California Tax Credit Allocation Committee

901 P Street, Room 102
Sacramento, CA 95814

January 24, 2024

CTCAC Committee Meeting Minutes
(Continued from January 17, 2024, to further discuss and take action on Agenda Items 5 and 8)

1. *Agenda Item:* **Call to Order and Roll Call**

The California Tax Credit Allocation Committee (CTCAC) meeting was called to order at 9:10 a.m. with the following Committee members present:

Voting Members:	Fiona Ma, CPA, California State Treasurer, Chairperson California State Controller Malia M. Cohen Gayle Miller for Department of Finance (DOF) Director Joe Stephenshaw Department of Housing and Community Development (HCD) Director Gustavo Velasquez Kate Ferguson for Tiena Johnson Hall, Executive Director for the California Housing Finance Agency (CalHFA)
Advisory Members:	County Representative – VACANT City Representative Brian Tabatabai

5. **Resolution No. 23/24-05, Adoption of a Regular Rulemaking for Amendments to the Federal and State Low-Income Housing Tax Credit Programs (Cal. Code of Regs., tit. 4, §§ 10302-10337) (Health and Saf. Code, § 50199.17)** – *(Action Item)*
Presented by: Marina Wiant

Ms. Wiant explained that the final proposed changes memorandum includes two recommendations to the developer fee limit. First, the proposal increases the developer fee from $2.2 million to $2.5 million in the 9% tax credit program. Additionally, the proposal provides a further increase to projects developing units in excess of 50 tax credit units. These two changes would create more parity with the limit for the 4% tax credit projects but with a lower per tax credit unit amount of $10,000 versus the $20,000 per-unit amount for 4% tax credit projects. These changes account for the increased costs incurred by the developer as the limit has not been increased since 2016, and prior to that, it had not been increased since 2003. The Consumer Price Index (CPI) adjusted amount of the 2003 figure of $2 million would be in excess of $3.3 million today. Second, for 4% tax credit projects, the proposed regulations change lowers the number of tax credit units required for the per-unit increase from 100 to 75 and increases the per tax credit unit dollar amount from $20,000 to $25,000, allowing more projects to access additional cash-out developer fee to account for increased costs associated with larger projects. These projects typically cost more and have more risk associated with the guarantees and indemnities. These fees are often used as a contingency to cover cost overruns or financing shortfalls. The CPI adjusted 2003 figure of $2.5 million would be in excess of $4.2 million today.

Ms. Wiant said that the comments received during the public comment period and at the January 17, 2024, meeting recommended an additional increase to the developer fee limit for Permanent Supportive Housing (PSH) projects to account for increased costs due to longer development timelines, higher staffing and operating costs, and increased financial risk. Staff generally agrees that PSH projects have unique challenges, both on the development side and for ongoing operations. The appropriate solution may include additional changes to the regulations in addition to the developer fee limit. However, staff maintains the recommendation to proceed with the proposed changes published on January 10, 2024. If that is not possible, staff strongly recommends at least proceeding with the developer fee limit changes for the 9% tax credit projects, which would take effect immediately upon adoption today, in advance of the Round 1 9% tax credit application deadline. Staff is committed to continuing to research and analyze the best options to address the challenges for projects proposing special needs units, and 4% tax credit projects generally, which could be accomplished in advance of the Round 2 4% tax credit application deadline.

Ms. Miller suggested that the Committee approve the developer fee increase to $2.5 million for the 9% tax credit projects and adopt the rest of the regulations so they can go into effect for Round 1. A working group could then be created and include individuals from CalHFA, HCD, developers, and other appropriate stakeholders. That group could discuss the per-unit increases to the developer fee. There are many questions about how to create operational efficiencies and whether a per-unit increase is the best way to accomplish that. This would allow CTCAC to begin Round 1 seamlessly and allow more time to consider this issue. The Committee would need to commit to resolving this issue prior to the April 23, 2024, Round 1 4% tax credit application deadline so the regulations are clear for those applicants.

Mr. Velasquez agreed with Ms. Miller about the bifurcation of the proposed changes to the developer fee for 9% tax credit projects. It is important that the Committee does not delay the approval of the developer fee increase for the 9% tax credit projects. There is a lot for the working group to consider as far as making sure that any bonus per-unit fee aligns with other policy objectives that the Committee has approved before, including increased density, infill, and special needs. From HCD's perspective, the proposal on PSH is interesting. HCD is going through the process, due to a legislative mandate, of increasing the PSH cap cost, and would look forward to the opportunity to participate in the working group and explain how that change could alleviate some of the concerns about the difficulties of operating PSH. That could potentially be a better solution, and Mr. Velasquez welcomes the opportunity to explain that at the working group. The working group will provide an opportunity to determine if increasing the developer fee for PSH projects is the best solution.

Chairperson Ma called for public comments:

David Whatley said that regulation of affordable housing providers is an important public policy issue, but CTCAC's regulations are lengthy. He asked how the regulations translate to residents of affordable housing projects and if there is a more user-friendly resource to explain the policies. Additionally, he asked how more regulations could be implemented to protect residents.

Chairperson Ma explained that there is a competitive system of allocating bonds and tax credits, and the regulations are geared more toward developers in terms of applying for bonds and tax credits. She asked Mr. Whatley to call or email CTCAC with any concerns about the conditions in his complex or similar concerns, as those would be handled under a different process overseen by the operators of the projects after they are built or renovated.

Mr. Whatley provided his email address and staff indicated that they would reach out to him.

Ben Winter from LINC Housing explained that his organization is a statewide nonprofit affordable housing developer in Long Beach. Over the past five years, LINC Housing has participated in advancing a housing first approach to solving homelessness and has dramatically expanded its portfolio of supportive housing to almost 1,000 units either completed or under construction, plus another 800 units in the pipeline. Additionally, LINC Housing has grown its in-house Integrated Curriculum Management System (ICMS) staff from four to 56 members in the past five years. It is a strong team that is advancing a trauma informed approach to keep people housed and achieve their life goals. Focusing on PSH is a labor of love for LINC Housing; they know the model works and is life changing for the residents and the people who work on the developments. However, the cost to put the projects together and operate them is extremely high. At best, these projects break even, but too often, considering the organizational costs to operate them, they are operating in the red. While a comprehensive approach is needed for additional funding for operations and services, including a more detailed look at HCD's Uniform Multifamily Regulations (UMRs) to increase cash flow, LINC Housing also supports increased developer fees, especially for nonprofits that are developing PSH. That would help ensure that organizations like LINC Housing that are long-term stewards of these assets are also financially secure for the long-term.

Jimmy Silverwood, President of Affirmed Housing, asked if there is a February 13 deadline for the changes to the regulations regarding the 4% tax credit projects.

Ms. Wiant said February 13 is the 9% tax credit application due date for Round 1, so if the regulations package is adopted before that date, including the increase in the developer fee for the 9% tax credit projects, there will be enough time for developers to implement those changes on their applications. Staff's goal is for the working group to take place in February to inform a draft regulations package to be published on March 1. That would allow time for the required 21-day public comment period and analysis before the end of March, which would then give the development community two or three weeks to implement those changes before the 4% tax credit application due date on April 23.

Mr. Silverwood said it can take a couple of weeks for developers to get the necessary documents from their CPAs to finish their applications, so he is glad CTCAC is taking that into account when planning the timeline. He expressed support for staff's recommendations and would like the Committee to approve them. There has already been a working group on this issue that helped to produce staff's recommendations, and some of the participants in that group might be on today's call and available to speak. Mr. Silverwood recommends that the Committee adopt the proposed regulations package, but if there is an additional working group formed, Mr. Silverwood would like to participate.

Chairperson Ma explained that Ms. Miller suggested adding additional people to the working group, and since CTCAC is a five-person Committee, two of its members can participate without violating the Brown Act.

Jonathan Centeno from PATH Ventures explained that his organization is the housing development arm of PATH, which is one of the largest and most impactful homeless developers and service providers in California. Its mission is to end homelessness for individuals, families, and communities. Across the state, PATH Ventures has 44 residential communities in its portfolio and pipeline, totaling over 3,000 homes. PATH Ventures seeks to build PSH, but it is very risky; because the developer is filling a void that the private market cannot fill, multiple different funding sources and tax credits must be utilized. That process can often take several years, and if the developer is not awarded a grant, they must either wait to get paid or cut losses and move on. PATH Ventures pays its employees competitively so they can remain in public service. The most recent Super NOFA was oversubscribed by almost 100%, so PATH Ventures lost out on funding and only avoided layoffs because of careful financial stewardship and trimmed ambition. Even if the developer receives construction funds, the nature of PSH requires the coordination of services for a highly vulnerable population through a very complicated service delivery system. Lease-up often stretches for months, and operating expenses are higher; as a result, cash flow tends to be tight. Over the past year, insurance premiums for PSH have risen exponentially, adding risk for the developer. PATH Ventures wants to build supportive housing and be part of the movement to end homelessness, and in order to do so, must be able to attract and retain top talent. Raising the developer fee is a commonsense step that would allow the developer to accomplish those goals.

JT Harechmak from the Non-Profit Housing Association of Northern California (NPH) explained that NPH represents affordable housing developers across the nine-county Bay Area region. Mr. Harechmak voiced support for the staff's recommendations and offered to help work toward a solution on the PSH boost in March. There are a lot of unique pressures on the developers of PSH projects, including higher demands on staff, additional administrative costs, a more complicated financing stack, and unique ongoing risks for those projects. An increase in the developer fee would be a good start in supporting the PSH developers. PSH is a powerful strategy that is known to work to solve the crises of housing and homelessness. Mr. Harechmak thanked the staff for doing this work and offered to participate in a working group that might help CTCAC to arrive at a solution.

Courtney Pal, Policy Manager at Resources for Community Development, explained that her organization is a nonprofit developer based in Berkeley. She echoed the comments made by Mr. Winter, Mr. Silverwood, Mr. Centeno, and Mr. Harechmak in support of continuing to work on additional developer fees for PSH. There is a lot of complicated and careful work involved in developing these projects that serve the most vulnerable Californians.

Audrey Hahn from Wakeland Housing echoed the comments made by Mr. Winter, Mr. Silverwood, Mr. Centeno, Mr. Harechmak, and Ms. Pal. She expressed support for an increase to the developer fee for PSH projects, which will help nonprofit developers like Wakeland Housing. Cost increases are not usually covered by the standard inflator, so nonprofit developers often have to cover some of the cost increases out of pocket, such as insurance. Wakeland Housing is supportive of building PSH projects and supports the recommendation.

Christine Anderson from Mercy Housing explained that her organization is a statewide developer with a considerable amount of PSH both in its portfolio and pipeline. She thanked the Committee for considering the proposed increase to the developer fee and expressed that developing PSH projects, especially in the current time, is increasingly difficult. Mercy Housing is developing a project that has seven different layers of population criteria and six or seven different funding sources. It is an incredibly important project, but a significant amount of staff time was needed in every part of the organization to do the necessary work. In order to keep the organization sustainable and to continue to produce units that are needed throughout the state, additional financial resources are needed. Mercy Housing looks forward to working with CTCAC on this issue.

Louis Chicoine from Abode Housing Development explained that his organization is focused on ending homelessness. The organization currently has a number of projects in its pipeline, and PSH is central to Abode's work. Mr. Chicoine expressed support for staff's recommendation regarding the increase in the developer fee and the consideration of an additional increase for PSH. These are incredibly challenging times for PSH developers, and they often question whether they can grow their impact. Mr. Chicoine has been doing this work for 30 years, and this is a unique moment with incredibly difficult headwinds. Abode has a mission that it would like to focus on, but it is also questioning whether it can be sustainable in the current environment regarding PSH. Mr. Chicoine asked CTCAC to continue to consider the long-term impacts of the headwinds that developers are facing now, and he reiterated his support for staff's recommendation.

Brad West from the Supportive Housing Alliance explained that his organization is a coalition of a dozen of Los Angeles's most experienced PSH developers that collectively have developed over 7,500 units of PSH. He echoed the previous comments about the need to increase the developer fee and add a PSH specific boost. A few of the compounding factors that his organization is experiencing are: rising insurance costs, some of which have been as high as 550%; scarcity of property management companies which have increased those costs; and an acute shortage of project-based vouchers, necessitating financial innovation to get projects underwritten. All of these compounding factors have contributed to a problem that needs many solutions. An increased developer fee and PSH bonus are two of many factors that the development community needs to advocate for to ensure that the PSH model is sustainable moving forward.

Mary Jane Jagodzinski, Senior Vice President of Development at BRIDGE Housing, explained that her organization is a 40-year-old nonprofit that was founded and led by former State of California executives. BRIDGE Housing supports staff's recommendation and appreciates CTCAC addressing the issue of developer fees. This is vitally important to the health of the industry since it is largely a fee-based industry, and costs have increased dramatically. BRIDGE Housing works across all three states on the Pacific coast, and California's developer fees lag compared to Oregon and Washington. BRIDGE Housing would like to be part of the working group.

Mr. Velasquez expressed that he hears the comments from stakeholders on PSH. When looking at the HCD awarded projects, it is clear that a lot of developers are deferring their developer fee because of the complexity involved with these projects. Mr. Velasquez is sympathetic, but HCD will bring a full explanation to the working group of what is being done under AB 2483. Mr. Velasquez would like to look at the sustainability of PSH projects so that the developer fee does not continue to be deferred. The revisions under AB 2483 are being made in coordination with stakeholders, and one of the changes being worked on is increasing the amount of the cap on supportive services that can be paid for projects for homeless and special needs above the levels now permitted by the UMRs. HCD is also providing the ability to request exemptions to the requirement to go above the cap if there are sufficient issues with projected cashflow. Additionally, HCD is increasing the annual percentage of cost escalators on those caps. Most importantly, HCD is proposing changes that would incentivize projects to seek other sources of funding specifically dedicated to supportive services, such as Mental Health Services Act funds. This is not being done just as a group of housing experts in the administration, but also as a partnership with the California Health and Human Services Agency (CalHHS). HCD is looking holistically at what can be done for these projects to remain sustainable. Mr. Velasquez will bring this information to the working group to assess whether an increased developer fee is really the best solution.

Chairperson Ma closed public comments.

Chairperson Ma proposed adding a CPI increase provision to the regulations so the Committee would not have to continually adjust the developer fee.

Ms. Miller asked if that conversation could take place along with the conversation about per-unit fee increases. Adjusted according to the CPI, the developer fee would have almost doubled, so there is a larger question that the Committee needs to address in terms of how best to create the efficiencies in PSH and developer fees at large. The question is if creating an automatic developer fee increase creates a system so that the Committee never has to revisit how developers are incentivized.

Chairperson Ma said she would also like to look at increasing CTCAC's fees, since they have not been increased either. If an adjuster is put in place for the developer fees, it should also apply to CTCAC's fees. CTCAC has been discussing whether or not to raise its fees for five years.

Ms. Wiant said that is a good point; the adjuster should apply to CTCAC as well.

Chairperson Ma said that as projects have gotten harder for developers, they have also gotten harder for CTCAC. Everyone should be compensated for the time and complexity required to build this important housing in California.

MOTION: Ms. Miller motioned to adopt Resolution No. 23/24-05 with the following revisions to the amended regulations: only include the developer fee increase for the 9% tax credit projects from $2.2 million to $2.5 million. All other proposed increases to the developer fee will not be adopted, including the per-unit increase for the 9% tax credit projects and all proposed changes for the 4% tax credit projects. Those proposed changes will be discussed at a working group to be convened by CTCAC staff prior to Round 2.

Ms. Wiant said the bulk of the work will be done in the working group in February.

Mr. Zeto read Section 10327(c)(2)(A) of the regulations as amended per Ms. Miller's motion:
"The maximum developer fee that may be included in project costs and eligible basis for 9% competitive credit new construction, rehabilitation only, or adaptive reuse applications applying under Section 10325 of these regulations is the lesser of 15% of the project's unadjusted eligible basis and 15% of the basis for non-residential costs included in the project allocated on a pro rata basis or two million five hundred thousand ($2,500,000) dollars. The maximum developer fee that may be included in project costs and eligible basis for a 9% competitive credit acquisition/rehabilitation application is the lesser of 15% of the project's unadjusted eligible construction related basis plus 5% of the project's unadjusted eligible acquisition basis and 15% for the basis for non-residential costs included in the project allocated on a pro rata basis or two million five hundred thousand ($2,500,000) dollars."

Mr. Zeto noted that there was also a change to Section 10327(c)(2)(C), but there have been no comments regarding that change.

Ms. Miller confirmed her approval of the amended paragraph as read by Mr. Zeto.

Mr. Velasquez seconded the motion.

The motion passed unanimously via roll call vote.

8. **Adoption of the approximate amount of tax credits available in each reservation cycle for the 2024 calendar year (Cal. Code Regs., tit. 4, §§ 10305, 10310) –** *(Action Item)*
   Presented by: Anthony Zeto

Mr. Zeto explained that this item is an adoption of the approximate amount of tax credits available in the reservation cycles for the 2024 calendar year. As Mr. Zeto mentioned previously on January 17, there was a per capita increase from $2.75 last year to $2.90 this year. This resulted in an increase of the annual 9% tax credits of approximately $5 million. The credit amount will be filtered through the set asides and regions in accordance with CTCAC's regulations. Staff is recommending the adoption of the approximate amount of tax credits available in each reservation cycle for the 2024 calendar year. Additionally, staff will bring forward at a future meeting the discussion of how to distribute the 4% state tax credits throughout the rounds.

Ms. Wiant said the staff is continuing to monitor what is happening at the federal level. In particular, there is a proposal to increase the 9% tax credits by 12.5%, which would backdate to 2023. Staff is discussing internally how to recommend allocating the 12.5% increase from last year and this year.

Chairperson Ma called for public comments:
None.

MOTION: Ms. Miller motioned to adopt the approximate amount of tax credits available in each reservation cycle for the 2024 calendar year, and Ms. Ferguson seconded the motion.

The motion passed unanimously via roll call vote.

10. *Agenda Item:* **Adjournment**

The meeting was adjourned at 9:45 a.m.