

**CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE**  
**Minutes of the February 2, 2011 Meeting**

1. Roll Call.

Bettina Redway for State Treasurer Bill Lockyer chaired the meeting of the Tax Credit Allocation Committee (TCAC). Ms. Redway called the meeting to order at 12:45 p.m. Also present: Cindy Aronberg for State Controller John Chiang; Fred Klass for the Department of Finance Director Ana Matosantos; Elliott Mandell for the Department of Housing and Community Development Acting Director Cathy Creswell; County Representative David Rutledge; and City Representative Christopher Armenta.

California Housing Finance Agency Executive Director Steven Spears was absent.

2. Approval of the minutes of the December 15, 2010 Committee meeting.

MOTION: Ms. Aronberg moved to adopt the minutes of the December 15, 2010 meeting. Mr. Klass seconded and the motion passed unanimously.

3. Executive Director's Report.

Mr. Pavão reported that TCAC was approaching a February 16<sup>th</sup> deadline to expend at 75% of its Tax Credit Assistance Program (TCAP) award. He explained that the total award amount was \$324 million and staff's goal was to expend \$243 million by the federal deadline. Mr. Pavão stated that TCAC recorded 67% of TCAP expended as of that date and several draw requests were in progress. He explained that if TCAC did not expend the required 75% by February 16<sup>th</sup> staff would need to provide an explanation to the U.S. Department of Housing and Urban Development (HUD) describing the projects that did not meet the deadline. Staff would also need to describe their plan to ensure 100% of the TCAP funds would be expended by February 16, 2012. He predicted that staff would be very busy over the next two weeks contacting sponsors and processing draw requests.

Mr. Pavão announced that staff posted a notice on the TCAC website explaining credit pricing related to 9% tax credit projects. He explained that staff obtained the pricing information in the form of Letters of Intent from equity partners pairing up with the 75 projects that received 9% credit reservations last year. He stated that 5 projects received pricing at \$1.00 or more per tax credit dollar. Another 18 projects received pricing in the \$0.90-\$0.99 range. In addition, 28 projects received pricing in the \$0.80-\$0.89 range and 24 received pricing in the \$0.70-\$0.79 range. He noted that none of the pricing was below \$0.70.

Mr. Pavão also announced that TCAC compliance manager Rose Guerrero received the 2010 National Affordable Housing Management Association

Industry Partner Award. He explained that the award was given annually to a government agency or other affordable housing partner who made a significant contribution to the cause of affordable housing in the previous year. He stated that Ms. Guerrero would travel to Washington, D.C. in March to receive the award.

Ms. Redway congratulated Ms. Guerrero and thanked her for all her hard work.

4. Discussion and Consideration of setting a minimum point requirement for the competitive 2011 applications.

Mr. Pavão explained that the amended regulations proposed to increase the total number points available by 2 points over the previous year's scores. He suggested that the minimum point score should also go up by 2 points. He explained that point scores establish the objectives applicants must meet in order to compete successfully for tax credits. He explained that current regulations allow the Committee to establish minimum point scores and may at its sole discretion reject applications that fail to meet the minimum requirements. Mr. Pavão summarized that projects will be obligated to meet the established minimum score, however the regulations provide the Committee some latitude to fund projects even if they score below the established minimum.

MOTION: Ms. Aronberg moved to adopt staff recommendations. Mr. Klass seconded and the motion passed unanimously.

5. Discussion and consideration of the following Round 3, 2010 Application for Federal and State Low Income Housing Tax Credits (LIHTCs) for a Tax-Exempt Bond Financed Project.

<u>Project #</u>	<u>Project Name</u>
CA-2011-804	Heritage Oak Senior Apartments

Mr. Pavão reminded the Committee that in December 2010 staff recommended funding for a Third Round set of applicants seeking 4% plus state credits. Staff elected to remove Heritage Oak Senior Apartments from that meeting agenda because the owner had not fully resolved a matter with the California Debt Limit Allocation Committee (CDLAC). Mr. Pavão explained that the issues with CDLAC were associated with the proposed rents in the project relative to the market rents in the area where the project was located. He summarized that the applicant was able to mitigate the concerns of CDLAC by reducing the initially proposed rents.

Mr. Klass moved to adopt staff recommendations. Ms. Aronberg seconded and the motion passed unanimously.

6. Discussion and Consideration of the 2011 Applications for Reservation of Federal Low Income Housing Tax Credits (LIHTCs) for Tax-Exempt Bond Financed Projects.

<u>Project Number</u>	<u>Project Name</u>	<u>Project Number</u>	<u>Project Name</u>
CA-2011-801	Belagio Apartments	CA-2011-802	NoHo Senior Villas
CA-2011-803	Menlo Family Housing	CA-2011-805	5555 Hollywood
CA-2011-807	Sunrise Pointe		

Mr. Rutledge stated he had a conflict with Agenda Item 6. He explained that his agency was a partner in the project called Belagio Apartments (CA-2011-801). He then exited the meeting room.

Mr. Pavão explained that staff corrected an error on the Staff Report for NoHo Senior Villas. He stated that the applicant initially proposed a different developer fee to be counted in total project costs for the purpose of basis calculation and carry over. Mr. Pavão explained that staff expressed fees in two separate line items: Approved Developer Fee in Project Cost and Approved Developer Fee in Eligible Basis. He stated that the line items were adjusted to accommodate the developer's request to use the same developer fee in both project cost and eligible basis. He stated that the two separate line items were stricken and replaced by a single amount for developer fees in total project cost and eligible basis.

MOTION: Mr. Klass moved to adopt staff recommendations regarding only Belagio Apartments. Ms. Aronberg seconded and the motion passed unanimously.

Mr. Rutledge re-entered the meeting.

MOTION: Ms. Aronberg moved to adopt staff recommendations regarding all projects, except Belagio Apartments. Mr. Klass seconded and the motion passed unanimously.

7. Discussion and Consideration of a Resolution to Adopt Proposed Regulations, Title 4 of the California Code of Regulations, Section 10315(c) through 10328(d)(1), Revising Allocation and Other Procedures.

Mr. Pavão explained that the proposed Regulations established the 2011 program rules. He reported that staff released draft regulations to the public on November 22, 2010. In addition, staff held a public comment period and public hearings in Los Angeles, Oakland, and Sacramento in December. He explained that staff proposed 18 substantive changes to the regulations. The first change proposed to eliminate the small development set aside and assign the 2% of remaining credits to the Special Needs/SRO set asides.

Mr. Pavão summarized another proposed regulation that changed the maximum number of sustainable building points from 8 to 10 points. He explained that the change reflected updates in basic energy efficiency law and accounted for the adoption of the California Green code. He stated that the proposed scoring system was meant to be rigorous and aggressive in order to achieve energy and resource efficiency in project development and design techniques. Mr. Pavão stated that staff also proposed additions to the minimum construction standards which require projects to meet minimum efficiency standards. Staff also adjusted the list of project features to include several green features. The adjusted list

would allow projects to increase their basis limit to the extent that costs are increased.

Mr. Pavao reminded the Committee that last year they approved a substantive change to the scoring of services. He explained that staff bifurcated how they scored two classes of projects: supportive housing for special needs populations and service enriched housing for non-special needs populations. He stated that the scoring reflected the difference in rigor and comprehensiveness of services among the two classes.

Mr. Pavão announced that staff recommended a provision that would give returned 9% credits back to the same geographic region from which they were originally awarded, regardless of the year the credits were returned.

Mr. Pavão stated that staff amended how they viewed public funding in two key regards. He explained that staff would require a current appraisal establishing the value of the land to the extent that a local public funding source is contributing land. In addition, staff proposed to limit project integral off sites paid for by a public funding source and included as part of the project and public contribution. He reported that last year some applicants abused TCAC policies related to public funding by overstating their project costs.

Mr. Pavão explained the next regulation change which acknowledged Tranche B loans from private funding sources. He stated that those loans relied on a revenue stream from a public funding source to a project over time. He explained that the funding sources were typically rent subsidies, Section 8 rental assistance, and project based vouchers. A portion of the rent stream could be paid to a private lender who would provide funding to the project in order to defray the project costs in reliance upon the public revenue stream. Mr. Pavão stated that staff counted a private loan as a public loan when the loan capitalized the revenue stream over a period of time. He summarized that policies related to Tranche B loans were formalized in the proposed regulations. In addition, staff created guideline for how much funding one may represent in the application and how much staff will score competitively.

Mr. Pavão explained another substantive change that recognized a larger class of non-profit foundations as contributors to a project as the functional equivalent of a public contribution. He that current policy permitted a certain type of foundation to contribute funds and staff we counted the funds as if they were public funds. Mr. Pavão stated that staff was very careful about how much they expanded that policy. Staff also planned to account for rent subsidies received by projects over time. He explained that projects receiving rent subsidies benefit the public because they can accommodate more deeply targeted income populations without jeopardizing the financial viability of the projects. Mr. Pavão stated that the current tie-breaker system did not reward projects for having rent subsidies unless the project originated a Tranche B loan. The proposed regulation change would increase one of the two ratios in our tie-breakers, causing a slight increase the tie-breaker score of those who had project based vouchers or some equivalent rent or operating subsidies tied to the project. Mr. Pavão stated that the relative weight of

the two ratios was adjusted in the tie-breaker in order to remove any incentive or tolerance of overstating project costs for competitive advantage.

Ms. Aronberg commended the TCAC staff for improving their green building standards.

Mr. Redway thanked the working group who assisted in developing the green building standards.

David Shnur from Community Housing Partnership thanked the staff for their work on the proposed regulations. Mr. Shnur commented that he supported the recommended change to the scoring mechanism for special needs projects. He commented that the change acknowledge specialized developers and managers. He also supported the regulation change that reallocated funds from the small development set-aside and increased funds available for the special needs set-aside. Mr. Shnur commented that the special needs set-aside was heavily over subscribed and there was clearly a need for additional funding in special needs projects.

Laurie Share from EAH Housing proposed another change to the regulations that would help her agency in its efforts to refinance and preserve projects that qualified for 4% tax credits. She explained that there were 2 projects EAH was trying to refinance and upgrade. Both of the projects were financed under the HUD 236 mortgage program. Ms. Share stated that her agency intended to refinance the projects using tax-exempt bonds and 4% credits with state credits. She stated that the tenant populations in the projects had households that exceeded 80% of the area median income (AMI) limit, and were therefore not 100% tax credit qualified. Ms. Share explained that under the current regulations projects were prohibited from accessing state tax credits if they are not 100% tax credit qualified. She proposed that TCAC amend the regulations to accommodate projects that were 80% tax credit qualified so that the households within the propertied could remain in place.

Mr. Pavao informed the Committee that Ms. Share's comment was reviewed during the public comment period. He confirmed that projects must be 100% tax credit qualified in order to compete successfully for 4% plus state credits. He commented that the current policy created a dilemma for projects funded through the HUD 236 program because some households were no longer income-qualified under the tax credit requirements. He stated that TCAC received public comments suggesting the Committee build in a provision for HUD 236 projects need of rehabilitation and investment in the capital plant even though they are not 100% qualified. Mr. Pavao stated that the commenter's suggestion was reasonable in his opinion.

Mr. Rutledge stated that there were a number of older HUD 236 projects throughout the state in need of assistance. He commented that if the projects were rehabilitated they would have lower utility costs and life of projects would be extended significantly.

Ms. Share stated that the owner hoped to keep the projects affordable for at least 55 years as required by TCAC. She stated that most of the projects were built and funded in the 1970's. Those that were not already rehabilitated were badly in need of it. She predicted that the projects would achieve much need renovations if they had access to state tax credits.

Mr. Klass commented that assisting the HUD 236 projects seemed like a meritorious objective. He asked Mr. Pavão if he knew how many HUD 236 projects there were. He also asked if assisting the projects would create a significant increase in the competitive pool for tax credits.

Mr. Pavão stated that there was a surplus of state credits in recent years and he would welcome a larger competitive pool. He predicted that TCAC would not be overwhelmed with applications for state credits if HUD 236 projects were allowed to compete.

Mr. Share estimated the number of HUD 236 projects competing for credits in a given round would be between 5 and 10.

Mr. Pavão commented that 5 or more projects would be a significant increase in the application volume, but would still be welcomed the addition.

Joel Rubenzahl from Community Economics commented that there was a misunderstanding regarding Section 10317(g) of the proposed regulations, which allowed developers to forego a 130% basis boost on a tax-exempt bond deal and instead compete for state credits. He stated that the language in that section allowed applicants to forego a federal resource and instead use a state resource even though there is plenty of the state resource available. He commented that investors might agree with the provisions if they preferred to receive state credits, however, California would be giving up a valuable federal resource. He suggested TCAC strike that section of the regulations.

Mr. Pavão commented that state credits were designed to help projects not located in areas designated as difficult to develop (DDA) or a qualified census tract (QCT). He explained that without DDA or QCT designation projects cannot receive increases in their federal basis before staff calculates the credits. He stated that if the project is in a DDA or QCT staff may increase the project basis by 30% which would increase the amount of federal credits. If a project is not designated as DDA or QCT current regulations state that the project cannot apply for 4% plus state credits. Mr. Pavão proposed to change the regulations so that the projects located in a DDA or QCT can qualify for state credits provided they forego the federal basis boost. He stated that he understood Mr. Rubenzahl's point that the federal basis boost was for practical purposes an unlimited resource while the state credits were a limited resource. Mr. Pavão commented that perhaps there was an over exuberance on his part to accommodate any effort to increase demand for state credits. He stated that Mr. Rubenzahl's comments had merit.

Ms. Redway commented that she was inclined to accept the proposed amendments to 10317(g) (1).

Mr. Pavão recommended that staff give notice to the public regarding the changes before the Committee adopted them.

Ms. Redway agreed that staff should give notice and collect public comments before the Committee approved changes to Section 10317(g) (1). She also agreed with Mr. Rubenzahl's request regarding Section 10317(g) (2).

MOTION: Mr. Klass moved to adopt staff recommendations except for the proposed change to 10317(g) (2). Ms. Aronberg seconded and the motion passed unanimously.

MOTION: Mr. Klass moved that hold a public comment period regarding the proposed change to Section 10317(g) (1). Ms. Aronberg seconded and the motion passed unanimously.

8. Discussion and Consideration of a Resolution Authorizing the Executive Director of Sign Interagency Agreements with the California State Controller's Office in the amount up to \$100,000 for audit review services.

Mr. Pavão summarized that the proposed resolution gave him authority to enter into an agreement with the State Controller's office for auditing services. He stated that audits were needed due to recent allegations of fraud associated with a small number of projects that received tax credit reservations but had not been issued Form 8609's. Mr. Pavão explained that staff wanted to obtain a thorough accounting of costs incurred by the projects before issuing tax forms. He stated that the audits would help ensure that fraudulent costs would not be considered in the calculating of tax credits. He explained that under the Controller's auditing staff would review documentation given to TCAC by project sponsors and limited partners in order to determine whether the data presented can be used in calculating of tax credits.

Ms. Aronberg stated that she would not participate in Committee vote regarding Agenda Item 8. She exited the meeting room.

MOTION: Mr. Klass moved to adopt staff recommendations. Ms. Redway seconded and the motion passed.

9. Public Comment.

Mr. Rubenzahl commented that the Department of Housing and Community Development (HCD) put a hold on approximately \$250 million in Prop 1C and Prop 46 funds yesterday. He stated that the hold on Prop 1C funding was devastating to non-profit and for-profit developers who were preparing applications. He also stated that the governor's office and the legislature were considering termination of redevelopment agencies. Mr. Rubenzahl explained that approximately \$1 billion per year in the 20% set aside from tax increment financing that went toward affordable housing. He stated that the hold on Prop 1C funds and termination of redevelopment agencies could be devastating to the

affordable housing industry. Mr. Rubenzahl commented that the industry needed any assistance the Department of Finance, State Treasurer, and State Controller could provide to convince decision makers that affordable housing is not the same as building freeways, schools or other infrastructures. He stated that affordable housing was different because 2/3 of the money used in development came from resources other than public funds. He stated that tremendous numbers of jobs and economic development are generated as a result of housing developments. He stated that building a freeway interchange does not produce the amount of economic growth and job creation as affordable housing because funds used in those types of projects are 100% public funds. Affordable housing projects get federal resources and private resources in the form of equity and local resources in the form of HOME funds, CDBG, and often tax increment money.

10. Adjournment.

The meeting adjourned at 1:45 p.m.