CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
Minutes of the July 8, 2009 Meeting

1. Roll Call.

   Bettina Redway for Bill Lockyer, State Treasurer, chaired the meeting of the Tax Credit Allocation Committee (TCAC). Ms. Redway called the meeting to order at 2:00 p.m. Also present: Marcy Jo Mandel for John Chiang, State Controller; Jennifer Rockwell for Michael Genest, Director of the Department of Finance; Steven Spears, Acting Executive Director of the California Housing Finance Agency; and Elliott Mandell for Lynn Jacobs, Director of the Department Housing and Community Development. County Representative, David Rutledge was absent.

2. Approval of the minutes of the May 27, 2009 Committee meeting.

   No public comment.

   MOTION: Ms. Rockwell moved to adopt the minutes of the May 27, 2009 meeting. Ms. Mandel seconded and the motion passed unanimously.

3. Executive Director's Report.

   Mr. Pavão announced that TCAC received 241 applications for 2009 9% tax credits and 5 applications for 4% plus state credits. Applicants requested approximately $335 million in 9% credits and $13.9 million in state credits along with 4% federal credits. Mr. Pavão explained that TCAC had approximately $83 million in 9% credits available and $11.8 million in 4% plus state credits available. He predicted that staff would recommend approximately 60 applications for 9% credits and approximately four projects for 4% plus state credits. The final recommendations would be announced for the Committee meeting scheduled for September 10th.

4. Informational update regarding the American Recovery and Reinvestment Act (ARRA) of 2009.

   Mr. Pavão reported that TCAC staff met with officials from the U.S. Treasury and Department of Housing and Urban Development (HUD) at a national conference last month. The officials gave their thoughts on their administrative decisions related to the allocation of TCAP funds and Section 1602 "exchange" funds. The U.S. Treasury officials stated that Section 1602 funds could be subawarded as loans, but only for 15-year terms, after which TCAC would not be able to recapture the loan funds. Mr. Pavão stated that TCAC and other state programs intended to deliver the Section 1602 funds under very different loan terms. TCAC intended to administer the funds as no-interest, fully deferred, 55-year loans. State representatives petitioned the Treasury to reconsider their policy and allow the states to determine the best way to deliver federal resources. The

Treasury and HUD officials indicated that they would promulgate their final decisions in writing for the state agencies.

Mr. Pavão reported that staff was seeking the governor's consent to designate TCAC as the agency responsible for administering federal policies including the Davis-Bacon Act and the National Environmental Policy Act of 1969 (NEPA). As the "responsible agency," TCAC would review submitted documents to determine whether or not applicants have met Davis-Bacon and NEPA requirements. Mr. Pavão stated that he expected TCAC to receive formal delegation from the governor momentarily. He informed the Committee that staff intended to solicit bids for a contract to assist in the review of submitted documents related to the Davis-Bacon Act and NEPA.

Mr. Pavão reported that staff received several sets of applications for ARRA funds. The first set, before Committee for action this meeting, had applied to return their federal nine percent credits in exchange for ARRA funds. The second set had both state and federal credits reserved and were seeking cash in-lieu of credit awards. The third set of applications, received on July 1st, consisted of 2007 and 2008 nine percent projects with an equity partner but still requiring a loan to fill an equity gap. Mr. Pavão announced that July 9th was the deadline for prior and current year four percent credit reservation holders to apply for ARRA funds.

5. Discussion and Consideration of a Resolution to Adopt Proposed Emergency Regulations, Title 4 of the California Code of Regulations, Sections 10300 through 10337, Revising Allocation and Other Procedures.

   Mr. Pavão reported that on June 2nd, staff posted a set of proposed Regulations on the TCAC website. He explained that staff made several changes to the Regulations as a result of public comments. Staff also received federal guidance regarding TCAC policies related ARRA.

   Mr. Pavão brought the Committee's attention to a hand-out describing the proposed TCAC Regulation changes. He summarized a double-underlined section stating that applicants who received ARRA funds must be prepared to close their construction loans within 75 days of their award date. Mr. Pavão explained that the 75-day deadline was established to ensure ARRA funds would be utilized in a timely manner. After considering public comments and the time lines associated with procuring tax exempt bonds, staff changed the 75-day deadline to 120 days.

   Mr. Pavão summarized a section of the Regulations, which described how TCAC would use ARRA funds to remedy gaps in construction-period financing associated with California Housing and Community Development (HCD) loans. The last sentence of the section indicates that 4% projects located in difficult to develop (DDA) areas that lost their DDA status in 2009 shall have preemptive priority in the ARRA funding competition. Mr. Pavão explained that if projects with DDA status from 2008 are not funded in their current condition they will have to start the application process over without the benefit of DDA designation. Mr. Pavão proposed to remove the sentence, which states that "projects losing their DDA status in 2009 shall have preemptive priority" and insert a paragraph on Page 5, which states that “25 points shall be awarded for projects with tax credit reservations in 2008 who lost their DDA in 2009.”

Mr. Mandell asked Mr. Pavão to confirm that there was no federal requirement stating the number of days an applicant has to close their construction loans.

Mr. Pavão confirmed that federal statutes did not establish a deadline by which applicants must close their construction loans. He explained that the deadline was established because HUD officials directed staff to implement an ARRA policy that would ensure timely use of federal resources.

Jeanne Peterson approached the Committee. She thanked Mr. Pavão and the staff for their work in implementing the federal stimulus funds into the tax credit program.

Ms. Peterson gave each Committee member a spreadsheet showing the names of 37 state credit allocating agencies and the fees each agency proposed to charge for processing ARRA applications. She stated that applicants seeking TCAP funds were not sure if the fees proposed by TCAC would be categorized as program income and held by TCAC for administrative purposes or if the fees could only be used for programmatic purposes. She reported that the HUD website contained no policy regarding the use of fees as program income. Ms. Peterson explained that many states including TCAC plan to charge fees in excess of the actual costs associated with the administration of ARRA funds. She stated that if TCAC categorized fees as program income the program could not legally hold the fees.

Ms. Peterson reported that California and possibly Nevada were the only states that intended to charge applicants for the cost of NEPA and Davis-Bacon Act reviews. She stated that is did not make sense for TCAC to charge applicants $3,000 for the reviews if the projects were already subject to federal prevailing wage requirements.

Ms. Peterson concluded by stating that the advanced asset management fees TCAC proposed to charge ARRA recipients were too high.

Mr. Pavão stated that costs associated with NEPA and Davis-Bacon reviews would be sizable due to the large volume of applicants seeking ARRA assistance. He explained that the proposed fees were a close match to the amount needed to cover the actual cost of the reviews.

Mr. Pavão stated that federal guidelines superseded TCAC Regulations. He explained that if HUD published guidelines prohibiting advanced asset management fees staff would need to find an alternate means to cover their administrative costs. Mr. Pavão estimated the total cost to administer ARRA funds would be $2.5 million.

Mr. Pavão explained that TCAC would assume the role of asset manager once staff began to review the design features and financial viability of projects seeking

ARRA funds. He noted that the advanced asset management fee was consistent with fee structure of another state allocating agency.

Ms. Rockwell asked the Committee if they were concerned that the style in which the administrative fees are being charged may not be permissible under federal law. She asked whether staff planned to charge another form of administrative fee if federal policy prohibits the advanced asset management fees.

Ms. Redway stated that the Committee would wait for further guidance from HUD before considering an alternate fee structure. She commented that the Regulations clearly state the Committee's intention to act within the scope of federal guidelines.

Kevin Payne, with Payne Development, approached the Committee. Mr. Payne asked if the allocation fee and performance deposit would be reduced or refunded for 2007-08 projects that exchanged credits for cash.

Mr. Pavão stated that 2007-08 projects receiving exchange funds would be treated like tax credit deals with regard to allocation fees and performance deposits. He also noted that projects receiving exchange funds would still have to pay a monitoring fee as TCAC will be required to monitor them for compliance with Internal Revenue Code (IRC) Section 42.

Nick Stewart, with Burbank Housing, approached the Committee. Mr. Stewart stated that he was working with a project designated as DDA. Due to circumstances beyond his company's control the project had been delayed and was at risk of losing its DDA status. Mr. Stewart explained that the proposed change in the Regulations regarding DDA designation would force the project into a competition for state credits a funding source that is already oversubscribed. He asked that the Committee keep the original language to prevent irreparable harm to the project.

Mr. Pavão reiterated that the original language of the Regulations established DDA projects as having "preemptive priority". He stated that TCAC would make $75 million available for the 2009 competitive round, which were 4% applicants who did not have an equity partner or had a partner but needed additional funds to bridge a gap in financing. He estimated that DDA projects could comprise up to $30 million of the available funds. Mr. Pavão stated that removing the preemptive priority and putting the DDA projects into the funding competition with a 10% point boost was more reasonable than delivering almost half of the available funds to single class of projects.

Jeanne Le Duc approached the Committee. Ms. Le Duc commented that the Regulations did not adequately explain the difference in fees. She suggested that TCAC should add language to the Regulations that better explained the logic behind the difference in HCD and CalHFA related fees.

Mr. Pavão stated that TCAC staff had been working with HCD and CalHFA in designing the advanced management fee structure. He summarized the federal guidelines, which state that the asset management fees must reflect the actual costs incurred for administering ARRA funds. Mr. Pavão explained that that HCD and CalHFA related fees were different because each agency had a slightly different set of costs for performing similar duties.

Emily Lynn, a project sponsor, approached the Committee. Ms. Lynn asked the Committee if a locality may perform and approve the NEPA review in order to make the project ready to begin construction within 120 days of the funding date.

Ms. Vergolini stated that TCAC delegated the preparation of the NEPA reviews to the project sponsor. She explained that TCAC was the responsible entity delegated to perform NEPA review and approval for TCAP funds.

Ms. Redway asked Ms. Lynn if she was concerned that her project may be ready to start construction because TCAC might not have completed the NEPA review.

Ms. Lynn confirmed that she was concerned about the time frame to complete the NEPA review.

Ms. Redway assured Ms. Lynn that if TCAC could not complete the NEPA review in timely manner, the Committee would provide the project additional time to begin construction.

Mr. Pavão confirmed that the sponsor would be held harmless if TCAC was not able to complete the NEPA reviews within the 120-day time frame.

MOTION: Ms. Rockwell moved to adopt the resolution. Ms. Mandel seconded and the motion passed unanimously.

6. Discussion of and Action on 2009 Applications for ARRA Section 1602 Tax Credit Exchange or ARRA Tax Credit Assistance Program (TCAP) Financed Projects.

Project #	Project Name	ARRA #	Funding Type
CA-2007-085	Ocean Breeze	2009-500	Exchange
CA-2007-102	The Commons of Lancaster	2009-501	Exchange
CA-2007-106	New Carver	2009-502	Exchange
CA-2007-115	Turk/Eddy	2009-503	TCAP
CA-2007-138	Villas de Amistad	2009-504	Exchange
CA-2008-019	The Sagebrush of Downtown	2009-505	Exchange
CA-2008-022	Arvin Apartments	2009-506	Exchange
CA-2008-024	My Town Homes	2009-507	TCAP
CA-2008-027	Park Palace II	2009-508	Exchange
CA-2008-047	Bell View Apartments	2009-509	Exchange
CA-2008-055	El Centro Senior Villas II	2009-510	TCAP
CA-2008-066	Lindsay Senior Apartments	2009-511	TCAP
CA-2008-075	Seasons at Regency Place II	2009-512	TCAP
CA-2008-077	Valley Oaks Apartments	2009-513	Exchange
CA-2008-102	Parkview on the Park	2009-514	TCAP
CA-2008-104	The Courtyards in Long Beach	2009-515	TCAP
CA-2008-107	Rancho Dorado II Family Apts.	2009-516	Exchange
CA-2008-111	The Sagebrush of Downtown II	2009-517	Exchange
CA-2008-113	Magnolia Court	2009-518	Exchange
CA-2008-124	Rancho Hermosa	2009-519	TCAP
CA-2008-126	Cedar Gateway	2009-520	TCAP

CA-2008-133	Maya Town Homes	2009-521	TCAP
CA-2008-134	Nina Place Apartments	2009-522	Exchange
CA-2008-138	Sunny View II	2009-523	Exchange
CA-2008-140	Mutual Housing at the Highlands	2009-524	TCAP
CA-2008-141	Galt Place Senior Apts.	2009-525	Exchange
CA-2008-149	New Genesis Apartments	2009-526	TCAP
CA-2008-150	Amorosa Village Phase 1	2009-527	Exchange
CA-2008-151	Hanford Family Apartments	2009-528	TCAP
CA-2008-155	Santa Fe Apartments	2009-529	Exchange
CA-2008-190	Westside II	2009-530	Exchange

Anna Scott, from Affirmed Housing Group, approached the Committee. Ms. Scott commended Mr. Pavão and his staff for their efforts in implementing the ARRA Regulations. She reported that, due to a lack of demand for tax credits, her project experienced a funding gap and needed assistance from TCAC's exchange program. Ms. Scott asked the Committee how long it would take to fund the project after TCAC approved the funding request. She stated that her agency had projects ready to begin construction within 30 days.

Ms. Scott requested that TCAC develop a resolution that would extend the exchange program through the years 2010 and 2011. She asked that staff present the resolution to the president, Congress, and HUD for consideration and adoption.

Mr. Pavão stated that staff was working diligently to finalize the loan documents so that funds could be delivered to applicants in a timely manner. He predicted that if Ms. Scott's project was approved today she should receive a loan document from TCAC within two weeks.

Ms. Redway stated that it was her understanding that applicants had to demonstrate a good faith effort to acquire equity investors in order to qualify for the exchange program. She asked the representatives from Ocean Breeze, Parkview on the Park, and Cedar Gateway to approach the Committee and talk about their good faith efforts to secure equity for their projects.

Ms. Mandel asked representatives from Sagebrush of Downtown, My Townhomes, and Bellview Apartments to give an account of their efforts as well.

Wa Chen, from Insite Development, approached the Committee. Ms. Chen expressed that her agency's projects were in urgent need of TCAC assistance. She urged the Committee to keep the loan administration process as simple as possible. She explained that on June 20, 2008 The Sagebrush of Downtown received a 9% credit allocation. She stated that Alliant Capital initially committed to syndicate tax credits for the project. While Alliant Capital actively solicited investors, the tax credit market drastically collapsed. Ms. Chen explained that Alliant Capital attempted to secure investments from JP Morgan and Verizon, but both companies declined. After completing a thorough due diligence, JP Morgan did not feel that it needed the Sagebrush project for its portfolio. Ms. Chen reported that Verizon was initially interested in the project, but ultimately declined because the company wanted an untenable yield (low credit pricing).

Ms. Chen stated that her agency tried to secure capital through its multi-investor fund, but has yet to raise sufficient funds to be able to follow through on its construction pay-ins.

Ms. Redway asked Ms. Chen if Alliant Capital was still researching possible investors for the Sagebrush project.

Ms. Chen stated that Alliant Capital was not likely to secure an equity partner for the project. She added that she and her partners made "cold" calls to several direct investors including U.S. Bank, John Hancock, and Bank of America.

Jonathan Emami, from ROEM Development Corporation, approached the Committee. Mr. Emami stated that Alliant Capital was the syndicator for Cedar Gateway since project received a tax credit allocation in the 2008 Second Round. The project also received financing under HCD's Multifamily Housing Program (MHP). Mr. Emami explained that it was a challenge to get lenders and investors interested in the project because they knew MHP funds would not be available to cover the constructions loans. He stated that Alliant Capital got investors interested by volunteering to close without its upper tier investor Verizon Wireless. The construction lender, Citibank, was not willing to close however. Mr. Emami stated that in June his agency was notified that Verizon Wireless declined to invest in the Cedar Gateway deal. He stated that it was too late to secure investments with another firm and the exchange program was now the most viable option.

Ryan Mendoza, from Los Angeles Housing Partnership (L.A. Housing), approached the Committee. He represented the project Parkview on the Park and explained that Apollo Equity Partners initially committed to investing in the project. He stated that when TCAC approved the project in 2008 L.A. Housing projected a tax credit price of $0.89. Mr. Mendoza reported that the tax credit market began to deteriorate causing Apollo Equity Partners to withdraw from Parkview on the Park.

Mr. Mendoza stated L.A. Housing tried to secure equity through Hudson Housing, an agency that provided Parkview on the Park with a $300,000 loan to cover pre-development costs. He stated that due to the failing credit market, Hudson Housing notified L.A. Housing that the agency had to pay back a portion of the pre-development loan reducing the balance to $100,000.

Mr. Mendoza reported in the fall of 2008 Hudson Housing solicited an investment from Bank of America, the upper tier investor. The two companies negotiated for several months, but Bank of America ultimately withdrew their interest in the project. Mr. Mendoza explained that Bank of America perceived the project as too risky because it required extensive rehabilitation and would be occupied by homeless and senior tenants. Additionally, the project had a substantial special needs component.

Mr. Mendoza informed the Committee that his agency developed an exceptional supportive housing plan with St. Barnibus Senior Services, a well-respected senior services organization, in an effort to gain investor support. He reported that in February of 2009 Hudson Housing solicited JP Morgan. He stated that on March 18, 2009 two representatives from JP Morgan met with L.A. Housing associates and toured Parkview on the Park. The representatives notified L.A. Housing after their visit that JP Morgan declined to invest in the project. Mr. Mendoza stated that JP Morgan was unwilling to invest Parkview on the Park due to the permanent supportive housing aspect of the project. Additionally, the project received a project-based Section 8 award from the local housing authority, which JP Morgan was not willing to underwrite to.

Mr. Mendoza stated that his agency solicited Don Snyder with Red Capital. He explained that L.A. Housing submitted a performa and were given an estimated tax credit price slightly above $0.70. Mr. Mendoza stated that negotiations with Red Capital ultimately failed because the investor was unwilling to put money into the project during construction, which made L.A. Housing's pro forma infeasible.

Mr. Mendoza reiterated that Parkview on the Park was a significant rehabilitation project in the Macarthur Park area of Los Angeles, and that the tax credit exchange program was the best way to move the project forward.

Tara Selkis, from McFarley and Costa Housing Partners, approached the Committee. Ms. Selkis stated that her company was the developer of the project called Ocean Breeze. She reported that her company solicited eight investors and syndicators in an effort to secure equity for their project. She commented that the investors were very selective. She reported that Ocean Breeze was a small project located in an urban area near the beach. She stated that investors preferred the location but ultimately rejected the project because it had a retail component and was too small.

Darren Berberian, from National Affordable Communities (NAC), approached the Committee on behalf of Bell View Apartments. He stated that Wachovia was the syndicator at the time the project received the tax credit allocation. He explained that his agency worked with Wachovia for several months and was near closing when Wachovia suddenly stopped buying credits. Mr. Berberian stated that NAC dissolved its partnership with Wachovia and soon after partnered with Raymond James. He stated that NAC went through the due diligence process again with the new syndicator. He explained that Raymond James intended to put NAC's tax credit deal into a multi-project fund, however, the company failed to secure an investor.

Mr. Berberian stated that NAC exhausted all efforts to secure equity for Bell View Apartments. He commented the project should be built because it would be very beneficial to the community.

Patrick Sabelhaus and Abhay Gokani approached the Committee on behalf of the project called My Townhomes. Mr. Sabelhaus informed the Committee that Mr. Gokani was the developer and principle for the project. He explained that the project was located in Los Angeles and had 20 units and subterranean parking.

Mr. Gokani stated that his agency experienced the same problems as the other developers who spoke today. He stated that his agency tried to secure equity through Wachovia and several other companies but was not successful.

Mr. Sabelhaus stated that his agency solicited WNC and Associates, in addition to Wachovia. He participated in extensive negotiations with WNC and did a lot of due diligence work. He believed the investors were acting in good faith, but ultimately withdrew from the project because they simply could not raise enough money. Mr. Sabelhaus stated that companies such as RBC Capital, Apollo, MMA have not been able to raise any investor capital for tax credits. He stated that Centerline Capital, headed by Ronne Thielen a former TCAC Director, had no money at all, and Mr. Sabelhaus predicted that the companies will have raised some portion of capital by the end of 2009; however, they probably would not fund any rural projects. The companies he contacted expressed interest only in projects that had 20 to 80 units or were in urban areas.

Mr. Sabelhaus stated that over the last year large firms had been unwilling to put up a letter of credit to draw down upon. He explained that in the past firms would use a letter or line of credit to secure the deal, then perform their due diligence work. He stated that firms could not get lines of credit any longer due to the decline in the financing industry.

Mr. Sabelhaus stated that his agency would not be able to secure equity funding through corporate investors. He concluded that the 2007, 2008, and 2009 tax credit applicants would continue to struggle if they did not receive ARRA funding.

Mr. Gokani informed the Committee that his project received NEPA clearance from the local housing agency. He stated that the local housing agency would also monitor the project for compliance with the Davis-Bacon Act.

Ms. Vergolini instructed Mr. Gokani to submit the approved NEPA review to TCAC, and Mr. Gokani stated that he submitted the approved NEPA review to TCAC.

Ms. Vergolini stated that TCAC staff would review the NEPA clearance forms provided by the local housing agency and, if the forms met with TCAC standards, staff would send HUD a request to release TCAP funds. She explained that the local housing agency may prepare the NEPA forms, but TCAC was the designated entity responsible for publishing the review and requesting funds from HUD.

Mr. Pavão summarized that staff were recommending 31 projects for a mix of TCAP and Section 1602 funds. An additional $27 million of the funds would be used to finance HCD bridge loans. He explained that applicants for HCD bridge loans encountered two problems: 1) they could not secure an equity partner and 2) their construction lenders refuse to proceed with the project in reliance upon the arrival of the MHP supportive housing funds.

MOTION: Ms. Rockwell moved to adopt staff recommendations. Ms. Mandel seconded and the motion passed unanimously.

7. Discussion of and Action on 2009 Applications for Reservation of Federal Low Income Housing Tax Credits (LIHTCs) for Tax-Exempt Bond Financed Projects, and appeals filed under TCAC Regulation Section 10330.

Project #	Project Name	Credit Amount
CA-2009-807	Swansea Park Senior	$525,082
CA-2009-812	Hudson Park I and II	$224,031
CA-2009-814	Desert Oaks Apartments	$112,028
CA-2009-818	Desert View Apartments	$104,331
CA-2009-819	Creekside Apartments	$102,421
CA-2009-820	Windsor Redwoods	$1,035,846
CA-2009-822	Valley Vista Senior Housing	$1,190,802
CA-2009-823	Citrus Grove of Rialto II	$210,125
CA-2009-825	Ridgeway Apartments	$1,332,970

MOTION: Ms. Rockwell moved to adopt staff recommendations. Ms. Mandel seconded and the motion passed unanimously.

8. Public Comment.

There were no comments from the public.

9. Adjournment.

The meeting adjourned at 3:15 p.m.