

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
Minutes of the June 16, 2021 Meeting

1. Roll Call

State Treasurer Fiona Ma chaired the meeting of the California Tax Credit Allocation Committee (CTCAC). Treasurer Ma called the meeting to order at 11:10 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) Acting Executive Director Donald Cavier; Jennifer Seeger for California Department of Housing and Community Development (HCD) Director Gustavo Velasquez; City Representative Vivian Moreno; and County Representative Terra Lawson-Remer.

2. Approval of the Minutes of the April 28, 2021 Meeting

MOTION: Ms. Miller moved to approve the April 28, 2021 Meeting Minutes. Mr. Sertich seconded, and the motion passed unanimously via a roll call vote.

3. Executive Director's Report

CTCAC Executive Director, Nancee Robles stated CTCAC received 129 applications, which was six more than the last round. She noted the round was 3.5 times oversubscribed, totaling about \$3.7 billion dollars. Ms. Robles stated the applications are being analyzed by staff and recommendations would be presented at the August 11, 2021 Committee Meeting. She notified the Committee that Development Section Chief, Gina Ferguson was leaving CTCAC and joining HCD in their efforts to consolidate and align their programs. Ms. Robles summarized Ms. Gina Ferguson's tenure at CTCAC along with her many accomplishments. The Committee and staff thanked Ms. Gina Ferguson for all of her work and congratulated her on her new position.

Treasurer Ma referenced AB 434 and that Ms. Gina Ferguson will be working on aligning the HCD programs at HCD. Treasurer Ma congratulated her on the new role.

Mr. Sertich expressed gratitude and appreciation for all of Ms. Gina Ferguson's work at CTCAC and congratulated her on the new role.

Deputy Director, Anthony Zeto also thanked Ms. Gina Ferguson for all her work and noted that she played an important role in all the successes at CTCAC.

Ms. Gina Ferguson thanked everyone for their kind words.

4. Discussion and Consideration of a 2021 Application for Reservation of Federal Four Percent (4%) Low Income Housing Tax Credits (LIHTCs) for a Tax-Exempt Bond Financed Project

Mr. Zeto stated the 425 Auzerais Apartments project (CA-21-467) was awarded a bond allocation at the April 28, 2021 CDLAC meeting on appeal. He explained the project was not originally recommended at the April 28, 2021 CTCAC meeting since it was not being

recommended for a bond allocation. Since the project ultimately received a bond allocation, Mr. Zeto stated staff was now recommending the project for a 4% tax credit reservation.

MOTION: Mr. Sertich moved to approve the project. Ms. Miller seconded and the motion passed unanimously via a roll call vote.

5. Discussion and Consideration of appeals if filed under TCAC Regulation Section 10330(b)(1), and if appeal is granted in its entirety, a 2021 First Round Reservation of Federal Nine Percent (9%) and State Low Income Housing Tax Credits (LIHTCs). See Exhibit A for a list of the appealing projects

Mr. Zeto stated staff received a total of four (4) appeals and invited the appellant for the Palos Verde Apartments project (CA-21-031).

CA-21-031 / Palos Verde Apartments

Gary Downs with Impact Development Group presented the appeal for Palos Verde Apartments. He provided some background on the project, explaining the project as a small 32 unit project, 28 of which have rental assistance where the tenants have little to no income. Mr. Downs explained that many of the residents are supportive of the ownership change and much needed renovation of the project. He provided additional information on the project's history including existing financing from the United States Department of Agriculture's (USDA) 515 program. Mr. Downs noted the appeal is related to a CTCAC regulation change adopted in December 2020 that disallowed assumed debt to be counted in the final tiebreaker scoring. He stated he did not receive the notice of the proposed change and therefore could not provide public comment. Mr. Downs stated there are different ways to interpret the regulation section and explained the extensive underwriting of a USDA 515 loan. He does not believe that the regulation change adopted in December was intended to exclude USDA debt less than 30 years old. Mr. Downs noted the intent of the regulation change was to prioritize new construction over acquisition and rehabilitation, but believes the 30-year requirement should be lowered to 15 to 20 years. He believed that if the Committee were to award the project the credits, it would not adversely affect any of the other project currently in the round being recommended for an award.

Cynthia Michels with Impact Development Group stated she also did not receive any notice of the regulation changes adopted in December. Ms. Michels stated that had she received notice, she would have commented on the proposed changes.

William Leach with Kingdom Development stated he was the nonprofit managing partner for the project. He stressed that the USDA is not obligated to allow the purchasing entity to assume this loan. Mr. Leach explained that if the USDA did not bring the interest rate down to 1%, extend the amortization to 50 years, or subordinate to future debt, they would not have been able to raise an additional half a million of conventional debt for the project. He stated the material changes to this particular funding source allows the project to have more conventional debt in order to finance the rehabilitation of the project that is sorely needed.

Mr. Zeto clarified the regulation change proposal process was the same as it always been. He explained the regulatory process which includes publication on the CTCAC website and

an email list serve message sent out to subscribers, which occurred multiple times during the process. Mr. Zeto stated CTCAC received many comments in response to that regulation change package, including comments from Mr. Leach.

Treasurer Ma stated the regulation change process has been as transparent as possible. She stated she has personally chaired the meetings and ensured accurate meeting minutes be recorded.

Mr. Sertich asked a question regarding assumed debt versus re-underwritten debt. He asked how staff would view the loan if the amount increased.

Mr. Zeto stated that since the regulations exclude outstanding principal balances, staff would continue to exclude that amount, but the difference could be included in the final tiebreaker calculation.

Treasurer Ma asked why the 26 years old project requires \$100,000 per unit in rehabilitation costs.

Mr. Downs summarized the scope of rehabilitation costs, which included a new community room and a new playground.

Mr. Zeto explained the regulation change was specific to re-syndication of existing projects already bound by a 55-year CTCAC regulatory agreement. He stated the intent of the regulation change was to incentivize new housing units.

Mr. Sertich stated that in previous years, these projects could be rehabilitated through the 4% program. Given the competitiveness of the bonds and the push for new construction, he stated staff should consider other options to provide these projects a greater life span under the 55-year regulatory period.

Treasurer Ma shared the same concerns related to rehabilitation projects but with the current housing crisis, the focus was increasing the number of housing units. She stated staff welcomes input this year for 2022 regulatory changes.

No motion was made by the Committee to grant the appeal. The appellant for the Arthur at Blackstone project (CA-21-044) was invited to present their appeal.

CA-21-044 / The Arthur at Blackstone

Michael Duarte with the Fresno Housing Authority introduced the appeal for The Arthur at Blackstone. He provided some background on the proposed project. Mr. Duarte stated the project is an adaptive reuse of an existing building and a new construction of a mixed-use project consisting of 41 units with community space and commercial space. He explained the need for the project and stated the infill project aimed to intensifying housing density in the area. Mr. Duarte stated the project has committed funding from HCD's Infill Infrastructure Grant and No Place Like Home programs as well as project based vouchers from HUD. He stated the project scored the maximum points and has the highest tiebreaker score in the region. Mr. Duarte stated the appeal was due to an omission in the application,

specifically relating to an energy basis limit boost. He explained that at the direction of the Executive Director, she may request clarifying information from a third party. Mr. Duarte stated CTCAC has previously permitted an owner to select a basis limit boost at the placed in service stage different than the one selected in the original application.

Chris Miller with Melas Engineering stated the project met the energy efficiency requirements to warrant the basis limit boost despite the documents not being included in the application submitted. He hoped that switching the basis limit boost is an acceptable change.

Mr. Duarte explained the information to support the basis limit boost change was in the application in the form of the CFIR as well as evidenced by the \$0 in the utility allowance for the No Place Like Home units.

Mr. Zeto stated the regulations permits the Executive Director, at her discretion, to request clarifying documentation. He explained staff was unable to locate any evidence in the application to accept the missing documentation as an omission, but instead viewed this as an application change. Mr. Zeto stated the applicant is requesting a change to the basis limit boost because the project did not qualify for the basis limit boost originally requested in the application.

Mr. Sertich asked if applicants were able to switch basis limit boosts.

Mr. Zeto stated staff has permitted changes at the placed in service stage.

Mr. Sertich stated staff should not open the door to allow changes to the application after submission, particularly for scoring.

Mr. Duarte compared the checking of the boxes to the basis limit boosts to that of selecting the incorrect set aside where CTCAC could correct it.

Mr. Zeto disagreed and compared it to an applicant choosing not to request points in a particular point category only to request to have that changed based other factors. He stated it is important to maintain the integrity of the competitive system.

Mr. Sertich agreed generally and that the application is what the competition is based on. Due to the complexity, he wanted to avoid building barriers in the system in the long term.

Ms. Miller stated she was not in support of the appeal. She would not support staff to make these type of corrections and check correct boxes in the application.

Treasurer Ma stated that with the new competitive system, everyone is sharpening their pencils and double checking their applications.

No motion was made by the Committee to grant the appeal. The appellant for the 6th Street Grand project (CA-21-026) was invited to present their appeal.

CA-21-026 / 6th Street Grand

William Leach with Kingdom Development introduced the appeal for 6th Street Grand.

Mr. Zeto stated that the appeal was for the tiebreaker score but the outcome of the appeal does not affect the project's position currently on the preliminary recommendation list since the appeal for the Arthur at Blackstone project was not granted.

Mr. Leach asked if the Baldwin Park project would be considered.

Ms. Gina Ferguson stated no appeal was received for the Baldwin Park project.

Mr. Leach decided to not present his appeal.

Ms. Gina Ferguson provided a status update on the appeal for the Duro Road Housing Project (CA-21-025) and stated that they were working on gathering staff to present the appeal. The Committee provided them additional time and skipped to the next agenda item.

CA-21-025 / Duro Road Housing Project

Keith Anderson on behalf of the San Pasqual Band of Mission Indians representing the Duro Road Housing Project introduced the appeal and provided some background on the importance of the project for their tribe and their impoverished community.

Diana Martinez with the San Pasqual Housing and Community Development Department explained the need for the project. She noted that 16% of the residents on their reservation are living in overcrowded conditions. Ms. Martinez stated they are homeless living in abandoned cars, tents, empty camper shells, and abandoned trailers. She explained that they have applied three times in a row from CTCAC and have failed to obtain tax credits. Ms. Martinez stated that she is hopeful that their appeal would resonate with the Committee and they will overturn the denial. She added that the funds they receive from HUD are minimal and the project is not possible without tax credits from CTCAC.

Lydia Escalante with the San Pasqual Band of Mission Indians stated the housing project would provide housing primarily to low income residents and relieve overcrowding due to the pandemic. She stated there has not been any housing built since 1994. Ms. Escalante thanked the Committee for their time and hoped for an approval of the Duro Road Housing Project.

Mr. Zeto stated the rents presented in the application were at the targeted maximums. He explained that the appeal focused on the fact that the federal funds in the project will require the tenants to only pay 30% of their incomes. Mr. Zeto stated the applicant provided updated application pages with the lower rents based on the incomes of potential residents on the waiting list. He stated that staff viewed this as an application change and could not grant the appeal based on CTCAC regulations.

Mr. Sertich stated the applications submitted need to be correct and staff cannot spend time correcting applications errors after they have been submitted. He also stated that if this

project is not funded, a different project in the Native American apportionment is being funded and the Committee needs to keep this in mind.

Ms. Moreno spoke in favor of the appeal and believed the error in the application is a result of a misunderstanding in both federal and state regulations. She believed the complexity could lead to a misunderstanding and should not lead to the project not moving forward. Ms. Moreno emphasized the need for the housing on the Indian reservation and stated the Committee should use its discretion to approve the appeal.

Ms. Miller asked Mr. Zeto if this was a misunderstanding of the way the sovereign nation's funds were applied.

Mr. Zeto stated that CTCAC has specific cash flow limitations prescribed in the regulations and explained that the rents in the application were presented at the maximum rents the units were being targeted at. He explained the applicant is appealing that once the units are occupied, those rents are not the true rents the tenants will have to pay and therefore the cash flow is overstated. Mr. Zeto reiterated that the applicant submitted a revised application page with their appeal showing the lower rents they expect the tenants to have to pay, which again staff viewed as an application change.

Treasurer Ma asked how clear the instructions are for this portion of the application.

Mr. Zeto stated that the application requires the applicant to enter the number of units, bedroom sizes, and the targeted area median income (AMI) levels. In addition, he noted the applicant is required to enter the actual rent. Mr. Zeto stated the actual rents entered into the application were the same figures as the targeted AMI maximums. He stated the revised pages submitted included the actual rents at much lower levels based on the waiting list of proposed residents and assuming 30% of their incomes. Mr. Zeto believed the consultant for the project has worked on applications in the past and does not believe the error was due to any misunderstanding or confusion on the applicant's part.

Ms. Seeger asked if the applicant had submitted the waiting list with the actual incomes as part of the application, would that have made the application acceptable to staff.

Mr. Zeto stated he does not believe it would have made a difference. He added that the applicant is required to complete the application with the proposed rents and staff would not speculate on what the rents may be.

Ms. Gina Ferguson stated there was one portion of the application that the financing plan, where it stated the housing funds would be provided up to the operating expenses, but no more. Rather than rely on one sentence, Ms. Gina Ferguson stated staff reviews the figures entered into the application, which were contrary to this statement in the financing plan.

Jeremy with the San Pasqual Band of Mission Indians stated there was dire need for housing was hopeful this project could provide them the housing needed.

Mr. Anderson stated he agrees with both sides of the appeal and stressed that the error was a result of misinterpretation and explained his reasons why. He noted he does not blame

staff since everyone makes mistakes but finds issue with staff's refusal to review of the supplemental interpretive data to the application provided. He stated that the supplemental data provided was not a change to the application but rather an interpretive aid to assist with the review. Mr. Anderson stated staff reviewed the market study and the pro forma in isolation rather than as a whole, which he stated could impact how tribal applications are submitted. He stated that staff was guessing rather than reviewing all of the information as a whole. Mr. Anderson noted the waiting list provided was in the original application and not an application change. He closed his statement by urging the Committee to overturn the original denial and grant the project the tax credits they so desperately need.

Mr. Zeto clarified the rent information entered into the application is based rents inputted by the applicant. He stated that staff review was not based on a guess or an estimate, but rather the figures entered into the application by the applicant.

No motion was made by the Committee to grant the appeal.

6. Discussion and Consideration of the 2021 First Round Applications for Reservation of Federal Nine Percent (9%) and State Low Income Housing Tax Credits (LIHTCs)

Mr. Zeto stated that since no appeals were granted, there are no changes to the preliminary recommendation list. He stated the applications on the preliminary recommendation list were ranked, reviewed by staff for compliance with program requirements, and are recommended to the Committee for approval.

Ms. Gina Ferguson noted one minor correction to the staff report for the Willow Greenridge project (CA-21-053) relating to a transposition in the financing. She stated staff will make the correction to the staff report on the website.

There was public comment.

Adam Thompson thanked Ms. Gina Ferguson for the last 15 years of her service on the CTCAC team. He wished her well on her next position at HCD.

Ms. Gina Ferguson stated staff worked very hard on the applications approved at today's meeting and wanted to thank them again one last time publicly for their diligent work in reviewing the applications.

MOTION: Mr. Sertich moved to approve staff's recommendation of the preliminary reservation list. Ms. Kate Ferguson seconded and the motion passed unanimously via a roll call vote.

7. Discussion and Consideration of a Resolution to Adopt Proposed Regulations, Title 4 of the California Code of Regulations, Sections 10302 through 10337, Revising Allocation and Other Procedures

Mr. Zeto stated staff published the proposed regulation changes on May 7th and held a public hearing where several comments were received. He noted the public comment period concluded on May 31st and approximately 30 comments were received. In response to

comments, Mr. Zeto stated staff made some modifications to the initial proposed regulation changes and now recommending them to the Committee for approval. He explained that most of the proposed regulation changes focused on the disaster credits.

Ms. Miller passed it over to Ms. Seeger to explain why the 5% cap for federal credit to eligible basis should be increased to get the best utilization rate of the disaster credits.

Ms. Seeger stated HCD is concerned that the 5% cap as proposed is too low to allow 4% projects with HCD funding to compete for 9% tax credits. She stated if the intent was to prioritize 4% projects, the current structure works counter intuitive to that goal because it does not account for the 130% basis boost many developments rely on, state tax credits which are not available to disaster credit projects, and higher developer fee allowed for 4% projects. Ms. Seeger stated the 5% cap would leave projects with financing gaps. She recommended either increasing the cap from 5% to 7.5% or to remove the cap entirely and provide first priority to 4% projects with HCD financing and second priority to 9% projects with HCD financing.

Mr. Sertich stated that while he did not necessarily agree that HCD projects were the most efficient way to allocate the disaster credits, he was willing to go with it provided those projects are able to use the credits. He supported either of the recommendations made by Ms. Seeger.

Ms. Kate Ferguson stated increasing the cap to 7.5% would provide a simple fix while still meeting the priorities of the regulations as originally intended.

There was public comment.

Michelle Whitman with the Sonoma County Renewal Enterprise District stated she was in support of the proposed regulations, including the requirement that projects be well on their way to breaking ground and allocating credits to Sonoma County in proportion to their losses. In regards to the final tiebreaker, she asked that the Committee be mindful of the trade off when there is an incentive for the lowest cost per unit at the expense of other public benefits including deep affordability or higher density infill projects, which tend to be more expensive to construct. Ms. Whitman encouraged staff to incentivize equity focused public benefit over lowest cost.

Treasurer Ma stated the importance of incentivizing the burn scar areas as one of the tiebreaker categories to replace the projects destroyed in the fire.

Mr. Sertich stated the importance of having the local reviewing agency in place as a veto mechanism to ensure the rebuild of projects are not in areas with a high fire hazard.

Caleb Roope with the Pacific Companies stated by increasing the 5% cap, there will be fewer projects funded since developers tend to request more credits available to them. He stated that he had projects that work at 6% and that most projects do not need 7.5% to meet financing requirements. Mr. Roope explained the tiebreaker was intended to cover HCD projects that were stuck from years past. He noted recent changes such as the fixed 4% rate, which increased the amount of federal credit a project could access. Mr. Roope does not

believe in throwing more credits at projects is the solution and advised the Committee to be as efficient as possible and fund as many project as you can with the credits. He also stated the projects who exceed the 5% cap would still compete well with the third tiebreaker based on how they were originally structured as 4% projects.

Rich Wallach with Burbank Housing stated he was appreciative of all the adjustments made to the regulations such as the fire perimeter tiebreaker and the removal of the \$40,000 per unit limit. He expressed support for the increase of the 5% cap to 7.5% increase to close increased financing gaps.

Mark Stivers with California Housing Partnership thanked the staff for the changes made with regard to the disaster credits. He stated the staff was receptive to comments received by the stakeholder community. With regard to the 5% cap, Mr. Stivers stated he is not aware of a single project that would be under the 5% cap. He explained it would be a tiebreaker in name only. At 6%, Mr. Stivers noted maybe a handful of projects would qualify, but only a few. He noted the third tiebreaker would still apply within the HCD projects that qualify for the second tiebreaker as an efficiency measure. Mr. Stivers provided a brief explanation for the 7.5% cap and how it would close gaps resulting from the three items Ms. Seeger noted. He recommended the Committee adopt the 7.5% cap and thanked the Committee for the opportunity to move these projects out of the CDLAC queue.

Karen Lange with the Sonoma County Board of Supervisors thanked the Treasurer and staff for the regulation changes associated with the burn scar and expressed support for the changes.

Suzanne Ise for the Santa Cruz Planning Department thanked the staff for the consideration of their prior comments and the revisions made to the proposed changes. She stated recommended the third tiebreaker of credits per unit be changed to the regular 9% tiebreaker to take into consideration other restrictions imposed on projects such as deeper affordability. Ms. Ise thanked the committee for considering her comments.

Alice Talcott with MidPen Housing expressed support for the comments provided by Rich Wallach and Mark Stivers relating to the 7.5% cap for the second tiebreaker. She stated her projects do not meet the 5% cap and that the 7.5% would be a good balance. Ms. Talcott also expressed support for Mr. Stivers comment to the third tiebreaker to incentivize lower costs.

Jesus Guzman with Generation Housing expressed support for the allocation method in the proposed regulation changes for the disaster credits. He thanked the staff for being receptive to their comments and noted that his jurisdiction was deeply impacted by the wildfires. Mr. Guzman stated that while the third tiebreaker advantages projects with lower costs, he believes the regular 9% tiebreaker better captures the public benefit of increasing the supply of housing for the most vulnerable residents and providing deeper affordability with resident services. He thanked the Committee and staff for their ongoing efforts to support the housing community.

Don Lane with Housing of Santa Cruz County was in support of a change from the 5% cap to 7.5%. In addition, he expressed his support to elevate the importance of the deeper

affordability when considering tiebreakers. Even before the fires where 1,000 homes were lost, Mr. Lane stated Santa Cruz County was considered the least affordable county in the state and among the lowest vacancy rates. He stated the county deeply needs the tax credits and thanked the Committee for recognizing this need.

Max Heninger with Eden Housing thanked the staff for incorporating so many of the written comments into the disaster credit regulations. He echoed the comments made earlier to remove the cap altogether and give priority first to the 4% projects with HCD funds and then second to the 9% projects with HCD funds. In addition, Mr. Heninger asked staff to accept Joe Serna projects that meet thresholds so the projects are not inadvertently tossed out due to processing delays.

Mr. Sertich stated there were many comments to the third tiebreaker being based on public benefit as opposed to efficiency. He stated the need to come up with a system that balances both priorities rather than one over the other. Mr. Sertich noted this should be the goal for both the California Debt Limit Allocation Committee (CDLAC) and CTCAC this year.

Treasurer Ma stated the importance of maintaining transparency and get as much public input from the stakeholders as possible. She thanked the stakeholder working group and the staff stating the updated regulations are a result of good public dialogue.

MOTION: Ms. Seeger moved to approve the Resolution with the request that the second tiebreaker federal credit to eligible basis cap be increased from 5% to 7.5%. Ms. Miller seconded and the motion passed unanimously via a roll call vote.

8. Recommendation of a Resolution to Adopt the Schedule of Fines in accordance with Title 4 of the California Code of Regulations, Sections 10337(f)

Mr. Zeto stated the Committee adopted a schedule of fines in 2017 to enforce noncompliance issues where the assessment of negative points was not a viable sanction. He stated staff has updated the schedule of fines to provide clarity in addition to a couple of minor changes. Mr. Zeto noted the proposed schedule of fines was published to the CTCAC website in May 2021 and no comments were received. He recommended the proposed schedule of fines for adoption by the Committee.

MOTION: Mr. Sertich moved to approve the Resolution, adopting the schedule of fines. Ms. Kate Ferguson seconded and the motion passed unanimously via a roll call vote.

9. Public Comment

There was no public comment.

10. Adjournment

Treasurer Ma adjourned the meeting at 1:12 p.m.