CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
Minutes of the October 10, 2012 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 1:30 p.m. Also present: Marcy Jo Mandel for State Controller John Chiang; Pedro Reyes for the Department of Finance Director Ana Matosantos; California Housing Finance Agency Executive Director Claudia Cappio; Department of Housing and Community Development Director Linn Warren; and County Representative Lois Starr.

2. Approval of the minutes of the August 29, 2012 Committee meeting.

   MOTION: Mr. Reyes moved to adopt the minutes of the August 29, 2012 meeting. Ms. Mandel seconded and the motion passed unanimously by roll call vote.

3. Executive Director's Report.

   Mr. Pavão announced that staff posted a minor regulation change for public comments. He explained that staff intended to bring the proposed change to the Committee for consideration at the November TCAC meeting. Mr. Pavão stated that the proposed change was related to the 180-day readiness test. If approved, the regulation change would provide 2012 First Round award recipients with an additional 30 days to close their construction period financing. Mr. Pavão explained that applicants needed the additional 30 days due, in part, to the high volume and complexity of the First Round applications, which caused staff to postpone the First Round awards meeting by 3 about weeks. Mr. Pavão stated that the delayed meeting caused the construction loan closing deadline to be extended out to January 7, 2013. He reported that applicants informed TCAC staff that preparing and executing documents during the holidays would be very problematic. To assist applicants, staff drafted the proposal to change the readiness deadline from January 7, 2013 to February 6, 2013. Mr. Pavão stated that TCAC would hold a public hearing to gather additional comments and bring their final recommendation to the November TCAC meeting.

   Mr. Pavão reported that staff was also preparing regulation changes for consideration and adoption next year. He estimated that staff would post the proposed changes with a statement of reasons within the next 30 days. In addition, staff would hold public hearings in Sacramento, Oakland, Los Angeles, and San Diego. Mr. Pavão predicted that staff would bring their final recommendations to the Committee at the January 2013 meeting.

Mr. Pavão summarized that staff recommended a total of 79 projects for tax credit funding. The total included competitive 9% and 4% plus state credit projects as well as non-competitive 4% projects.

Mr. Pavão reported that staff was preparing additional 4% applications for consideration at the November and December meetings.

4. Discussion and consideration of the 2012 Second Round Applications for Reservation of Federal and State Low Income Housing Tax Credits (LIHTCs) and appeals filed under TCAC Regulation Section 10330.

Mr. Pavão stated that TCAC received a total of 117 applications for Second Round 9% tax credits and recommended 46 of them for funding. Mr. Pavão stated that the recommended projects represented a total of 2,855 units, of which 2,801 would be TCAC regulated units. He summarized that staff recommended reservation of approximately $43.7 million in annual federal credits and $31 million in state credits.

Mr. Pavão brought the Committee's attention to the project called Los Feliz Apartments. Mr. Pavão reminded the Committee that high project costs had been a concern among TCAC staff recently. He explained that staff created a mechanism whereby they evaluated a project's actual eligible basis and compared it to the adjusted basis limits established by TCAC. He explained that if the eligible basis in the project exceeded 130% of its limit then the project would go through a separate review process. Mr. Pavão stated that Los Feliz Apartments was just below the eligible basis limit at 129.7%. He noted that land costs for the project were approximately $150,000 per unit. And the overall total cost was about $626,000 per unit. Mr. Pavão pointed out that that Los Feliz Apartments was located in Thousand Oaks, which was considered a high-cost area. He stated that a representative of Los Feliz Apartments was invited to the meeting to further explain the contributing factors of the high projects costs.

Bud McGhee, from the Area Housing Authority of the County of Ventura, confirmed that Los Feliz Apartments came close to exceeding the threshold limit due, in part, to land costs of $5.3 million. He stated that the grading structure of the property had an approximate 16 foot fall from one point to another. He stated that the parking structure was expected to cost approximately $2.7 million. Mr. McGhee stated that the City of Thousand Oaks required a certain amount of parking spaces, which resulted in a large parking structure. He explained that the city required the project to have 72 parking stalls in the structure.

McGhee stated that another issue contributing to project costs was the Davis Bacon Act wage compliance, which accounted for $1.7 million. He estimated that the when taking those into consideration the actual total development cost was approximately $12.7 million or $354,000 per unit.

Mr. McGhee reported that Mr. Pavão spoke with the developers by telephone about the project requesting additional funding in the future. Mr. McGhee stated that he confirmed with his director that they would not request additional funding.

He stated that his firm had great partnerships with the City of Thousand Oaks. He stated that Bank of America agreed to be the construction and permanent financing group for the project. Mr. McGhee noted that the unit sizes were very reasonable with 1-bedroom units at 600 square feet, 2-bedroom units at 800 square feet, and 3-bedroom units at 1,200 square feet. He stated that his firm would continue to work with its architect and contractor on value engineering. In addition, his firm would review the design factors required within the city in an effort to bring costs down.

Mr. McGhee stated that his firm was looking extensively into making off-site improvements. He explained that his firm completed a project in Moorpark last year, where it experienced some difficulty. He stated that the "as builts" provided by the County of Ventura showed a "sewer" at 6 feet. He stated that the firm later determined the "sewer" was actually 14 feet, which added some extra cost to the project. Mr. McGhee stated that the developers plan to invest more research into Los Feliz Apartments in order to prevent costs related to off-site improvements. In addition, the developers would ensure they were meeting all of the "Eddison" requirements. Mr. McGhee reported that his firm had been working on the project for 5 years and believed they would build it within the planned budget.

Ms. Redway stated that she was not familiar with the area of Thousand Oaks. She asked Mr. McGhee if it was typical for project sites to be on a steep slope.

Mr. McGhee stated that it was typical for sites in that area to be on steep slopes. He explained that there were rolling hills throughout all of the Pinole Valley. He stated that the Los Feliz Apartments site was one of the last few building sites available because the city was virtually built out. Mr. McGhee stated that his firm worked with the city in order to get the property. He stated that his firm also worked with an area called Gardens of the World located behind the property. He explained that eventually his firm would have to drain water across the Gardens of the World property. Mr. Ghee commented that Los Feliz Apartments was a very difficult property to grade. He stated that the property's biggest challenge was installing the 72-space parking structure.

Mr. Reyes stated that he was familiar with the project area. He commented that Thousand Oaks had some hilly areas. And the remaining undeveloped area was on rough terrain and slopes. He commented that it made sense that the cost of building in the area was so high.

Ms. Redway announced that Bobbi Sawtelle and Patrick Sabelhaus would speak regarding an appeal related to Shasta Lake Seniors.

Mr. Sabelhaus, attorney for Northern Valley Catholic Social Service (NVCSS), stated that he came to speak on behalf of Shasta Lake Seniors, a project known officially by the city as the Meade Street Senior development. He stated that the applicant applied for approximately $339,000 in federal credits and $1,357,000 in state credits to develop a 30-unit, 1-bedroom, senior complex on 1 site that they purchased with the assistance of city funds. He explained that Shasta Lake was a small town of about 10,200 residents, of which 26% or 2,700 were senior citizens.

He noted that Bobbi Sawtelle, director of NVCSS, was present at the meeting along with Mary Ellen Shay, who prepared the market study for the applicant. Mr. Sabelhaus stated that the project scored the maximum points and had the highest tie-breaker of the estimated 32 rural housing set-aside projects. He stated that the City of Shasta Lake had supported the project since 2008 and has committed approximately $2,800,000 is assistance to the project. Mr. Sabelhaus stated that the city rated Shasta Lake Seniors as its top priority in a response submitted to TCAC. He stated that applicant developed and managed 5 properties, which they currently owned and operated. He stated that the properties served seniors, frail and elderly residents, and families in the Shasta Lake area. Mr. Sabelhaus stated that the applicant has been operating its properties for 22 years. He stated that one of the properties called Laurel Glen, which was developed about 10 years ago, received 9% tax credits. He stated that the "Rural Housing Services of the USDA" designated Shasta Lake as a city in need of senior housing. In addition, the project would be eligible for financing under the city's programs if such funds were available.

Mr. Sabelhaus stated that the rents for the project ranged from $284 to $550, which was 30% to 54% of area median income (AMI). He stated that the rents were well within the guidelines and underwriting required by TCAC in Section 42 of the Internal Revenue Code. Mr. Sabelhaus explained that TCAC staff disqualified the project primarily on the grounds that the project was about 10.5% or $67 below the market rate rents, even though market study guidelines required the project to be 10% below market rate unit rents for seniors in the area. Mr. Sabelhaus stated that a second problem with staff's test was the market rate guidelines required the applicant to provide a square footage calculation showing that the square footage cost of the Shasta County senior project would be at least equal to the square footage cost for a market rate project. He stated that the ultimate result in the market study was that the applicant was about 3% over the market rate. Due to the square footage calculation, the units were about 565 square feet and the units in the market rate arena, which were very limited, were about 650 square feet. Mr. Sabelhaus stated that even though the rents that the applicant would charge were $67 less than market rate and met the 10% rule, overall the applicant was $0.03 short on a per square foot basis, which meant that the rents would be about $17 more per month than the average market rate rent in the area. Mr. Sabelhaus stated that TCAC staff concluded that the applicant was not in full compliance.

Mr. Sabelhaus stated that TCAC staff also expressed doubts about whether there was enough need and demand in the market area. He explained that the market study submitted with the application, notwithstanding the $0.03 differential on market rate units, confirmed that there was a need for 108 units in the City of Shasta Lake. He stated that Shasta Lake Seniors, a 30-unit project, would help fulfill that particular need. Mr. Sabelhaus reiterated that 26% of the population was senior citizens that had lived in the city for 40 to 50 years. He stated that Shasta Lake was an old community with an old housing stock and there had been little building in the last few years. He explained that the difficult in meeting the square foot ratio cost was that the market area of 10,200 residents did not have comparable units that could be utilized to measure square footage cost in any

meaningful way. Mr. Sabelhaus reported that the only senior project in the entire city was a unit project built in 1992. There was also 1 other affordable project in the area, which was for families. Mr. Sabelhaus explained that the only way to do comparable unit comparisons was to look at 4-plexes and single family homes for rent in the area. He respectfully submitted to the Committee that sometimes the market study guideline simply would not work because the applicant could not perform a meaningful calculation that would give the result they wanted because there were not enough comparable projects in the area with which to do the comparisons. Mr. Sabelhaus explained that when the applicant's only option was to use single family rental units, which generally had much larger square footages, the calculated costs per square foot would always be much less than the applicant would calculate for a small senior project of 565 square feet.

Mr. Sabelhaus reported that he and the TCAC staff had many conversations about whether or not the Shasta Lake Seniors applicant would be able to rent out the units. He stated that staff's questions were aimed primarily at 9 of the units, which were at 54% of AMI. The 9 units were projected to rent out at $550 each. Mr. Sabelhaus explained that staff was concerned the project might go upside down if the 9 units at 54% of AMI could not be rented out. In order to relieve TCAC concerns the applicant ran additional numbers, not to change their application, but to show that if the rents were reduced so that all units ranged from 30% to 50% of AMI where the maximum rent is about $500, there would be no damage to the financial feasibility of the project. He stated that project had only a minimum amount of permanent financing to begin with. And if the applicant lowered the rents to about $500 due to staff's concerns that renting the units at 54% of AMI or $550 would cause problems, the only penalty the applicant would encounter would be a $140,000 reduction in development fees. Mr. Sabelhaus concluded that the development fee for Catholic Charities would be reduced from $880,000 to about $740,000. He stated that there was no way the project could get into financial trouble even if the owner could not rent the units at $550 per month and even though the market study indicated the units would be rentable. Mr. Sabelhaus asked that the Committee take into consideration the applicant's concerns and the points he raised. He asked that the Committee consider the applicant's appeal and overturn the staff's decision to deem the project incomplete and ineligible for credits.

Ms. Redway commended Mr. Sabelhaus for his very well-stated position. She asked Ms. Shay and Ms. Sawtelle if they wanted to add any comments.

Ms. Sawtelle stated that NVCSS had been in the business of owning, managing, and developing affordable housing since 1990. She stated that the firm serves populations that were generally hard to house. She commented that the firm did a good job of keeping its properties 100% occupied. Ms. Sawtelle explained that her firm had 5 housing complexes in Shasta County. In addition, it managed housing complexes in 3 other counties. She commented that her firm had always received above average reviews. Its REAC inspections averaged 98%. Ms. Sawtelle commented that NVCSS was a good developer and project manager, which was why the firm worked with the City of Shasta Lake. She stated that

NVCSS had been working with the city on the Shasta Lake Seniors project since before 2008. She asked that the Committee consider NVCSS's appeal.

Mr. Reyes asked Ms. Sawtelle where the other NVCSS projects in Shasta were.

Ms. Sawtelle stated that there were projects in the Reading and Lewiston, which was in Trinity County. NVCSS also had 1 project in Red Bluff and 2 in Chico. She stated that NVCSS assisted and developed a senior project in Chico.

Ms. Redway commented that appeals were difficult for her as a board member because all the projects that applied to TCAC had merit. She stated that because the TCAC application process was competitive, there were always some applicants that did not win. She asked Mr. Pavão if he received a second appeal.

Mr. Pavão stated that he received a second appeal related to a different project on Agenda Item 4.

Ms. Redway explained that the Committee voting action should take up the entire project list. And the board could discuss how to proceed after hearing from those who wanted to comment on the second appeal. Ms. Redway stated that if the Committee approved one of the appeals, they would have to determine how their decision would impact the project list.

Mr. Pavão stated that the second appeal was regarding The Crossings on Amigo.

Mr. Reyes asked Mr. Pavão if the project was competing in the same funding type as Shasta Lake Seniors.

Mr. Pavão stated that Shasta Lake Seniors completed in the rural set-aside. He asked the commenter for The Crossings on Amigo to confirm the project funding type.

Mr. Reyes stated that one does not affect the other.).

Doug Bigley from Urban Housing Communities stated that the appeal for The Crossing on Amigo was submitted to establish that there was no requirement in the regulations that would allow TCAC to disqualify the application for taking the basis adjustment described in Section 10327(c)(5)(A) or to reduce the applicant's score related to sustainable building methods because they submitted a single Attachment 25 covering the entire development. Mr. Bigley stated that he believed TCAC and the applicant were currently in agreement that there was no stated requirement in the regulations that would have required the applicant to do any more or different than they did at the time the application was submitted. He stated that the remaining issue for the applicant was not whether they followed the stated regulations or whether the applicant was not clear or whether the applicant was required to pay prevailing wages; but rather TCAC had taken the position that such a requirement must come from a public funding source and that the omission of the requirement was covered by the regulation's intent. Mr. Bigley stated that it was the applicant's position that they followed the regulations and

that they submitted a complete application. He stated that although intent could be helpful when TCAC tried to clarify regulations, intent was not a good substitute for omissions in the regulations. He stated that the intent was not clear to the applicant. Mr. Bigley explained that the project's requirement to pay prevailing wages was the same as other projects that had a public funding source requiring it. He stated that the applicant had a reasonable basis for having the requirement. And there was no reason for the applicant to assume their project would be treated differently than projects with public funding source commitments. Mr. Bigley explained that an elected official may require that an applicant pay prevailing wages in order to garner the support of that official. And if the official's support was critical to getting the project complete, the applicant would be in the same situation whether they had a public funding source requirement or not.

Mr. Bigley stated that, with regard to Attachment 25, the applicant agreed with TCAC that the intent of the regulations was to promote energy efficiency. He reported that the project required substantial rehabilitation. He stated that the project had 61 units at that time and would have 61 units upon project completion. The applicant submitted Attachment 25, which covered all 61 units. Mr. Bigley noted that supportive information was also included in Attachment 10. He explained that TCAC's position was that the intent of Attachment 25 should reach a certain standard regarding a project's energy efficiency and that multiple Attachment 25s were required to be submitted for a component of a project. He explained that Attachment 25 could be for new construction or for rehabilitation projects. He stated that the applicant met the standard associated with rehabilitation. Mr. Bigley explained that if the applicant submitted 2 Attachment 25s they could not have reached the new construction standard. He summarized that the project was certified to the standard that it met regarding Attachment 25. And whether 1 form or multiple forms had been submitted, the project would have ended up with the same result. He stated that TCAC allocated funds in the past to developers that only submitted 1 Attachment 25.

Mr. Pavão explained that applicant for The Crossings on Amigo requested the prevailing wage basis limit boost, but did not have any public funding commitment that invoked prevailing wages. He stated that the regulations described how an applicant could receive a 20% basis limit boost. He quoted the regulations, which stated that "a 20% increase to the unadjusted eligible basis for a development that is required to pay state or federal prevailing wages." Mr. Pavão explained that he and staff tried to arrive at a reasonable reading of "required to pay state or federal prevailing wages." He explained their position, which was that federal prevailing wages were required when the project had a federal funding commitment that required it. Likewise, state prevailing wages were required when the project had a state or local public funding commitment that required it. Mr. Pavão stated that The Crossings on Amigo was not required to pay prevailing wages by a state or federal public funding source. He explained that the state prevailing wage law described projects that were required to pay prevailing wages as being paid for "in whole or in part" with public funds. In addition, the law used the term "awarding body". Mr. Pavão stated that the awarding body had a role and responsibility under the state labor code. He

commented that the applicant's misunderstanding of the prevailing wage provision was rare. He reported that during his 7-year tenure, only 1 other applicant proposed a prevailing wage boost for a project that did not have a public funding source invoking it.

Mr. Bigley stated that recently Los Angeles had less public funding sources available and the "CRA's" had been experiencing difficulty. He stated the requirement staff described would not have been difficult to put into the regulations; in fact it would have been quite easy. Mr. Bigley stated that he could not get a project done in Los Angeles without the support of a council member. He explained that he was trying to understand the issue. He asked the Committee why they would want to treat the Crossings on Amigo differently.

Mr. Pavão stated that the rule was clear as to when the additional federal resource was going to be available. He explained that the basis limit boost could occur when a state, local, or federal funding source invoked 1 of the 2 prevailing wage requirements. He explained that the word "requirement" must have some meaning in that context. Mr. Pavão stated that there was no evidence in the application as to who was requiring prevailing wages. He noted that the applicant submitted a letter from a city council member with their appeal. Mr. Pavão stated that the letter, though somewhat unclear, basically stated that the council member supported the project with the understanding that the applicant would pay prevailing wages. Mr. Pavão stated that the council member being in support of the project was a far cry from the intent and language of the regulations, which specified that prevailing wages must be required.

Mr. Bigley asked Mr. Pavão if he was suggesting that there was a requirement in the application to submit that.

Mr. Pavão clarified that the applicant was claiming a boost for a requirement with no evidence that the requirement was being invoked.

Mr. Bigley asked if it was normal for applicants to provide such evidence to TCAC.

Mr. Pavão stated that it was incumbent upon the applicant to show who required them to pay prevailing wages.

Mr. Bigley stated that the applicant followed the same policies and procedures as everyone else who was required to pay prevailing wages. He stated that in his view TCAC made a leap in determining that there had to be a requirement from a public funding source.

Ms. Redway stated that she was concerned about the enforceability of prevailing wages. She explained that when a public agency committed funds to a project, a process was initiated wherein the project was monitored and Department of Industrial Relations (DIR could enforce policies associated with non-payment of prevailing wages. Ms. Redway stated that without the public awarding body requiring prevailing wages there would be no commensurate enforcement

provision behind it. She stated that TCAC relied upon the enforcement provisions of the awarding body to ensure prevailing wages were in fact paid and the boost was appropriately provided. She commented that the issues Mr. Bigley raised were of interest to the Committee.

Mr. Bigley stated that there are many things in the application that required compliance and were monitored through the private sector. He stated that there was no affiliation between the funding source and the person who bought the tax credits. He stated that the applicant was heavily scrutinized. Mr. Bigley commented that the program was not set up so that only public sources would the watch dog. He stated that the program recognized that the equity investors, independent people from the private sector, would be very interested that the applicant was in compliance. Mr. Bigley stated that when the applicant performed their due diligence requirements, the equity investor reviewed the application in detail. He explained that equity investors were interested because they did not want the applicant to lose their tax credit investment. He reiterated that there was another watch dog group and a mechanism for compliance.

Ms. Redway commented that the mechanism Mr. Bigley described was not one that she would have anticipated. She stated that prevailing wage laws were fairly clear and staff understood how they were triggered, enforced, and determined. She stated that unless DIR was involved in some way or TCAC explicitly laid out a different plan for enforcement in the regulations, she would be uncomfortable recognizing someone's commitment to pay prevailing wages through a checked box on an application.

Mr. Reyes commented that he was supportive of those who commit to paying prevailing wages; however he understood Ms. Redway's concerns about enforceability since DIR was considered the watch dog of prevailing wages. He stated that TCAC needed DIR to watch out for situations at the local level involving less than scrupulous contractors. Mr. Reyes stated that he understood Mr. Pavão's view of the intent of the regulations, but he also acknowledged the applicant's need for additional clarification of the requirements. He stated that if the applicant read through the regulations in detail, they would understand Mr. Pavão's conclusion that the requirements were in fact associated with the funding. Mr. Reyes suggested that TCAC staff clarify the regulations so that everyone understood them. He stated that he would like to show the applicant leniency because he supported prevailing wages. He stated that he would move approval of the applicant's appeal.

Ms. Redway asked if a voting member needed to second Mr. Reyes's motion or should the Committee discuss the motion first.

Mr. Reyes invited the Committee to discuss the motion.

Ms. Mandel commented that everyone was generally supportive of prevailing wages. She stated that it was her understanding that the regulations provided a boost if prevailing wages were required in some way by the government. She stated that it was the funding source requirement that allowed applicants to

receive the boost. Ms. Mandel stated that she did not know if there was another way the local government put in the requirement. She suggested that there was concern TCAC would begin to recognize the prevailing wage boost resulting from private contracts. Ms. Mandel stated that it was difficult to see where the city requirement was in reading the council member's letter.

Mr. Bigley stated that a reasonable conclusion was drawn from the application and regulations. He asked if it was better to let the project move forward and then TCAC staff could go through the established vetting process to clarify the regulations. He stated that the applicant would like to have public comment on the matter because it would preclude them from honoring an elected official. Mr. Bigley clarified that he was not stating that the Committee did not have valid points or that staff wrote the regulations without clear intent in mind. He stated that the applicant and TCAC had drawn different conclusions from the same set of circumstances. He commented that the disagreement was reasonable. Mr. Bigley stated that staff's methodology might be to follow the stated requirements and acknowledge that they were somewhat unclear. He predicted that TCAC would change the regulations to provide additional clarification. Mr. Bigley asked that TCAC follow its normal procedures and acknowledge that the regulations were unclear. He asked what the consequence would be if the Committee approved the applicant's appeal.

Mr. Pavão stated that the Committee would have to approve 2 appeals as the applicant had appealed 2 matters. He explained that if next year TCAC proposed new language for the regulations, which included the phrase "required by a public entity" most people would view the change as non-substantive; however if the phrase read "required by a public entity or voluntarily paid", the change would be viewed a substantive.

Mr. Bigley stated that he did not think TCAC would receive much comment on that issue, but it might receive comments on the other issue. He stated that TCAC had an opportunity to put the issue out for public review. He commented that the last letter Mr. Pavão posted was remarkably clear in its justification. He indicated that the clarity was not in the regulations.

Ms. Redway restated Mr. Bigley's question as to what the results would be if the Committee decided to award tax credits to the project.

Mr. Pavão stated that the project competed in the Los Angeles geographic apportionment. He asked Anthony Zeto, development manager, if he recalled what the applicant's score would be if they received points for sustainable building, which was the second topic of appeal.

Mr. Bigley stated that he thought the project would be placed somewhere between the first and last project on the waiting list.

Mr. Zeto stated that the applicant would bump the last recommended project on the waiting list for Los Angeles County.

Mr. Pavão stated that the last project on the waiting list was Broadwood Terrace, a senior project in Los Angeles.

Ms. Mandel stated that she had a procedural question. She asked what the process was when an applicant made an appeal, which had the potential to knock another project off the waiting list.

Mr. Reyes asked if the applicant removed from the list had a right to challenge the applicant who was granted the appeal.

Ms. Redway stated that the matter Ms. Mandel described should be itemized for discussion at the next Committee meeting because The Crossings on Amigo was not included on that day's agenda.

Mr. Pavão suggested the Committee may be able to consider all of the projects staff recommended, except the last project in Los Angeles, pending resolution of the issues related to Crossings on Amigo. He noted that staff needed to complete the threshold review for that project. He explained that staff discontinued the review on the point scoring.

Ms. Redway predicted that within a month after the review was completed the project could be brought to Committee for consideration. She suggested that staff hold back last project on the waiting list until they knew where each project would be placed on the list.

Mr. Reyes asked if he could revise his earlier motion. He suggested the Committee bring The Crossings on Amigo back for discussion at the next meeting along with the last item in Section 4. He stated that if staff granted the prevailing wage boost, they would still need to resolve the energy efficiency issue and score the application accordingly.

Ms. Mandel stated that the city council member's letter did not specifically state that the city enforced prevailing wages.

Ms. Redway confirmed that Mr. Reyes made a motion and then amended his motion. She if Ms. Mandel was ready for the motion to be seconded.

Ms. Mandel stated that it was her understanding that even if The Crossings on Amigo received the prevailing wage points, they still needed sustainable building points.

Ms. Redway asked the Committee if they should hear comments related to the sustainable building issue. She noted that the Committee had not discussed that issue yet. She explained that if the Committee could not resolve the prevailing wage issue then they would not need to discuss the sustainable building issue. She invited William Leach to comment.

Mr. Leach stated that he was from Palm Communities, a developer in the industry. He stated that he did not have a stake in the project or region under

discussion. In addition, he did not have a project in the region, nor did he represent any of the people responsible for the project under discussion. Mr. Leach explained that he was a member of the cost advisory committee that TCAC, the California Housing and Community Development (HCD), the California Debt Limit Allocation Committee (CDLAC), and the California Housing Finance Agency (CalHFA) put together to contain costs in California for affordable housing to show that public funds and limited resources reached the most people and achieved the greatest public benefit possible. He explained that the Committee was trying to protect tax credits at the federal level. He stated that there were many reasons why TCAC should be cost effective.

Mr. Leach stated that he did not agree with some of the comments that were made. He stated that a proposal that would change the language in regulations to state that prevailing wages "were required or voluntarily agreed to by the developer" would generate a lot of public comments, especially from the cost advisory committee that was trying to limit costs whenever appropriate. Mr. Leach stated that prevailing wages were good for the state and many jurisdictions. He commented that sometimes prevailing wage requirements were not perfect for specific projects and other times they were. Mr. Leach explained that if the advisory committee was trying to defend the affordable housing industry and its cost containment, he did not think it was a good idea to voluntarily pay prevailing wages if was not required by a funding source. In addition, he did not think it was fair to ask the applicant on the waiting list to wait a month to see if they would get the tax credit award. Mr. Leach stated that if The Crossings on Amigo had issues related to prevailing wage, sustainability, and threshold, then the project should take the time necessary to sort through those issues. He commented that if he was the developer for the waiting list project and was not represented at the meeting, he would be upset that his project was not funded for no good reason, even though his project was ranked and recommended for the award. Mr. Leach stated that he was not making any requests or recommendations to the Committee, only comments.

Ms. Redway asked if there were any more comments regarding the prevailing wage issue.

Ms. Starr informed the Committee that Retirement Housing Foundation (RHF), the developer for Broadwood Terrace, was present at her conference location. She predicted that the developer would comment if their project was adversely affected by the Committee's decision.

Ms. Redway stated that she was not sure if Mr. Reyes' motion should be seconded or if the Committee should first hear comments from RHF.

Mr. Reyes stated "With all due respect to the developer in Los Angeles, I think that an appeal process is an appeal process and the results are the results. Whatever happens to the next project in line is what happens. I think that to peg whoever the domino effect is for or against a decision on trying to clarify a policy or a perceived clarification of a policy is wrong. I think you need to decide whether the policy is clear enough as it is; or does it require board interpretation;

and then the board takes an action; and then whatever happens at the end of the line happens. If it requires a month wait until we make a determination, then that is what it requires. That is what the appeal process is about." He commented that whether Broadwood Terrace was first or last on the waiting list, the impact of the Committee's decision on other listed projects should not be a determining factor.

Ms. Redway agreed with Mr. Reyes that the Committee should consider the appeal and act on it accordingly. She asked if Mr. Reyes' motion should be seconded.

Ms. Mandel stated that she would not second the motion.

Ms. Redway stated that the motion died for lack of a second. She stated that she was not sure if the Committee should discuss the sustainability issue because they did not have the votes required to support the appeal concerning the prevailing wage issue. She predicted that TCAC staff would work on clarifying the language in regulations related to the issues raised by Mr. Bigley.

Mr. Reyes suggested that TCAC staff try to clarify the prevailing wage language in the regulations so that future applicants would know that "required" meant that prevailing wages were tied to a funding source requirement. He stated that TCAC should recognize that a city may require a developer to pay prevailing wages for the projects they built even if city funds were not committed to those projects.

Mr. Pavão stated that he would be glad to draft regulation language that addressed the public policy question of whether or not TCAC should award additional credits to projects that were required to pay prevailing wages by a community that was not contributing to those projects.

Mr. Bigley asked that the Committee refer back to sustainable building methods. He commented that he thought fixing that section would be uncomplicated.

Ms. Redway commented that staff should review that section to ensure that was as clear as possible. She noted that the Committee did not discuss Shasta Lake Seniors, although there were no questions or comments about it.

Mr. Sabelhaus commented that he understood Ms. Redway's position that most projects deserved to be funded; however, tax credits were a scarce resource. He explained that the applicant for Shasta Lake Seniors was not asking to replace any project on the funding list. He explained that the applicant requested the Committee use past precedent in their treatment of the project. He predicted that no project would be removed from the rural set-aside list. Mr. Sabelhaus stated that the Committee should consider funding Shasta Lake Seniors because it scored the maximum points, was the highest scoring tie-breaker, and had the financial support the City of Shasta Lake. He referred back to his earlier argument about that market study, which validated the need for the project. He suggested that TCAC provide tax credit funding by way of a 2013 forward commitment.

Gwendy Egnater, Executive Director of Corporation for Better Housing, stated that her firm was an affordable housing developer in California. She stated that her firmed developed, owned and managed approximately 3,500 units. Their communities were predominantly in the central valley and were mostly rural and farm worker communities. Ms. Egnater stated that she came to the meeting to make an appeal regarding MacFarland Apartments II, a rural set-aside applicant. She explained that her appeal came from a 3-part question. She stated that she understood TCAC staff had a tough job and were constantly revamping the regulations in order to answer questions from the previous funding round. Ms. Egnater commented that she respected TCAC efforts to make the regulations clear. She stated that her appeals concerned the rural process and determination and the legislation that rural determination was based upon. She stated that TCAC staff contacted her before the applicant list was released to inform her that there were "applicants or an application who applied as rural and who TCAC determined were not rural" and therefore placed them into a geographic set-aside. In addition, there were "applicants or an applicant" who applied in a geographic apportionment, but because TCAC determined them to be rural, the projects were moved into the correct set-aside in accordance with the regulations. Ms. Egnater commented that she appreciated the honesty and transparency demonstrated the staff. She asked the Committee if the applicant should take responsibility for the way they submitted their application. She asked if they should have determined the appropriate set-aside for their project ahead of time when they had their signature notarized. She asked if the applicant should stand by the application they submitted to TCAC instead of having it moved into another category at a later time. Ms. Egnater stated that if she were one of the project sponsors on the list who made a mistake and was moved into a favorable position, she would probably not ask such questions. She stated that she was seeking clarification from TCAC on whether sponsors should stand by the application they submitted in the category they selected. Ms. Egnater stated that applicants who selected the wrong category for their project should have to wait to compete in the next funding round. She explained that the domino effect on the allocations, set-asides, and apportionments was so severe that almost every application on the list was affected. Ms. Egnater stated that the second part of her appeal concerned the determination of the meaning of "rural". She stated that making the determination was confusing.

Mr. Pavão stated that he did not think TCAC received an appeal from Ms. Egnater.

Ms. Redway stated that Ms. Egnater did not submit an appeal; however she was making a public comment.

Ms. Egnater stated that she was appealing MacFarland Apartments II.

Mr. Pavão informed Ms. Egnater that she did not have standing to appeal at that time. He stated that she did not participate in the TCAC appeal process.

Ms. Egnater stated that she was eligible to appeal because she did not receive a scoring letter for her project. She explained that other non-rural projects were

placed on the rural set-aside list and were recommended for funding, which resulted in her project not being placed on that list. .

Mr. Pavão clarified that Ms. Egnater was eligible to make public comments at that time.

Ms. Egnater asked if the project had to be on list in order for her to appeal.

Mr. Pavão stated that the regulations were specific regarding appeal protocols and timing. He explained that appeals were handled through a progressive process where the appeal was reviewed by TCAC management first, then the executive director and eventually the Committee.

Ms. Redway clarified that the project did not have to be on the list in order for Ms. Egnater to file an appeal. She stated that other projects, which were not on the list filed appeal letters within a certain amount of time from when the list was posted.

Ms. Egnater stated that if she was not eligible to appeal, then she would like her comments to go on record. She stated that the determination of "rural" was quite complex, even though Ms. Egnater was knowledgeable regarding rural communities. She explained that her firm received many "Serna" loans and grants from HCD. In addition, it received funding from USDA 514, 515, and 538. Ms. Egnater explained that she was not an expert, but believed that she knew what "rural" meant. She commented that she just wanted to determine the exact way in which TCAC determined "rural" for the purpose of its application. Ms. Egnater stated that she believed TCAC had authority to make the final determination of what was and was not "rural" based on its regulations. She asked the Committee if her assessment was correct.

Ms. Redway stated that the Committee would discuss the first part of Ms. Egnater's comments about how TCAC moved projects from one category to another. She noted that she was happy to spend some time, but not a lot of time discussing how TCAC determines "rural" because the regulations directed applicants to specific criteria that was fairly easy to follow. In addition, TCAC provided a designated area list.

Mr. Pavão reiterated Ms. Egnater's question as to why TCAC would move a project from an incorrect category to the appropriate category instead of simply removing the project from the competition. He stated that TCAC's long standing practice was to determine the project's eligibility within the set-aside and geographic apportionment scheme. He explained that if an applicant did not meet the criteria for the set-aside in which they applied, TCAC staff would move them into the appropriate geographic region. Mr. Pavão stated that TCAC ultimately determined the qualification of projects within a given set-aside. And it had been TCAC's practice that when a project mistakenly applied for a particular set-aside, staff moved applicant into its qualifying region. Mr. Pavão explained that it was in the public interest to move potentially meritorious projects into the appropriate

categories and allow them to compete fairly rather than simply discard them. He commented that TCAC's practice kept good projects in the funding competitions.

Mr. Pavão acknowledged that Ms. Egnater also had a question about how TCAC determined "rural". He stated that TCAC followed guidance from the state statute, which established the 20% set-aside for projects in rural areas. In addition, the statute explained what constituted a rural area. He stated that the regulations also provided guidance that harkened to the statute. The regulations also referred to projects defined as rural by the health and safety code and as identified by supplemental application material prepared by TCAC. Mr. Pavão stated that the TCAC website provided information and links to other data, which helped applicants determine whether or not they qualified as rural. He stated that if Ms. Egnater felt that the information provided by TCAC was not entirely clear, he would like to hear her ideas for improving clarity.

Ms. Egnater confirmed that she would like to have a separate meeting with Mr. Pavão. She stated for the record that TCAC staff relied on HR 4818, Section 727, when it determined that Coachella was rural. Section 727 stated that Coachella was eligible for loans and grants through the rural utility program and the rural business and cooperative development program and rural community advancement program account. She explained that the community advancement program account was one of two accounts that Section 727 referred to. Ms. Egnater explained that the utility program account was not applicable to the housing that she and the Committee were discussing at that time. She stated that RHS deemed Coachella as rural due to Sub-section 4 of rural housing insurance fund program account. Ms. Egnater stated that RHS was incorrect in determining Coachella to be rural for TCAC purposes. She stated that TCAC was required to determine whether or not a project was rural with 3 steps. She explained that one of steps was to determine if the area was eligible for 515 funding. Ms. Egnater stated that Coachella was not eligible for 515 funding according to HR 4818, Section 727. She explained that Section 727, Sub-part 4 referred to the rural housing insurance fund program account; an account that specifically excluded Section 1485, Sub-part A, which was the direct loan program that Section 515 fell under. Ms. Egnater clarified that the account specifically excluded loans to non-owner occupied units. She commented that there seem to be more than one answer within the guidance, legislation, and regulations. Ms. Egnater stated that she would like to meet with TCAC and perhaps HCD and USDA to discuss how applicants in the rural industry might receive better clarification rural determination.

Ms. Redway stated that the Committee would like to discuss Ms. Egnater's concerns, though she hoped they would not spend a lot of time on them that day. She explained that the issues raised by Ms. Egnater warranted further discussion during the regulation review process. Ms. Redway reminded the Committee that they were still taking public comments for Agenda Item 4 and invited the representative from Core Affordable Housing to speak. She noted that the representative intended to comment only, not formally appeal staff's decision to exclude his project from the list related to Agenda Item 4.

Chris Neale, from Core Affordable Housing, commented on behalf of West San Carlos, the only applicant in the south and west region. Mr. Neale thanked the Committee and staff for their time. He stated that his firm appealed to TCAC, specifically Mr. Pavão and Mr. Zeto, regarding West San Carlos. Mr. Neale stated that he received a letter back from Mr. Pavão; however it did not specify the timeline to appeal to the Committee. He explained that he intended to appeal to the Committee, which was the reason he appeared to speak during the public comment period. Mr. Neale stated his firm has developed affordable housing for 20 years in the bay area and never had to appeal to the TCAC staff and executive director. He stated that he hoped staff realized that his comments were an indicator of how important the project was to his firm, its stakeholders, and the city. Mr. Neale requested that TCAC not deny West San Carlos and place his appeal on the next Committee meeting agenda. He explained that at the next meeting, he firm would explain the compelling and very unique reasons the project met TCAC's requirements and regulations. He stated that a representative of the City of San Jose was present to speak about the importance of the project to the city. In addition, a neighborhood resident that the firm had worked with during the approximate 12 year duration of the project was present. He stated that the resident spoke out against the project at several public meetings and would probably have comments to share with the Committee.

Dan Beaton, from the City of San Jose Housing Department (SJHD), stated that he came to the meeting in place of Leslie Corsiglia, Director of SJHD to speak on behalf of West San Carlos. Mr. Beaton stated that city strongly supported the project. He stated that the city was involved with the project since 2002. Mr. Beaton stated that there was a predecessor project developed by Core Affordable Housing before West San Carlos, which was the reason the project took so long to complete. He stated that the city had a $5.3 million commitment to the project. Mr. Beaton stated that the city invested $3.2 million in connection with the land. He stated that the city has invested an approximate total of $5 million to date for land and pre-development costs. Mr. Beaton commented that he thought the project was very affordable because it was 100% affordable. He noted that 29 of the 75 units were affordable to persons or families at less than 30% of median income. Mr. Beaton stated that the 20% tax increment fund was not available to financing for the city anymore. Therefore West San Carlos was probably one of the last projects that would be financed by the city with 20% funds. Mr. Beaton predicted that there would not be many projects the city would be able to support in the future; at least not many fully affordable projects such as West San Carlos.

Mr. Reyes stated that he understood the Committee could not take any action regarding the West San Carlos project at that time. He pointed out that if the project had gone through the appeal process, no project would have been adversely affected by Committee acting in the project's favor. He asked the Committee members if they would consider the applicant's request to bring the project back for discussion as an appeal at the next meeting. Mr. Reyes stated that a much needed project would be delayed if the applicant had to compete for credits again in March 2013 and then wait until June for the allocation to be made. He asked if the Committee would consider the project as an appeal item to be addressed at the next meeting.

Ms. Redway stated that she would feel more comfortable considering the project as an Agenda Item, not as an appeal. She clarified that West San Carlos was the only project in its geographic area that applied for credits. Therefore no other project would have benefited from receiving tax credits in that region.

Mr. Reyes made a motion to include the West San Carlos project on the next meeting agenda for discussion and consideration of action.

Ms. Redway announced that Terri Balandra requested to comment on the project.

Ms. Balandra stated that she came from San Jose to give thanks to TCAC for not considering the West San Carlos project for tax credits. She stated that she lived behind the first portion of the large city project. Ms. Balandra explained that there were 32 town homes that were sold to the public, of which 16 were affordable and assisted with state funds for their down payments. She stated that the last portion, a senior development, was almost ready to start construction. Ms. Balandra commented that it was not appropriate for the project to obtain tax credits because there were still 2 unresolved problems regarding boundary lines and rent issues that resulted from the original construction of the bottom portion of the project. She explained that West San Carlos had not been severed from the larger part of the project yet. She stated that the lot line adjustments that the city had recently proposed on the senior apartment portion of the project was an administrative attempt by the city to separate the large project in two in order to absolve the city's developer partners of responsibility in the first town home portion of the project. Ms. Balandra stated that the 2 bordering communities, associations of thousands of households that border the project, sent 2 letters, which stated that the 2 unresolved issues were well known to the city and developers from the original construction and should be resolved in their entirety. She stated that the community wanted accountability and resolution. Only then should the senior apartments be allowed to move forward in that city funded project. Ms. Balandra stated that to date 5 different lawyers had been involved in the issues related to the unusual 2-phase project that was pitched to her neighborhood community more than 11 years ago. She explained that of the 3 lawsuit cases that went to court, all 3 resulted in court judgments against the developers. One court case involved one residential property owner whose brother-in-law sued regarding boundary line issues of his 3 rental properties. Another case dealt with the "Meineke Muffler" tenant's lease, and the last case was in regards to the developer's illegal use of city fire hydrants to blast lead based paint chips down city sewers. Ms. Balandra explained that the unresolved boundary lines and 3 of the 4 drainage issues behind her home occurred before any of the 32 town home owners purchased their properties in 2008 and 2009. She stated that of the 32 town home owners, 16 affordable housing assisted lower priced units with down payments from the state, and it appeared that the developers and the city were leaving the boundary lines and drainage issues to the new Fiesta Lanes HOA and the 17 adjacent home owners along with the burden of the mitigation costs from the original construction issues they caused. Ms. Balandra stated that on August 28, 2012, Core attempted to inappropriately remove toxic automotive sludge from the "Meineke Muffler" site on the senior

apartment property. She reported that on Friday, test results proved that the sludge was indeed toxic and it was reported by a community member as a formal complaint to the "EPA". Ms. Balandra stated that the incident was never mentioned in any "EIR" to the neighborhood or any negative mitigation document. She stated that since the city owned the land, it was not clear who gave Core the permission to perpetuate the violation. She stated that as a practicing realtor for the past 25 years, she knew that the unresolved items would leave property owners with negative transfer disclosure statement items when they tried to sell their homes. Ms. Balandra stated that the $570,000 construction cost for each affordable town home seemed pretty high to her. And the $383,000 cost for the upcoming 1 bedroom, 1 bathroom senior development also seemed high for the project, which was approved back in 2004.

Ms. Redway stated that she was willing to make a courtesy second to Mr. Reyes' motion. She noted that she was not committing herself to vote on the project when it was brought back for consideration at the next meeting.

Jeanne Peterson, from Cohn-Reznick, stated that she had a procedural question about that day's discussions with respect to the agenda. Ms. Peterson stated that the agenda, by law, must be published at least 10 days prior to the meeting. She quoted from the agenda "At the time this agenda was published it was not known which applicants if any would file appeals of staff recommendations." Ms. Peterson stated that the Committee already heard 2 "appeals" that were not on the agenda and yet they considered the remarks regarding the West San Carlos to be comments only and not an appeal. She commented that she believed the parties who spoke on behalf of the 2 appeals West San Carlos went through the appeal process, which included appealing first to TCAC staff, then appealing to the executive director, paying $500 to TCAC, and requesting that their appeal be included on the agenda. Ms. Peterson stated that none of the applicants were able to complete the process in time for their appeal to be published on the agenda. She emphasized that the agenda indicates the Committee may not know which projects would file appeals. She commented that it did not appear TCAC had a good procedure for determining how appeals and comments like those heard that day should be handled.

Mr. Pavão stated that the regulations provided the staff with guidance regarding the appeal process. He stated that 2 of the projects discussed that day met the requirements for filing an appeal as stated in the regulations. And the applicants for those projects expressed interest in appealing Mr. Pavão's decision to the Committee within 7 days of the decision being made. He confirmed that Ms. Peterson was correct that the applicant's 7-day appeal period overlapped with the 10-day period in which staff gave public notice of that day's meeting. He explained that it was common practice for TCAC to alert the public that if staff was aware of an appeal filed before they posted the meeting notice, staff would include that appeal on the meeting agenda. In addition, staff would notify the public that there may be appeals, which were submitted after the meeting notice was posted that would be considered at the meeting. Mr. Pavão reiterated that 2 applicants met the requirements of the appeals section of the regulations. The West San Carlos project, however, missed the deadline to appeal Mr. Pavão's

decision by a couple of days. Mr. Pavão acknowledged an earlier public comment suggesting that when staff sends letters regarding the appeal process, they should try to emphasize the time required to bring an appeal to the Committee, perhaps by typing the information in bold font at the bottom of the letters.

Mr. Neale asked the Committee if they acted in favor of the West San Carlos Senior at the next meeting, would the project be eligible for a Second Round 2012 tax credit allocation.

Mr. Pavão confirmed that the project would be eligible for a Second Round 2012 allocation.

MOTION: Mr. Reyes moved to include the West San Carlos project on the next meeting agenda for discussion and consideration of action. Ms. Redway seconded and the motion passed by roll call vote.

Ms. Redway noted that her first vote on Item 4 was a courtesy vote and did not reflect how she might vote on the actual project itself.

MOTION: Mr. Reyes moved approval of all staff recommendations, except the following project numbers: CA-2012-121, CA-2012-123, CA-2012-125, CA-2012-190, CA-2012-209, CA-2012-225, CA-2012-226, and CA-2012-230. Ms. Mandel seconded and the motion passed unanimously by roll call vote.

MOTION: Ms. Mandel moved approval of staff recommendations regarding only the following project numbers: CA-2012-121, CA-2012-123, CA-2012-125, CA-2012-190, CA-2012-209, CA-2012-225, CA-2012-226, and CA-2012-230. Ms. Redway seconded and the motion passed by roll call vote.

5. Discussion and consideration of the 2012 Second Round Applications for Reservation of Federal and State Low Income Housing Tax Credits (LIHTCs) for Tax-Exempt Bond financed projects and appeals filed under TCAC Regulation Section 10330.

Mr. Pavão stated that staff recommended 9 applications for federal 4% and state credits. He noted that TCAC had a 126-point scoring system. He reminded the Committee that they established a 112-point minimum that year. Mr. Pavão stated that the regulations allowed the Committee to discuss and also reject projects that did not meet the established minimum score. He reported that 4 of the recommended projects scored below 112 points. 2 of the projects scored 109 points, 1 scored 103 points, and 1 scored 99 points. Mr. Pavão stated that because TCAC had an abundance of state credits to award and the 4 projects were meritorious, staff recommended the projects for funding even though they did not meet the 112-point published minimum.

Mr. Pavão reported that one of the recommended projects had notably high costs. He informed the Committee that staff invited the project sponsor to that day's meeting. Mr. Pavão stated that the project was located in West Sacramento. He

reported that the total cost of the project was about $430,000 per unit. He explained that the cost per unit was unusual for the Sacramento Valley region especially because the project had $0 budgeted for land costs. Mr. Pavão asked that the project sponsor to briefly describe what contributed to the relatively high cost of the project. He stated that the project was called Bridge Triangle.

Brad Woodley, representative for Bridge Triangle, explained that the project was 70 units of family housing with mostly 3-bedroom units. He stated that the project was part of a planned urban infill project known as the Bridge District, which received $22 million in Proposition 1C funding. He explained that the funding came with great benefits and a variety of criteria that the applicant had to meet in order to be competitive for the funding. Mr. Woodley explained that some the criteria came with costs; specifically there was an average density requirement. He stated that his firm had to build a podium-style building as part of the prior funding requirements, which contributed to the cost. Mr. Woodley stated that another cost component was the paying of prevailing wages. He stated that the required building style and prevailing wages were the 2 predominant reasons that Bridge Triangle was more expensive than another project his firm was finishing in the Sacramento region, a 9% tax credit project called Foothill Farms. Mr. Woodley reported that the total costs for Foothill Farms were about $225,000 per unit. He explained that the cost of prevailing wages ranged between 18% and 20% in terms of a premium in a lot of market. And building a podium-style building instead of an on grade, wood frame building added considerable cost as well. Mr. Woodley stated that there was an unusual feature about the site that triggered some of the cost. He explained that his firm was building on alluvial soils and they had a mat slab. He stated that the site team and local general contractor spent a fair amount of time value engineering the building to eliminate an entire level of parking. In addition, they evaluated lifts and other things to get the project in best shape it could be in cost wise. Mr. Woodley stated that a variety of infrastructure and amenities would ultimately emerge out of West Sacramento. He commented that the city had been incredibly supportive. He noted that a city official was present to answer questions that the Committee may have. Mr. Woodley stated that his firm was under time constraints related to the Proposition 1C funding and had a CDLAC application pending. He predicted that his firm would close and start construction that year. He encouraged TCAC support for the project and noted that the project was within the cost guidelines adopted by TCAC.

Ms. Redway announced that council member, Chris Ledesma, was present and thanked him for coming to the meeting.

Mr. Ledesma thanked the Committee for considering the Bridge Triangle project, which he considered important, not only for West Sacramento, but also for the Sacramento region. He stated that it did not take much effort to understand what was across the river if one drove through the area. He stated that improvements were made as a result of the Proposition 1C funding. Mr. Ledesma stated that the project represented a milestone. He explained that he understood the challenges faced by the Bridge District due to the infrastructure needed to revitalize that area. He commented that moving the project forward would allow the Bridge District to

start the initial construction; the housing component that was required under Proposition 1C. He explained that the project would activate the area as probably the first project to come out of the ground next to Raley Field. Mr. Ledesma stated that the Proposition 1C funding, contributions from several partners from the public and private sector, and city contributions have formed a unique and remarkable partnership between the city, state, the local and private sector. He commented that he looked forward to TCAC supporting the project because it was a real opportunity to kick start the Bridge District and bring up a great neighborhood for the region.

Ms. Redway commented that the project drew concern especially because the total cost did not include any land costs. She noted that cost of the project seemed extraordinarily high for West Sacramento.

Mr. Ledesma stated that he was conscious of the high cost of the project. He stated that his agency worked on the project for nearly 20 years, trying to move things around such as rail lines, streets, and the infrastructure necessary to make the project move forward. He commented that he was well aware of the cost of the project.

MOTION: Mr. Reyes moved approval of all staff recommendations, except project number CA-2012-856. Ms. Mandel seconded and the motion passed unanimously by roll call vote.

MOTION: Ms. Mandel moved approval of staff recommendations regarding only project number CA-2012-856. Ms. Redway seconded and the motion passed by roll call vote.

6. Discussion and consideration of the 2012 applications for Reservation of Federal Low Income Housing Tax Credits (LIHTCs) for Tax-Exempt Bond Financed projects.

Mr. Pavão stated that his staff recommended 24 applications for tax-exempt bond 4% credits. He stated that the staff reviewed the projects for feasibility and compliance with the various federal and state requirements and recommended them for approval.

Ms. Redway announced that someone at Ms. Starr's conference location would like to comment.

Vince Daly stated that he represented Daly Family Companies, a 37.5% owner of OBFA, which was a payee on the City of Oxnard "ROPS". He stated that the company also had redevelopment agency (RDA) loans on the Oxnard "ROPS". He asked the Committee to refer to the documents, which Mr. Pavão agreed to hand out.

Mr. Pavão referred the Committee to the documents in their meeting folders.

Mr. Daly stated that there were documents: an application, the Oxnard "ROPS" and a contract form 7272, Assignment Assumption Agreement.

The Committee confirmed that they received the documents Mr. Daly referred to.

Mr. Daly asked the TCAC staff why they recommended approval of the application when none of the project applicants matched the RDA redevelopment funding used for the sources of funding. He stated that he was not new to the process as he had received 9% tax credit awards in the past. He stated that his firm had a project called Cambrio Courtyards, which was in service. He commented that the project was beautiful and had a 2-year waiting list. Mr. Daly reported that as the managing member of OBFA, he submitted applications in 2 9% rounds for Wagon Wheel Apartments in 2010. He commented that "it has always been drilled in my head" by Pat Sabelhaus that applicants needed to have agreements for any city funds. And the agreements needed to be strong agreements. Mr. Daly stated that the agreements needed to be completed before applicants submitted their application. He stated that he assumed the requirement for providing the city funding would be heightened after the AB26 and simplified only by those agreements shown on the "ROPS", which qualified. He referred the Committee to the application and commented that neither "CRFL Family Apartment, LP, CRFL Housing Partners, LLC", nor Wagon Wheel, LLC had any right to receive the Oxnard RDA loan in the amount of $14,267,000 as listed under "Sources" on page 3 of the report. Mr. Daly asked the Committee to look at the payees shown on the "ROPS".

Mr. Pavão asked Mr. Daly which line item they should look at.

Mr. Daly asked the Committee to refer to line item 20. He stated that there were 3 payees on that item: Oxnard CRFL Partners, LLC, OBFA, and OBI. Mr. Daly stated that there was a contract column on the "ROPS", which listed the contracts which he knew needed to be provided when submitting an application. He stated there were 2 contracts listed; an OPA and an Assignment and Assumption Agreement. The Assignment and Assumption Agreement, A7272, was consented by the City of Oxnard in 3/2010. Mr. Daly stated that the last page of the agreement showed the consent given to Oxnard Village Family Apartments. He noted that the agreement was attached to the "ROPS". Mr. Daly reiterated that he did not understand why the Wagon Wheel Family project was being recommended for approval. He commented that he understood the project was important. He stated that he worked on the project for 5 years and his signature was on the Assignment and Assumption Agreement. Mr. Daly commented that the project was not being handled correctly. He commented that applicants might think that they did not need to have solid contracts in place when applying for tax credits. He respectfully asked that the Committee review the project more closely.

Ms. Redway asked if the project proponents would like to comment.

Carl Renezeder stated that he was from Wagon Wheel Development, the current owner of the project with Forest Lucas of Lucas Oil. He stated that Forest Lucas

was his financial partner. Mr. Renezeder explained that CRFL was the recognized affordable housing developer as indicated by the letter issued by the city, which he believed was also provided to TCAC. He noted that the entity Mr. Daly stated that he was the 62.5% shareholder of OBFA and the managing member. Mr. Renezeder stated that his firm spent the last year diligently working with the mobile home park residents. 171 residents lived at the mobile home park. Mr. Renezeder stated that his firm met with the residents for countless hours and designed 8 different projects in 6 locations before the residents decided where they would like to have their homes relocated. He stated that his firm worked very closely with the city. He reported that the project had 603,000 square feet of industrial blighted space. The project also had 134,000 square feet of existing retail and 171 units within the mobile home park. Mr. Renezeder stated that there was a lot of crime in the area and homeless people. He stated that his firm demolished 271,000 square feet since they started the project and tractors were in the process of clearing the site. Mr. Renezeder stated that his firm received letters from the city stating they would receive permits by the end of the year.
Mr. Renezeder asked the Committee why the court system could not rule on matters related to the lawsuit. He stated that the residents should not be punished.

Ms. Redway commented that CDLAC and TCAC have shown some leniency in terms of approving projects affected by changes to RDA's as a result of legislation. She stated that because the projects were in a unique situation and applied for non-competitive funding, the Committee could allow the projects to move forward without consequence to any other projects. Ms. Redway stated that CDLAC approved the Wagon Wheel Apartments projects, but the applicant probably felt that they would have to forfeit their performance deposit if they could not get the project approved by DOF. She stated that with their allocation the applicant was entitled to receive 4% credits. Ms. Redway commented that TCAC was not the correct arbiter of that particular issue.

Thomas Shook commented that the project could not move forward if it was illegal. Mr. Shook reported that he had interchanges with Mr. Reyes' office, Mr. Solay, and Mr. Spear. He stated that he provided each office with irrefutable evidence that the applicants were illegal; nevertheless TCAC staff recommended that the "commission" move forward. Mr. Shook commented that he thought staff's action called into question the role of the board. He stated that staff's reasoning was that the oversight board approved it. Mr. Shook stated, "They took a look at it. And we don't have any role in this even if it's completely illegal". Mr. Shook stated that the board was rubber stamp and had no role even though the project was 100% illegal. He stated that Mr. Renezeder controlled 50% of CRFL and claimed to be an "assetee" of OBFA. Mr. Shook stated that OBFA was the only entity that had a recognized obligation according to the 7272, which the Committee reviewed earlier. He stated that OBFA owned the development rights. Mr. Shook stated that there was an attempted assignment by Mr. Renezeder and his partner.

Mr. Renezeder asked Mr. Shook if he forgot about OVI, the original developer.

Mr. Shook stated that OVI assigned to OBFA. He stated that OVI still remained liable, however it was "out of the picture" for present purposes. He stated that it did not matter, although OVI was a payee. Mr. Shook explained that his question was concerning CRFL. He stated that Mr. Renezeder attempted an assignment that was barred by AV26. Mr. Shook stated that OBFA was not on the application. He asked how that happened. He stated that on March 23, 2010 the development agreement was assigned to OBFA. Mr. Shook stated that OBFA only owned development rights. He stated that the project moved forward in 2010 through Mr. Daly submitting 2 tax credit applications. Mr. Shook stated that in May of 2011 Mr. Renezeder owned 62.5% of OBFA and Mr. Daly owned 32%. He stated that Mr. Renezeder invited Mr. Lucas to invest in the project. He explained that after Mr. Lucas invested in the project he discovered that Mr. Renezeder did not inform him that Mr. Daly had a 37% interest. Mr. Shook stated that Mr. Lucas became furious and told Mr. Renezeder to remove Mr. Daly from the project, although legally Mr. Renezeder was not able to do so.

Ms. Redway asked Mr. Shook to focus his comments on the issue, which she described as Mr. Shook objecting to the project because DOF had not approved an agreement between the city and current developer. She noted that the issue was under consideration through the "ROPS" process, but was not yet resolved. Ms. Redway stated that the Committee has approved other projects in the same position. She explained that the developer understood they were taking a risk and that the final outcome was contingent upon the agreement being approved. Ms. Redway stated that the remaining litigation must be resolved in the court.

Mr. Shook stated that the issue was not a matter for the oversight board. He stated that the oversight board past their decision on a 4 to 3 vote because the city did not disclose to them that there was no assignment.

Mr. Renezeder argued that Mr. Shook's statement was not true.

Ms. Redway stated that the Committee would not litigate the issue Mr. Shook and Mr. Renezeder were arguing. She stated that the Committee would consider approving the project even though there was an issue with DOF still pending. She noted that the applicant disclosed the outstanding issue to TCAC in their application.

Mr. Shook commented that CRFL had no rights and it was the applicant. He stated that OBFA, who had all the rights, was not the applicant.

Mr. Renezeder asked that the Committee review the work his firm was doing and let its actions speak for it. He stated that the site was being cleaned up and the 134,000 square foot commercial retail center was completely rehabilitated.

MOTION: Mr. Reyes moved approval of all staff recommendations, except project numbers CA-2012-865, CA-2012-873, and CA-2012-885. Ms. Mandel seconded and the motion passed unanimously by roll call vote.

MOTION: Ms. Mandel moved approval of staff recommendations regarding only project numbers CA-2012-865, CA-2012-873, and CA-2012-885. Ms. Redway seconded and the motion passed by roll call vote.

7. Public Comment.

Mary Ellen Shay, owner of M.E. Shay Real Estate Market Analyst, stated that she was commenting on the action taken during Item 4 in regard to Shasta Lake Seniors. She stated that the project was rejected due to a provision in the regulations that could not be waived according the manner in which the regulations were written currently. Ms. Shay commented that it was unfortunate that a wonderful project was lost because of $0.03. She recommended that staff review the regulations in question and adopt a more reasonable accommodation with regard to value ratio. Ms. Shay predicted that as TCAC staff reviewed 15-year projects seeking re-syndication, they would encounter the value ratio problem often. She stated that the problem should be fixed before other good projects were not lost.

Tommy Young stated that he was president of E3 NorCal in Sacramento and a member of the California Association of Energy Consultants. He thanked TCAC staff for revising the regulations to place his company in an enviable position. Mr. Young explained that he was a consulting certified energy plans examiner. He stated that there were only a handful of companies with all 11 certifications required.

Mr. Young commented that he did not think applicants were being made aware of the qualifications they had for application and placed in service. He described the development team page of the application, which showed the contact person for capital needs assessment. Mr. Young stated that the development team section does not mention HERS rater, even though it was a major expense. He stated that the new regulations sometimes included 100 extra hours of CEPE time or HERS rater time.

Mr. Young stated that until recently the predicted energy savings was done by an architect. He reported that his company reviewed 9,000 units in the last 2 years. He stated that 20% or 30% “doesn’t’ come easy or cheap”. Mr. Young stated that the work scope for every project his company reviewed had to be changed, sometimes drastically, because the owner thought they would get to 30% by making minor upgrades.

Mr. Young stated that his company has also encountered intellectual property issues. He stated that the developer paid a substantial amount to have their Title 24 run and then Mr. Young’s company would come in as the CEPE. He stated that if his company was not able to get “that file”, they would charge the developer again for the exact same work. He stated that as an energy plans examiner, he owned the rights to his building models; therefore he may not give them out to anyone who asked for them. Mr. Young asked the Committee what his company could do to voice its concerns and help TCAC.

Mr. Pavão stated that he would like to meet with Mr. Young after the meeting.

Ms. Redway thanked all the TCAC staff for their efforts during the 9% second round.

8. Adjournment.

   The meeting adjourned at 3:47 p.m.