CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
Minutes of the October 16, 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 11:00 a.m. Also present: Anthony Sertich for State Controller Betty Yee; Gayle Miller for Department of Finance (DOF) Director Keely Martin Bosler; Kate Ferguson for 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

City Representative Vivian Moreno and County Representative Santos Kreimann were absent.

2. Executive Director's Report.

Executive Director, Judith Blackwell stated that she was going to present on the proposed CTCAC regulation changes. She reminded everyone that Treasurer Ma and Mr. Agee hosted a Ten City Tour throughout the State of California to garner information from both the development and housing community about needs in the housing arena. Ms. Blackwell stated that the regulation changes she will be presenting on today contain only technical changes. The second set of changes will occur in 2020 after staff has had more time to digest the information received, which will include more robust changes to CTCAC's tax credit programs. She added that new legislation has also been incorporated into the changes being presented today, including Assembly Bill (AB) 101. Ms. Blackwell referenced six guiding principles that drive staff's goal in delivering affordable housing to the state and began the PowerPoint presentation.

(PowerPoint Presentation Attached)

Ms. Kate Ferguson asked whether the Committee would be going over the regulation changes in detail.

Ms. Blackwell stated there is an agenda item specifically for further discussion on the regulation changes at this meeting.

Ms. Kate Ferguson referenced a letter sent by Ms. Boatman Patterson requesting that the $200 million in state tax credits be available during all the individual rounds and not be limited to just the May 2020 allocation. In terms of timeline, this will allow CalHFA to better align their Mixed Income Program (MIP) funds with CTCAC and the California Debt Limit Allocation Committee (CDLAC). More specifically, this will align the programs in regards to the 180-day performance requirement. She explained that CalHFA also requested that CTCAC allow mixed income projects be awarded throughout the year at any CTCAC round, subject to prior requests by CalHFA, versus only being available in the May 2020 round. Ms. Kate Ferguson stated that for shovel ready projects, the timing request will allow for a faster allocation of awards.

Ms. Blackwell stated she would be willing to honor the changes requested by CalHFA subject to a public discussion since the updated regulation changes have already been published.

Mr. Agee asked what type of operational impact the requested changes by CalHFA would impose on CTCAC staff.

Ms. Blackwell stated it would put a strain on staff and deferred to Deputy Director, Anthony Zeto for further comments.

Mr. Zeto stated it would depend on the number of applications received and that the separate pools were to help spread out the workload for staff, while providing all applicants a chance at the new state tax credits.

Ms. Kate Ferguson stated that CalHFA is expecting to see similar constraints due to new funds in their MIP. She stated that staff can expect to see a sudden burst of applications for 4% credits but she does not anticipate all the applications to come in January 2020 due to the separate pools of funding that will be available later in the year. If CalHFA awards funds in months leading up to the May 2020 deadline, she wants to make sure those projects are also eligible for $200 million state tax credits prior to the May 2020 deadline. Ms. Kate Ferguson stated that the projects are still subject to the same allocation rounds and anticipates it will not be a tremendous influx of additional work for CDLAC and CTCAC staff. She adds that CalHFA is committed to working with CDLAC and CTCAC staff in a collaborative effort to implement the new state resources.

Mr. Agee asked what sort of impact the change would have in terms of regulatory impact.

General Counsel, Mark Paxson stated the requested changes could be considered at the current meeting.

Mr. Sertich stated concerns tied to the CalHFA allocations in terms of timing and not awarding projects that may otherwise be eligible for the awards. From a policy perspective, he stated the funds should be held through May 2020 and then be made available in the general pool versus holding them through December 2020.

Ms. Blackwell shared additional technical changes with regard to Section 10325(h) of the regulations. She noted that it was concerning language that Mr. Sertich had requested be taken out due to an earlier version of AB 101, which contained competitive terminology that was no longer in the statute. Ms. Blackwell stated that staff worked with Mr. Paxson to remove the language.

With regard to Section 10317(i) of the regulations, Mr. Sertich stated that the language was not clear, as to whether it applied to the 4% state tax credits, which was the intent of staff. Ms. Blackwell stated that staff worked with Mr. Paxson to correct the language.

Ms. Miller stated she had additional comments in regards to the regulation changes but that she would wait until agenda item 6 to address them.

William Leach with Kingdom Development asked if staff will fund up to $151 million in state tax credits in the January 2020 allocation round or if staff would stop at $149 million.

Development Section Chief, Gina Ferguson stated that staff would not exceed the $150 million cap for the January 2020 funding round, which is outlined in the regulations.

Mr. Leach gave staff a hypothetical scenario and asked which project they would fund if the available funding in the January 2020 round were less than what the applicant were requesting. Mr. Leach referenced the concept of negative points and how the ranking system does not consider them.

Ms. Blackwell stated she understands Mr. Leach's point and would consider the technical change.

Ms. Gina Ferguson stated that since the CDLAC and CTCAC point systems are shared, the issue might be solved on CDLAC's end but would have to confirm with CDLAC staff.

In response to Mr. Leach's first question, Mr. Sertich stated that if the last application requires more than the state tax credits remaining for a given round, then the application would not be funded and the remaining credits would be moved into the next application round.

3. **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. Gina Ferguson stated there was a record number of applications. She stated that staff reviewed the 53 applications and they met program requirements and were recommending them to the Committee for approval. Ms. Gina Ferguson thanked the staff for their hard work straddling two different types of projects since the 4% applications were received at the tail end of the second 9% competitive funding round. She referenced three golden rod staff reports with minor changes for three projects, which she went over briefly.

Mariner's Village (CA-19-427)

Ms. Gina Ferguson stated Mariner's Village was a non-joint application, and as a result, separate applications were submitted to both CTCAC and CDLAC so there were minor discrepancies between the applications detailed on page two in terms of targeting. CTCAC staff decided to align their application with CDLAC's application, which is what the changes in the staff report speak to. It was a non-substantive change.

Rental Assistance Demonstration Phase I (CA-19-548)

Ms. Gina Ferguson stated there were changes made in the application and staff waited for more information on the break out of the several different sites, which contain different unit mixes and AMIs. She explained that the applicant made the changes to the application that were unclear relating to unit mixes and AMI levels. Following the applicant responses, the staff report reflects the changes that took place at each site.

Maceo May Apartments (CA-19-552)

Ms. Gina Ferguson stated that the change was on page 2 relating to unit mix and targeting. There was a change in the CDLAC application on October 10, 2019, after the staff reports were finalized at CTCAC. She noted that the change was made to align with CDLAC.

Ms. Gina Ferguson stated that of the 53 new projects, 20 of them are new construction, adding a total unit count of 1,700 added to the state's housing stock.

Mr. Sertich noted that this was the largest 4% funding round that they have encountered in a long time and thanked CTCAC staff for all their hard work.

MOTION: Mr. Sertich moved the approval of the 53 projects. Ms. Miller seconded and the motion passed unanimously by a roll call vote.

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

Ms. Gina Ferguson stated that there were a number of last minute application deficiencies in the second 9% competitive funding round and stated staff is intending to fund all the tax credits in the Rural set aside, but currently there are credits remaining. She stated that staff has reviewed the Isackson's Multifamily Housing (CA-19-112), it meets program requirements, and is recommended for the Committee's approval.

Ms. Gina Ferguson stated there are still tax credits available in the second funding round so staff anticipates bringing one additional project for consideration of the Committee's approval at the December meeting.

MOTION: Ms. Miller moved the approval of Isackson's Multifamily Housing. Mr. Olmstead seconded and the motion passed unanimously by a roll call vote.

5. Discussion and Consideration of a Resolution, establishing a Waiting List of pending applications for Federal Nine Percent (9%) and State Low Income Housing Tax Credits (LIHTCs), provided that credit remains available and such applications are complete, eligible and financially feasible.

Ms. Gina Ferguson stated there were federal credits remaining after the second round of funding due to rules in place in terms of the geographic apportionments. Staff has created a Waiting List of projects, which may be funded, ranked by their tiebreaker scores. She explained that not all the projects will be funded off the Waiting List. Due to the pending projects in the Rural set aside, it is unknown the exact number on the tax credits that will be available for the projects on the Waiting List. Ms. Gina Ferguson noted that many of the projects on the Waiting List meet the scoring criteria and request the Committee's approval of the Waiting List.

Ms. Miller asked Ms. Ferguson is she can explain how the Waiting List works in terms of the regions and general pool.

Ms. Gina Ferguson stated that staff must exhaust every tax credit in the set asides. The geographic regions are scattered throughout the state and are based on established percentages of credits assigned to each region. She explains that there are rules in place to only award credits up to a certain point.

Mr. Zeto stated that Waiting List project start with those regions with the most credit remaining with respect to the amount available in a given round. If there are credits remaining after the regions, the credits goes to a general pool, which is a ranking of all the remaining projects based on scoring.

Ms. Miller thanked staff for the explanation.

MOTION: Mr. Sertich moved to approve the Resolution adopting a Waiting List. Ms. Miller seconded and the motion passed unanimously by a roll call vote.

6. Report on Proposed Regulations, Title 4 of the California Code of Regulations, Sections 10302 through 10337, Revising Allocation and Other Procedures.

Ms. Blackwell referred to the executive level briefing presentation she delivered to the Committee on the regulation changes at the beginning of the meeting and opened the floor up for comments.

Mr. Sertich thanked staff and everyone involved in building the regulations with regard to how the state tax credits will be implemented. He believes the regulations provide a great framework for the new program.

In regard to Section 10327(c)(2)(a) of the regulations, Ms. Miller asked what was staff's intent behind increasing the developer fee, given the demand for affordable housing in the state.

Ms. Blackwell stated that the Ten City Tour drove most of the changes and the developers were very vocal on this issue.

Mr. Zeto stated that the $1.4 million cap in developer fee that can be included in eligible basis has not been increased in the 15 years he has been with CTCAC. The housing climate was much different than it was back then where now projects voluntarily walk away from eligible basis. He explains that there are some projects that could benefit from that additional eligible basis providing a more level playing field.

Ms. Miller stated the increase in developer fee is a curious direction on staff's part given the oversubscription of 9% credits. She added that she does not believe staff needs to make an oversubscribed credit even more lucrative. She appreciates the willingness of developers to produce affordable housing exclusively but that nothing in the way that things have worked in the market tells her that the change will do anything other than incentivize what's already being done and potentially even increase project costs in the long run.

Mr. Zeto clarified that the developer fee cost itself was not increasing but rather, the amount included in eligible basis.

Mr. Sertich agreed with Ms. Millers' statement and added that increasing the up-front cash available on the 4% side when the bonds are becoming competitive will have the opposite impact in reducing costs and increasing production. It will only build wealth for some Californians. He stated that now is not the time to incentivize more developers to come into the game by increasing costs. When the developer fee was increased on the 4% side a few years ago, it was done so to encourage production, which he believes is not necessary at this point. Mr. Sertich also believes that agencies need to get their developer fees aligned if they want to work together as efficiently as possible.

Mr. Olmstead concurred with Ms. Miller and stated he does not understand why the developer fee is being increased if the program is already going to be oversubscribed.

Ms. Blackwell stated she would defer to the will of the Committee on this change since it was published prior to staff's understanding of the oversubscription.

Ms. Miller stated she would like to see this regulation changed before it is voted on at the December meeting. Her other concern was in regards to the change granting the Executive Director greater discretion on clerical errors. She asked Ms. Blackwell if she would be willing to give applicants a period to produce the documents as a part of her discretion.

Ms. Blackwell stated she was going to discuss the process with CDLAC staff but was hesitant to do so since CDLAC does not process the same volume of applications that CTCAC staff does. With the release of the new $500 million in state tax credits, she does not want to put additional constraints on staff.

Ms. Miller stated that if it would complicate the work of staff, she would defer to Ms. Blackwell on the issue.

Ms. Blackwell stated that they hope to hire and train new staff this year in light of the increased workload, so once staff has more flexibility, she will consider Ms. Miller's suggestion.

Ms. Gina Ferguson stated that the current regulation gives the Executive Director five business days to respond to appeals. She explained that the five business day rule will also apply to the new discretion granted at the Executive Director level.

Mr. Sertich agreed with Ms. Miller's comments and stated that staff needs to come up with a good balance between fairness and efficiency.

Ms. Miller stated that her final comment is that staff indicate to all applicants and communicate to developers that they are expected to have read the guidance and the regulations simultaneously, especially for new applicants so that they fully understand the rules of the program before applying.

Ms. Blackwell stated that staff would add a reminder to the CTCAC website.

Mr. Olmstead referenced the proposed regulation change increasing the average AMI from 59% to 60% for the Average Income Test (AIT) projects. He stated HCD opposed this change during the public comment period since the policy change would reduce affordability and wanted a clarification from staff on why it was being increased. He appreciates the statement of reasons provided by the Executive Director on this issue but stated that a more thorough explanation for some of the more controversial changes would help the Committee in understanding staff's decision.

Mr. Agee requested that CTCAC staff be ready to provide the rationale in a very thorough way for each policy change when it comes time to vote on the regulations at the next Committee meeting.

Mr. Zeto stated that it was only a 1% increase. He explained that these projects would still maintain affordability via the 10% at 50% AMI requirement and at the same time assist projects that are having trouble getting down to the 59% AMI.

Mr. Olmstead's overall general comment concerning this change was that as smaller changes are made over time, it forces conversations surrounding prioritization, which causes the Committee to lean in certain directions, which identifies a policy direction.

Mr. Agee referenced the six economic and development goals from the PowerPoint presentation set forth by the administration. The six goals are supposed to act as a road map towards building a California for all, which Governor Newsom emphasized in his inaugural address. In terms of alignment, the Treasurer's administration believes the six goals put forth is the alignment towards a California for all. Mr. Agee went on to reference certain statistics that speak to the racial inequalities that exist in the state. Mr. Agee stated it is important to have these conversations because they lead to regulatory changes. He requested the Committee figure out when would be the best time to have conversations surrounding strategic planning and alignment.

Mr. Sertich asked if there were any updates in regards to the CDLAC/CTCAC strategic plan.

Ms. Miller stated she aligns with Mr. Olmstead and asked if staff could provide a more thorough explanation for some of the more controversial changes at the December meeting, so that the Committee can better understand staff's decision. She wants to make sure that the state's scarce resources are utilized in the most productive manner possible, since the changes will be recognized as a policy direction taken by the Committee.

Mr. Sertich asked whether this was only regarding 4% projects, stating that the 9% awards are already restricted at 50%.

Mr. Olmstead stated the conversation was in regards to the 4% projects. He wants to get a better understanding on what comments lead to staff's rationale on the regulation change.

Ms. Kate Ferguson stated that it would be helpful if staff could tie the comments to the new resources coming into the housing market with AB 101.

In regards to Mr. Sertich's request for an update on the strategic planning, Mr. Agee stated that he met with their contractor, Impact Development Brands to come up with a revised timeline due to an intentional delay. Mr. Agee requested that an item be agenized for the December meeting so the Committee can discuss when Impact Development Brands can come in and make a presentation on their initial findings after the revised timeline has been established. He also requested that the Committee consider a November meeting to discuss further alignment issues.

Mr. Sertich stated that he is concerned with the proper implementation of the January 2020 funding round. He noted that there are still many issues that have not been resolved like CDLAC priorities and complications surrounding the third CalHFA funding round with their mixed income awards, which will most likely not be oversubscribed. Mr. Sertich added that the regulations explicitly call this out and wanted more clarification surrounding which scoring system and whether a special allocation of bonds would be set aside for the first round of funding. He believes it is important that the Committee include these topics in their conversations.

Mr. Agee stated he would have an offline conversation with Mr. Sertich and Mr. Flood to ensure the topic is included in their conversations.

Ms. Kate Ferguson stated CalHFA is anticipating $180 million in their MIP for subsidy dollars and would deploy well over the $200 million in state tax credits if available. She noted that CalHFA does not want to wait an additional five months into 2020 to utilize the funding, which is why they are requesting the $200 million in state tax credits be moved up to January 2020. Due to feedback received from the development community and expansion of AB 101, Ms. Kate Ferguson expects their MIP to be fully subscribed.

Mr. Agee stated the challenge for him was understanding what all the sources of funding are and where to begin and end when looking at the funding streams.

Ms. Kate Ferguson stated that most of the additional funding for CTCAC and CDLAC is fueled by AB 101 in an attempt to jumpstart housing production and promote mixed income. She stated the emergency regulations should be drafted in the context of the additional funds coming into the market next year in 2020 via AB 101, specifically.

Mr. Sertich agrees the emergency regulations should be more comprehensive with regard to the new funding coming on line in 2020.

Mr. Agee believes these are all great ideas and hopes the Committee can work in tandem to analyze staff impact and help put together the proper request to get staff what they need to effectively administer the program.

Mr. Sertich mentions Senate Bill (SB) 2, which will provide additional state resources. He warned that there would not be enough bonds in the near future to meet the needs of the additional resources. He added it should be a huge priority to maximize federal resources so they could save state resources.

Mr. Olmstead stated they are less than a year removed from the November 2020 ballot, which will give Californians the opportunity to vote on bond measures that will bring even bigger state and local investments into housing, which is why the Committee needs to effectively weave everything together from a policy standpoint.

Mr. Agee asked that everyone send in their comments and other suggestions to Ms. Blackwell so the Committee can hone in and focus on changes taking place since housing is a priority for the administration.

Ms. Blackwell stated she is working very closely with Mr. Flood and that applicants are providing a joint CDLAC and CTCAC application, which would be pulling funding from the same pool.

Mr. Sertich stated they have not quite figured out what the out pools of allocation would be on the CDLAC side, which will not be known until January 2020. He noted that it is difficult to allocate state tax credits without knowing how the bonds will be allocated.

Mr. Agee stated Mr. Sertich's point speaks to a greater policy question since most of the rush to enact these changes has not come from the Treasurer's Office.

Ms. Miller stated the Governor's Office is responsible for all the changes and stated that a timeline for CTCAC, CDLAC and CalHFA to explain the new funding process to the public would be a good place to start.

Mr. Sertich stated the timeline is clear to the applicants but the policies surrounding the allocation of the additional funding has not been fully developed yet. Essentially, applicants are going to be applying for the funding without first knowing the Committee's priorities.

Mr. Agee stated the Treasurer's Office is complying by the expectations that were placed on the Committee by the Governor's Office. Staff is doing their best to comply with pressures that were placed on them by the November 15th timeframe. He noted that an additional request is going to be made to the legislature in April or May 2020 and that it is important that they have shovels in the ground before the request is made. The Treasurer's Office is happy to comply with whatever it takes to continue to be on the same page in terms of coordination and collaboration with the Governor's Office.

Mr. Miller stated the beauty of public policy is that there are conflicts and that the ones implementing the law get to work out some of those solutions. To Mr. Sertich's point, she agrees that they should start the regulation process as quickly as possible since there is a lot of pent up demand.

Mr. Agee stated the Committee needs greater clarity from the Governor's Office as to whether or not it would be okay the delay the January 2020 awards to February 2020.

Ms. Miller stated she would be happy to take the question back to the Governor. She asked Mr. Sertich if his request was for a delay or for additional information.

Mr. Sertich stated he does not believe a February 2020 funding round would delay housing production since applicants would not be awarded bonds until February 2020 as well but it would give the Committee the ability at the January 2020 CDLAC round prior to any recommendations from CTCAC, to have a clear overarching policy on bond allocations.

Mr. Agee stated he believes it will delay housing production since they were asked to expedite the process so he wants to make sure to communicate the request for a delay to the Governor's Office.

Ms. Miller and Ms. Kate Ferguson both stated they would communicate the request for a delay.

Mr. Agee stated the Committee should get the approval for the delay by the October 28th Committee meeting so that they can put the marketplace on notice and communicate to the development community what to expect.

Kasey Burke with Meta Housing Corporation stated he came to the Committee meeting today to seek as much clarity around the discussions surrounding the new funding deadlines and how all of the new resources align. In regards to the CDLAC meeting, he believes that the funding will be competitive in 2020 but that it might not be declared prior to the joint application round in November 2019. Mr. Burke was seeking greater clarity surrounding how this will affect CTCAC's priorities, which have already been established. He explains that it is unclear as to what will happen if CTCAC's priority list does not align with CDLAC's priority list, which is still unknown going into November 2019.

Mr. Burke's additional question was regarding whether the November 2019 round would get pushed to December 2019 since it is typically 60 days prior the Committee meeting, or if the development community is still expected to put applications in November 2019 and wait until February 2020 for Committee approval.

Mr. Agee stated there should not be a lack of clarity in terms of how the development community should proceed. The lack of clarity is at the conversion of policy and politics, which is putting both CDLAC and CTCAC into a flux. He advised the development community to digest the regulations and work closely with CTCAC staff in terms of the timeline that has been laid out. Unless the Committee hears something different from the Governor's Office at the October 28th meeting, staff will proceed according to the timeline that was established as of July 2019 that took place with the budget discussions.

Mr. Leach thanked the Treasurer's Office for all the guidance provided to the development community regarding the regulation changes. He had two additional comments in regards the proposed regulation changes.

Mr. Agee stated that the guidance provided was only for 2019 and that the administration's intent is to work with the development community to build out the guidance even further in 2020.

Mr. Leach stated that he had a comment with regard to proposed regulation change #31, which talks about the developer fee on the 9% program side being consider for eligible basis. He stated that he has been advocating for this change for the last eight years with the reason being that it is an accounting convergence issue since it will make it simpler for all developers who are applying for the program and provide the project a little bit more flexibility on how it finances itself.

With regard to proposed regulation change #15 on the 9% program, which looks to make the energy efficiency standards equivalent to the new standard, Mr. Leach does not believe the standards are equivalent. He added that the change will add costs to every project and reduce the ability to produce housing, not only on the 9% side but also on the CDLAC scoring system for 2020 since it explicitly refers to this regulation. Mr. Leach concluded by stating that it requires all 9% and 4% projects to be 65% better than Title 24 standards, which will add project costs.

Mr. Agee asked Ms. Blackwell to follow up with Mr. Leach in regards to his comments so that staff can take the appropriate steps to revise the regulations.

7. Public Comment.

None.

8. Adjournment.

Mr. Agee adjourned the meeting at 12:30 p.m.

California Tax Credit Allocation Committee

Judith Blackwell
Executive Director

1

Treasurer's Goals

- Increase housing production
- Increase development efficiency
- Spur new technology
- Increase opportunity for women and people of color
- Empower individuals in distressed communities
- Build wealth for all Californians

Highlights of Proposed Regulation Changes

3

$500M State Tax Credits

The Basics

- Able to utilize the 130% basis increase with State Tax Credits
- Higher multiplier for calculating State Tax Credit: 30%
- Must have a current year bond allocation

4

$500M State Tax Credits
Application

- Establish a ranking system
  - units per state tax credit
- Establish multiple funding rounds
  - $150M awarded in January
  - $150M awarded in March
  - $200M awarded in May for CalHFA MIP

5

$500M State Tax Credits
Application

- Limit State Tax Credits from the new $500M to a single one sponsor/developer, or related party to 33% of the amount available for a given round

6

$500M State Tax Credits
Readiness Requirements

- Readiness requirements: begin construction within 180 days of the TCAC award date
- Tax credits will be rescinded with the possible assessment of negative points failing to begin construction within 180 days of TCAC award

7

$15M State Tax Credits
4% Projects

- Reduce competitive requirements
  - No sustainable building/energy efficiency point category
  - Reduced maximum points for Lowest Income point category

8

All State Tax Credits
Certification

- Incorporate changes from SB 9 regarding Certificated State Tax Credits
  - Allow multiple sales of certificated state credits
  - Relax standards for changing the election to certificate the state credits.

9

Sustainable Building Methods

- Updates to the equivalent energy measurement of the 2019 Building Energy Efficiency Standards
- Increase the Water Efficiency point option from 3 points to 5 points in the Sustainable Building Methods point category
  - Allows for projects to receive full points in the Sustainable Building Methods point category with the Water Efficiency option

10

Application Efficiencies

- Remove requirement for current financial statements for general partners and executed property management company contracts
- Remove TCAC review for environmental clearance (NEPA and CEQA) in the Readiness to Proceed point category

11

Other Changes

- Increase the average targeting from 59% to 60% for 4% projects proposing Average Income Test (AIT)
- Developer Fee increase in basis for 9% projects
  - Eliminate $1.4M limit in basis
- Cash out Developer Fee increased from $2.5M to $3M for 4% projects

12

Other Changes

- Remove minimum and maximum cash flow requirements at the placed in service stage for 4% projects and 9% projects without a HUD subsidy layering review and clarified it was retroactive to placed in service packages already received by TCAC

13

Other Changes

- Provide TCAC Executive Director additional discretion relating to incomplete and complete applications

- Increase threshold to provide forbearance for minor financial and cash flow errors

14

CA Tenant Protection Act of 2019 (AB 1482)

- Passed in the Senate and Assembly in September 2019
- Signed by Governor Newsom on October 8, 2019
- Retroactively effective as of September 1, 2019 and sunsets on January 1, 2030
- Enacts Rent Control for the State of California
  - Affects LIHTC properties who will be exiting the regulatory period through 2030
- Defines "Just Cause" for Evictions

15

CA Tenant Protection Act of 2019 (AB 1482)

<u>Rent Control</u>

- Allows LIHTC properties subject to a regulatory agreement to establish the initial rent rate for the unit upon the expiration of the regulatory agreement
  - Owner then must comply with maximum rental increases of either 5% plus percentage change in cost of living or 10%, whichever is lower.

16

CA Tenant Protection Act of 2019 (AB 1482)

Eviction Protection

- Just Cause
  - Defined in AB 1482 and added to Section 2 – 1946.2 (b) of the Civil Code
- No-fault Just Cause
  - May be applicable to Resyndication allocations with substantial rehab or demolition of existing buildings
    - Substantial Rehab is defined as structural, electrical, plumbing or mechanical systems that require a governmental permit and require the tenant to vacate the unit for more than 30 days

17

CA Tenant Protection Act of 2019 (AB 1482)

Eviction Protection

- Requires a notification or lease provision be given to all tenants who have occupied units starting July 1, 2020
  - All existing tenants should be given provision language no later than August 1, 2020.
- Requires that for tenants who have occupied a unit for more than 12 months that "just cause" must be given in writing to the tenant to terminate the tenancy
- Requires for No-fault Just Cause terminations, that monetary relocation assistance be given
  - Direct payment to the tenant of one month's rent or the waiver of the final month's rent

18

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19