

**CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE**  
**Minutes of the July 17, 2019 Meeting**

**1. Roll Call.**

Jovan Agee for State Treasurer Fiona Ma chaired the meeting of the California Tax Credit Allocation Committee (CTCAC). Mr. Agee called the meeting to order at 2:00 p.m. Also present: Anthony Sertich for State Controller Betty Yee; Jolie Onodera for Department of Finance (DOF) Director Keely Martin Bosler; Larry Flood for California Housing Finance Agency (CalHFA) Executive Director Tia Boatman Patterson; Jennifer Seeger for California Department of Housing and Community Development (HCD) Director Ben Metcalf and County Representative Santos Kreimann.

**2. Approval of the Minutes of the June 12, 2019 Meeting.**

**MOTION:** Mr. Sertich moved the approval of the Meeting Minutes, Ms. Onodera seconded and the motion passed unanimously by a roll call vote.

**3. Executive Director's Report.**

Acting Executive Director, Vincent P. Brown informed the Committee that he gave a presentation to CalHFA last week regarding the required regulations for both CTCAC and the California Debt Limit Allocation Committee (CDLAC) in order to implement the Governor's housing initiative. He provided some context, stating that Treasurer Ma has committed to work closely with the Governor in implementing the state's housing proposal to the extent possible for CTCAC and CDLAC. Since January of 2019, Treasurer Ma has completed two housing listening tours, one in January and the other recently in June, totaling to about 15 stops around California. The goal was to listen and obtain feedback from the stakeholders involved in the development of various projects. The tour also acted as a forum to discuss potential changes to the CTCAC regulations, operations and goals of the Governor. Since the conclusion of the housing tour, Treasurer Ma's staff and Mr. Agee have transitioned to making regulatory changes by using a path that aligns with CalHFA in undertaking emergency regulations that are not controversial and can be implemented very quickly over the next several months.

Next year, Mr. Brown stated the administration will be reviewing regulations that are considered more controversial or necessary to improve the efficiency and effectiveness of the housing initiative recently signed by the Governor. It will be a two-track process, but the goal is to get the regulations that are necessary completed by the fall and the longer impacting regulations by 2020. Mr. Brown also mentioned an inside working group being led by Mr. Agee and CTCAC staff who are reviewing the input received from the housing listening tours.

Mr. Sertich asked whether the comments received during the Ten City Tour will be presented to the Committee's Board.

Mr. Agee stated that staff is in the process of posting the comments online.

Mr. Sertich stated that the State Controller's Office is here to serve as a resource to CTCAC and told staff to reach out for assistance in the rulemaking process.

Mr. Brown appreciated Mr. Sertich's comments and stated there is still a lot of conversation in regards to what really constitutes a working group, which he will leave up to the General Counsel to decide.

Mr. Sertich stated that a discussion of the ongoing changes in a separate public convening would be great. He stated there is a lot of knowledge on the Committee's Board since it is looking like HCD and CalHFA will be added on as authority board members moving forward.

Mr. Agee stated that during the Ten City Tour stops, staff presented a calendar to stakeholder as a timeline for the fall regulation changes so staff will be working within those parameters in order to have more of a bifurcated approach.

Mr. Sertich stated that a bifurcated approach is great because it allows for more time to work through the larger overhauls of the system and gives the community a forewarning of possible changes, allowing for them to plan accordingly.

Mr. Brown stated that one of the things staff had to take into consideration were the projects that were already in the pipeline, noted that the rules cannot be changed during the middle of the application review process.

Mr. Sertich also alluded to the development of the state tax credit regulations, which are scheduled to go into effect January 1, 2020.

Mr. Agee stated that the state tax credit regulations are also scheduled to go into effect February 2020.

Mr. Sertich stated in the timeline that was put forth, initial regulations were scheduled for release early next week and asked if that was still the case.

Mr. Agee stated the more realistic goal would be mid-August, which is more achievable.

Mr. Sertich thanked Mr. Agee for the aggressive approach in rolling out the new regulations.

Mr. Brown stated the housing trailer bill is descriptive in the structure of how to move forward with the \$500 million in state tax credits. He added that if necessary, staff would add anything but the bill itself is structured tightly in regards to what the program will be looking to achieve. He added that CTCAC, CalHFA and HCD will be lined up very closely moving forward.

Mr. Brown stated that CTCAC received 73 nine percent applications and 0 four percent plus state credit applications for the second competitive funding round.

**4. Discussion and Consideration of 2019 First Round Applications for Reservation of Federal Nine Percent (9%) and State Low Income Housing Tax Credits (LIHTCs)**

Development Section Chief, Gina Ferguson stated there were three projects from the first round of competitive funding which had appeals pending as of the June 12, 2019 meeting. Since then, the appeals have been resolved and staff is recommending the three projects for approval. This will bring the total number of nine percent awards to 30 for the first round this year. She also added that the projects met all program requirements once the appeals were resolved.

Richard Myers, Chairman of the Yurok Indian Housing Authority made a public comment in regards to CA-19-007 (Woo-Mehl LIHTC Homes). Mr. Myers stated he was passing through town and wanted to stop by for the committee meeting to determine whether their project was being considered for approval. He added they had appealed in the first round of funding and since then, the appeal had been resolved.

Ms. Ferguson confirmed that the Woo-Mehl LIHTC Homes project was one of the three projects being considered for approval in this action item.

**MOTION:** Mr. Sertich moved the approval the three projects, Ms. Onodera seconded and the motion passed unanimously by a roll call vote.

**5. Discussion and Consideration of the 2019 Applications for Reservation of Federal Four Percent (4%) Low Income Housing Tax Credits (LIHTCs) for Tax-Exempt Bond Financed Projects.**

Ms. Ferguson stated that as mentioned in the CDLAC meeting, there were seven withdrawals of applications, which will be reapplying for 4% tax credits in the next round. Ms. Ferguson identified these projects as being CA-19-480 (Salinas Pointe Apartments), CA-19-481 (Breezewood Apartments), CA-19-482 (Glen Haven Apartments), CA-19-508 (Valley Palms), CA-19-512 (Hallmark House), CA-19-513 (Huntington Pointe Apartments) and CA-19-514 (Hermosa Vista Apartments). She stated that the rest of the projects on the list met program requirements.

Ms. Ferguson also identified two golden rod Staff Reports with identical changes, these projects were identified as CA-19-484 (Lakeview Terrace Apartments) and CA-19-498 (Longshore Cove Apartments). Additional language was added to the Staff Reports under the additional conditions on pages 4 and 5. Ms. Ferguson explained the reason for the change was that there was one item pending and rather than delaying the projects to October 2019 meeting for approval, staff conditioned the reservation upon receipt of the item under the designated time indicated in the Staff Reports. Following the clarification, and exempting the seven projects struck from the agenda, Ms. Ferguson stated that staff recommended the 27 projects for approval.

Ms. Onodera raised a question regarding project CA-19-501 (PATH Villas Hollywood). She stated the board received additional information prior to today's meeting about this project and asked if whether they could defer the consideration of this project until the next Committee Meeting to allow additional time to review the information.

Mr. Brown advised that there was someone on the phone waiting to speak on behalf of the PATH Villas Hollywood project and advised the Committee's Board to listen to both the General Counsel as well as staff so that the Board has a full understanding of its responsibilities relative to the information received.

Doug Hanes with the La Mirada Avenue Neighbor's Association in Hollywood stated that their attorney submitted a letter with some concerns in regards to the PATH Villas Hollywood project. He stated that his Association had an appeal pending with the Los Angeles City Council related to PATH's original entitlements but they have not heard back yet. He stated it is also their intent to file a similar appeal of PATH's most recent approvals, which were granted on June 27, 2019 by the City Planning Commission in Los Angeles. He added that the Association intends to further litigate this matter in court if necessary but hopes that will not be the case. Mr. Hanes stated that the project is a profound misuse of Prop HHH and other limited government funding and tax credits, costing over \$738,000 per unit. The project would be cited immediately next door to one of the most polluted roadways in the United States, the US 101 Freeway. The estimated total cost of the development is now \$44,266,000 with \$838 per square foot, and with 73 percent of the units being singles that are only 433 square feet in size. Mr. Hanes also stated that PATH is charging taxpayers \$4.2 million in land which actually only cost PATH just over \$200,000. He noted PATH is taking a \$2 million development fee and therefore putting the total profit on the project to approximately \$6 million. Mr. Hanes stated that when PATH secured its Prop HHH funding from the City of Los Angeles, it was already financing affordable housing projects regardless of cost efficiency and today, PATH would most likely be denied Prop HHH funds. He added at the County level, the project would surpass Los Angeles County's statutory maximum of \$500,000 total development cost per unit funding cap and would be denied funds. Mr. Hanes explained that given the lack of funds, PATH is not keeping its responsibility to local agencies and taxpayers who fund Prop HHH. Mr. Hanes has also presented extensive police records, which claimed that facilities operated by PATH place a significant burden on emergency resources, primarily the Los Angeles Police Department (LAPD) and Fire Department Paramedic Services. He stated due to this issue, the Neighbor's Association has requested that PATH develop a security plan for the Villas Hollywood project, which they have yet to do. Mr. Hanes explained that a letter had been submitted to the Committee on behalf of security consultant Craig Cox who upon reviewing LAPD calls for services to PATH facilities, determined that the calls involved a high level of violent assaults, trespassing suspects, drug abuse and suicide attempts associated with mental illness, indicating a lack of security.

Mr. Hanes also stated that the PATH Villas Hollywood project is cited immediately across from the 101 Freeway, which carries over 300 vehicle per day, posing great pulmonary

health risks to residents due to exhaust emissions. He added that locating an increased number of residential units in such close proximity to a major freeway is strongly opposed by both air quality regulatory agencies and the County of Los Angeles, which require a minimum 500 foot distance from any major freeway for new community housing developments. Mr. Hanes urged the Committee's Board to carefully review the facts he mentioned surrounding the PATH Villas Hollywood project and thanked the Committee for allowing him to comment.

Allison Riley, Managing Director of Real Estate Development for PATH Ventures commented in response to Mr. Hanes' statement noting that the rationale is similar to the appeal paperwork he submitted on several occasions. Ms. Riley stated that they have received neighborhood support through the Hollywood Neighborhood Studio Council and have the support of the Los Angeles City Custody Planning Department. She added that PATH has presented a security plan to Mr. Hanes, which he continues to reject. PATH is working on gathering the funding for the project and stated the tax credits would be the final funding source in order to move forward and start construction. Ms. Riley stated the other sources of funding PATH has acquired have deadlines and require the tax credit funding to be secured by the end of July 2019. She stressed that the tax credit award will allow them to utilize other public funds in a timely fashion.

Ms. Riley stated that Mr. Hanes' claims are not casual nor objective, and do not indicate that affordable housing causes additional crime in neighborhoods and claimed the documentation he presented make huge assumptions that are not data driven. She agrees the cost of the project is high due to construction delays, which were partially related to the challenges brought forth by Mr. Hanes. She also noted that since the project will be a tall building next to the freeway, it would contain an advanced filtration system in order to maximize density and support the homeless population in Los Angeles. In her closing statement, Ms. Riley explained that since the claims presented by Mr. Hanes have nothing to do with PATH's readiness or competitiveness for the tax credit award and to the extent the project is pushed to the next Committee Meeting, it would have an impact on PATH's ability to move the project forward.

Mr. Sertich stated the issues surrounding the local funding requirements are not subject to the Board's concern. He added that issues surrounding high cost and other environmental concerns will be addressed in CTCAC's regulations at a later meeting. He explained that as of today, there is nothing in CTCAC's regulations that would prohibit the PATH Ventures Hollywood project from receiving an allocation in relation to the claims raised by Mr. Hanes.

Ms. Onodera stated that it was beneficial for her to understand the timing restrictions associated with the PATH Ventures Hollywood project and thanked both parties for presenting their claims.

Tom Nelson, Legal Counsel for PATH Ventures stated that he wanted to reiterate what Ms. Riley said on behalf of the PATH Ventures Hollywood project and added that the City of Los Angeles is reviewing all of Mr. Hanes' allegations, which have been found to

be meritless. He added the project meets all critical funding and zoning requirements in the City of Los Angeles.

Mark Paxson, General Counsel for the State Treasurer's Office stated that he agreed with Mr. Sertich that most, if not all of the issues raised by Mr. Hanes, are outside of the scope of CTCAC's requirements. In regards to appeals concerning the California Environmental Quality Act, CTCAC's regulations only require such information if the project is a competitive 9% application. Mr. Paxson clarified that the PATH Ventures Hollywood project contains non-competitive 4% tax credit funding so there is no obligation on the Board's behalf to do anything besides provide information on the project's local approvals.

Mr. Paxson also pointed out that the project was already approved at CDLAC's Committee Meeting, which took place prior to this meeting so if an extension was made, it would further complicate the awards process. Mr. Paxson stressed that Mr. Hanes' claims are all issues that should be raised at the local level and are not subject to the Board's decision-making process in awarding projects.

Mr. Sertich stated the developer is at risk of losing their performance deposit and receiving negative points if the project is not completed on time so there are already controls in place, which is a risk the developer is willing to take.

Mr. Paxson added that the risk is on the developer and does not affect other projects since the funding is not coming from a competitive funding pool.

Mr. Brown added that as the Committee moves forward in implementing the Governor's housing initiatives in an accelerated fashion, staff will be faced with these types of hurdles consistently across the board with the various new programs being implemented. He advised the Committee's Board to "have a stiff upper lip and a strong backbone" if they want to make the changes happen.

**MOTION:** Mr. Sertich moved the approval of the 27 projects, including the conditions on the two projects that staff identified, Ms. Onodera seconded and the motion passed unanimously by a roll call vote.

**6. Discussion and Consideration of an appeal filed under TCAC Regulations Section 10330(b)(2)**

Ken Robertson, founder of the Community Housing Assistance Program Inc. (CHAPA) and Jason Hobson with Hobson Bernardino both introduced themselves to the Committee's Board. Mr. Hobson stated they were here today to appeal the assessment of negative points for project CA-18-119 (Fancher Creek Senior Apartments). He stated their request is for the Committee's Board to reconsider the issuance of negative points or consider shortening the period for which the negative points are applicable, reducing the period from six months to three months. Mr. Hobson stated there is an exception under CTCAC's regulations for the issuance of negative points at the discretion of the Executive

Director to not issue negative points for failure to utilize the tax credits if the circumstances were entirely outside of the applicant's control. Mr. Hobson noted that in their formal appeal, they had submitted underlying documentation showing that the facts surrounding the determination to not utilize the tax credits were entirely outside of CHAPA's control.

Mr. Hobson stated that the award was a 2018 round two 9% deal requesting federal and state tax credits. CTCAC had notified the applicant that the project did not receive an allocation so it was going to be placed on a waitlist. Subsequent to the notice, CHAPA was not notified of the project coming off the waitlist, accepting an allocation, and then subsequently surrendering the tax credits. Mr. Hobson referenced Exhibit A of their appeal and noted a letter from Chris Westlake of Dominus Construction Consortium (DCC) where he states that he was solely responsible for the decisions. He added CHAPA was not aware that the reservation letter was issued and accepted or involved in the determination nor decision to surrender the tax credits back to CTCAC. Mr. Hobson stated at the time of application, CHAPA was identified as the General Partner in the application but legally was not admitted as a General Partner in the Limited Partnership. He added that as part of the application, there was an LPI, which showed that the Limited Partnership had one General Partner that was DCC. As a result, the only entity that could legally act on behalf of the applicant was DCC. Mr. Hobson stated the Executive Director should consider these facts when assessing the negative points.

Mr. Robertson stated he realizes every project is going to have challenges but CHAPA's goal is to serve the public good and those that are less fortunate. He stated they take risks on a regular basis, which puts CHAPA's reputation at risk in an effort to help build more affordable housing projects that are meaningful and important. Mr. Robertson added that sometimes circumstances arise that are outside of CHAPA's control, as in this case. He recognized there is a public purpose that is necessary for making sure that CTCAC is not abused and that its programs function properly. While the appeal was in process, CHAPA had already committed itself to over 400 units of HHH housing in Los Angeles, which will be up for consideration during the CDLAC meeting in October 2019. He noted that a six-month negative points duration will create complications for their future awards. Mr. Robertson stated that if the Committee's Board could consider their appeal in the affirmative, that would be wonderful, if not, time served.

Mr. Sertich asked Mr. Robertson if whether or not he knew CHAPA was going to be listed as a General Partner at the time of application.

Mr. Robertson stated he knew CHAPA was going to be entering into a Limited Partnership in which it would be named as the General Partner but the Partnership had not yet been formed. He stated that Mr. Westlake had plans to move the project to a point where they knew it was going to be a project and then working on forming the Limited Partnership. Mr. Robertson stated the transition took place during a seven to nine month period of time at which CHAPA was already aware the project was not moving forward and was on a waiting list so they stopped paying attention to it.

Mr. Sertich stated that he assumes its common practice that the Limited Partnership is not formed until after the application is awarded.

Mr. Hobson stated Mr. Sertich's assumption is common practice, noting that Limited Partnerships are to be formed once an award is secured.

Mr. Robertson stated Mr. Westlake was previously employed with HCD so he had enough experience to where CHAPA felt comfortable with him but they did not know who his partners were which ultimately worked against CHAPA.

Mr. Sertich asked whether there was any communication between CHAPA and the other General Partner during this period.

Mr. Robertson stated once the project was placed on the waiting list, CTCAC correspondence only went to the applicant, which at the time was DCC. As a result, CHAPA never received any notices, if they had, they would have taken a different approach.

Mr. Brown stated that Mr. Stivers raised an issue at the last Committee Meeting about moving the penalty to time served so it would not affect their later project. He wanted to have some implementation of the rules but also all the opportunity for the project to not be penalized for something like this. Mr. Brown noted this is something the Committee's Board should consider in the spirit of trying to move California's housing initiative forward.

Mr. Agee recognizes the ball was dropped in regards to the internal communication between both business partners. He stated the Committee's Board should take into consideration the desire to not establish a precedent that could come back to haunt them later on down the road while taking into consideration the housing goals of the State that could impact future projects. He stated this is the context in which the Board should ponder the decision before them today.

Mr. Agee advocated that the Board should deny the appeal with an asterisk for time served so that it does not penalize the second project the applicant has in Los Angeles.

Mr. Brown stated that staff is comfortable with Mr. Agee's approach.

Mr. Sertich stated he was concerned about the precedent this decision would set moving forward and made it clear that program deadlines must be met to ensure the housing is getting built. He also fully agrees with Mr. Agee that the projects in the pipeline should not negatively be affected by such a decision and noted that a balanced approach would be the best course of action.

Mr. Agee explained that he was briefed by staff that the applicant in today's appeal is not a frequent flyer to the Committee's Board. He wanted to give the applicant the opportunity for a warning, similar to what the Board has done for other applicants that have not



necessary done things according to the rules. Mr. Agee wanted the applicant to understand if they came back in the future under similar circumstance, this may not be the same approach the Committee will take.

Mr. Sertich stated he was in support of Mr. Agee's approach to the appeal decision.

Mr. Agee asked for a motion to approve the denial of the appeal for the Fancher Creek Senior Apartments, with a time served component to not negatively impact CHAPA's Triple HHH project in Los Angeles coming in for 4% tax credits.

Mr. Sertich asked if whether the negative points would not allow CHAPA to receive the 4% credits.

Ms. Ferguson stated that CTCAC and CDLAC regulations cross-reference each other so if there are negative points in one agency, it carries over into the other.

Mr. Sertich stated he understands but wanted to clarify if whether you need maximum points under CDLAC scoring guidelines to qualify for an award.

Ms. Ferguson stated that unfortunately there were no more CDLAC staff remaining in the room to answer the question.

Mr. Brown stated that Mr. Sertich could explore his question during the next CDLAC Committee Meeting.

Mr. Agee asked the Board if there was a motion to deny the appeal for the Fancher Creek Senior Apartments, understanding that time served does not additionally negatively affect future projects.

**MOTION:** Mr. Sertich moved to deny the appeal and reduce the penalty to time served. Ms. Onodera seconded and the motion pass unanimously by a roll call vote.

**7. Public Comment.**

None.

**8. Adjournment.**

Mr. Agee adjourned the meeting at 2:48 p.m.