the Board might consider allowing staff to waive a penalty if an applicant returns their bond allocation.

Mr. Kass went over in detail regarding the various steps involved with the CDLAC appeals process. The Board asked Mr. Kass some clarifying questions regarding the appeals process in various housing pools.

Ms. Ma asked the Board if they would be comfortable on voting to approve increasing the pool to \$871 million. Ms. Blackwell explained how the projects would be funded off the CTCAC list.

Mr. Roope suggested a motion allocating up to the \$650 million using the CDLAC scoring system and affirm that the state credit awards are pursuant to a bond allocation.

Mr. Leach offered a suggestive motion stating that CDLAC will not be burdened with other scoring systems outside of CDLAC.

Mr. Miller stated that the Board is recalling the announcement made on January 25 in regards to the direction that was provided to the community as well. CDLAC Board will

not give deference to any other scoring system in future rounds. Tax credit awards are contingent on a bond allocation. She stated that CDLAC emergency regulations would be discussed immediately.

Mr. Agee stated that staff should consider the OAL timeframe for the CDLAC Board to coordinate the rulemaking process.

Ms. Miller stated that since the application process has been so confusing, that applicants be given an opportunity to amend their allocation if need be, only for applications that were submitted for the January 17 deadline.

Mr. Falcon asked for clarification on the status of his application with the new direction being provided by the Board. The Board discussed the issues surrounding the new implications with the direction being provided to staff moving forward. There was public comment from Mr. Shoemaker surrounding the unfairness that this would create since applicants would be able to amend their applications while other applicants would not be able to. He stressed that the rules need to be fair for all applicants.

**MOTION:** Ms. Miller moved to stick to the \$650 million allocation today and subscribe only to the CDLAC list, understanding that folks will be able to appeal in future rounds. Mr. Sertich seconded and the motion passed unanimously by a roll call vote.

**MOTION:** Mr. Sertich moved to approve the four Mixed Income Pool projects, which were not subject to the controversy. Ms. Miller seconded and the motion passed unanimously by a roll call vote.

**MOTION:** Ms. Miller moved to waive the penalty of a fine, including negative points as long as a project returns any unused bond allocation within 90 days of the award date. Mr. Sertich seconded and the motion passed unanimously by a roll call vote.

The Board reviewed a total of six different issue items in CDLAC's regulations that are up for regulatory changes. These included changes to the preservation and new construction pools. The Board verified that the new construction pool refers to net-new construction projects only. They wanted to make sure re-syndication projects do not make their way into the new construction pool.

Mr. Walker was concerned that the agenda item got off topic too much and drifted away from the issue of appeals. He advised that the Board should agendaize an item for regulation discussion for the future Board meeting.

## **7. Public Comment.**

There were no public comments.

## **8. Adjournment.**



Treasurer Ma adjourned the meeting at 11:37 a.m.