

**CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE**  
**Minutes of the January 27, 2010 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 3:25 p.m. Also present: Cindy Aronberg for State Controller John Chiang; Cynthia Bryant for the Department of Finance Director Ana Matosantos; Elliott Mandell for the Department of Housing and Community Development Director Lynn Jacobs; and Acting Executive Director of the California Housing Finance Agency Steven Spears. County Representative David Rutledge and City Representative Christopher Armenta were absent.

2. Approval of the minutes of the December 16, 2009 Committee meeting.

MOTION: Ms. Aronberg moved to adopt the minutes of the December 16, 2009 meeting. Ms. Bryant seconded and the motion passed unanimously.

3. Executive Director's Report.

Mr. Pavão reported that the 4% tax credit project, Landings 2 Family Apartments (CA-2009-872) was crossed off of Agenda Item 5. Additionally, staff made minor edits the recommended award amounts shown on Agenda Items 6 and 8.

Mr. Pavão stated that remaining American Recovery and Reinvestment Act (ARRA) funds would be exhausted if the Committee approved that day's staff recommendations. He explained that the 2009 9% projects listed under Agenda Items 7 and 8 had Department of California Housing and Community Development (HCD) take out financing. However, those projects were unable to move forward because construction lenders were unwilling to rely upon the timely delivery of HCD funds. Mr. Pavão reminded the Committee that they previously approved 21 projects for HCD Backfill assistance in order to secure commitments from construction lenders involved in the projects. He stated that there were still five projects from the 2009 competition that had HCD take out financing but did not received backfill assistance from TCAC. Mr. Pavão explained that if the Committee approved the five projects for backfill assistance there would still be about \$13.9 million in ARRA funds available. He recommended using the remaining ARRA funds to provide HCD Backfill assistance to the two highest ranked projects on Agenda Item 6.

Kevin Ratnor commented on the Up Town project. He stated that Up Town was a joint venture between his agency and California Urban Investment Partners, which was owned by CalPERS and the City of Oakland. He explained that he project was located in Oakland and had 665 residential units. Mr. Ratnor stated that 120 of the project units were affordable at 50% percent of median income. He stated that the project was awarded \$16.5 million in 4% tax credits in 2007.

However, the sponsor was unable find to buy the credits. Mr. Ratnor stated that his organization unsuccessfully applied for ARRA funds in August of 2009. He explained that 34 projects were awarded during the 2009 funding round and Up Town would have been next on the TCAC funding list. Mr. Ratnor stated that TCAC “unfairly prejudiced the applicants of the first round 4% competition by requiring a competitive process but failed to require the same in the second 4% round.” He stated that the Treasury and HUD regulations call for there to be competitive process, and that the second round competition failed to meet the requirement by making awards to all 21 projects that applied for ARRA funds.

Mr. Ratnor urged equitable treatment by TCAC allowing the successful first round applicants to participate in the second round competition in order to create a meaningful competition among the pool of eligible applicants. He also noted that two first round projects had returned their ARRA awards, totaling \$20 million. He urged the Committee to utilize the returned funds to assist the unsuccessful first round projects.

Mr. Ratnor stated that 2007, 2008, and 2009 credit recipients have incurred significant costs of carrying their projects over the last few years. He commented that second round project sponsors were aware of the problems in the tax credit market and should not be given advantage over the first round applicants who did not foresee the market collapse. Mr. Ratnor stated that TCAC had no justifiable reason for allocating the remaining \$30 million to 2009 HCD projects rather than the first round projects on the waiting list.

Mr. Ratnor stated that HCD had approximately \$560 million at its disposal to honor MHP and TOD commitments. He stated that TCAC also allocated \$100 million in ARRA funds to help projects that received MHP and TOD commitments prior to January 1, 2009. Mr. Ratnor commented that applicants who received HCD commitments in 2009 have not progressed far enough to incur the same kinds of costs that the first round applicants had and could explore other funding alternatives.

Mr. Pavão stated that he disagreed with Mr. Ratnor’s assertion that TCAC did not conduct a competitive process in the second round. He explained that TCAC utilized the scoring system described in TCAC regulations. Mr. Pavão stated that he suspected sponsors chose whether or not to apply for ARRA funding based on the competitive scoring criteria. He commented that the competitive system had some beneficial outcomes in terms of income targeting and other factors that staff explicitly scored. Mr. Pavão explained that the ranked system staff used to score projects was going to affect which projects were recommended for HCD backfill assistance. He commented that TCAC was fortunate that enough funds were available to accommodate all 21 of the second round applications. He stated that the Up Town project scored 142 points in the first round competition and ranked 35<sup>th</sup> out of a pool of 45 applicants. Mr. Pavão explained that there was a list of 10 projects that were unsuccessful in the first round competition. He reported that the four lowest ranking projects staff recommended for HCD Backfill today scored less than 142 points. Mr. Pavão informed the Committee that the 2009 tax credit competition had a new feature, which allowed First Round applicants who

were unsuccessful to bring their First Round application back into the second round. He stated that the Regulations were clear in explaining that the second round competition was for late 2009 projects. Mr. Pavão explained that recommending a lower scoring second round applicant before a high scoring first round applicant was consistent with TCAC's funding system. Mr. Pavão suggested the Committee should fund the projects staff recommended if one their goals was to stimulate job creating projects. He stated that the Up Town project was an 80/20 deal with 130 units of affordable housing targeting 50% of area median income. He stated that 20% at 50% of area median income was the federal maximum in an 80/20 deal. Mr. Pavão stated that the projects recommended today were targeting deeper than the Up Town project. He stated that he was confident that staff treated the second round 4% tax credit recipients in manner consistent with TCAC regulations. Mr. Pavão quoted the regulations stating that recipients were to "compete among themselves". He suggested that the projects on the Agenda should be awarded as they all scored in manner that warranted funding.

Mr. Pavão predicted that there would be a surplus of funds if Committee adopted staff's funding recommendations. He suggested utilizing surplus funds to assist HCD Backfill applicants who endured a rigorous scoring system to get 9% credits. He commented that the 9% credit system achieved a variety of public policy objectives. Mr. Pavão stated that the 4% credit portfolio provided a high volume affordable rental house but did not generally meet the same public policy objectives as the 9% portfolio.

Mr. Pavão suggested the Committee utilize the remaining \$13.9 million in ARRA funds to award the top two ranked HCD funded projects from the second round of 2009. He stated that the projects would provide deeply targeted affordable rental housing to either homeless or Special Needs populations. Additionally, the projects would meet high-value public policy objectives.

Ms. Bryant asked Mr. Pavão when all of the ARRA funds had to be committed.

Mr. Pavão explained that TCAC had two sources of ARRA funds, ARRA and Section 1602. He explained that at least 75% of TCAP funds had to be committed by February 16<sup>th</sup>. He stated that TCAC would have committed 100% of its ARRA funds if the Committee adopted staff recommendations today. He noted that TCAC would meet the February 16<sup>th</sup> deadline for TCAP even if the Committee did not adopt staff recommendations.

Ms. Aronberg asked Mr. Pavão if the Committee could discuss establishing a waiting list for projects such as Up Town in the event ARRA funding became available.

Mr. Pavão predicted that some ARRA awards would be returned to TCAC. He noted that some of the recommended projects had HCD take out financing, which TCAC was not backfilling. He stated that the Committee may have to decide whether to utilize returned ARRA funds for HCD Backfill projects or the Up Town project.

Ms. Aronberg commented that the Controller's Office would like to focus on job creation and stimulation. She suggested the Committee discuss a waiting list at the next meeting.

Ms. Redway asked Mr. Ratnor how much tax-exempt bond financing the Up Town project received.

Mr. Ratnor stated that the project received \$160 million in bond financing.

Ms. Redway asked Mr. Ratnor why the Up Town project had difficulty securing equity investments. She commented that projects in urban areas like the Bay Area generally did not experience the same difficulty as Up Town.

Mr. Ratnor stated that investors were afraid of the market rate section of the project not being able to support the bonds. Additionally, investors were afraid of the compliance risks associated with the affordable units. He stated that even though his agency had a good record of maintaining projects with market rate and affordable units, few investors were willing to participate in the Up Town project.

4. Discussion and Consideration of setting the 2010 Meeting schedule.

Mr. Pavão stated that TCAC would have meetings on the third or sometimes the fourth Wednesday of those months when meetings were scheduled. He stated that the due date for first round 2010 applications was March 25 and second round applicants were due on July 7<sup>th</sup>. He noted that the first and second round award dates were June 9<sup>th</sup> and September 22<sup>nd</sup> respectively.

Ms. Redway asked Mr. Pavão if the competitive rounds schedule would be impacted should the federal government extend the Section 1602 exchange program into 2010.

Mr. Pavão stated that he expected TCAC to hold two funding rounds even if the exchange program was extended.

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

Mr. Pavão reported that the three recommended projects have met TCAC standards for feasibility and complied with federal and state requirements.

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

6. Discussion of and Action to adopt a Resolutions for 2009 4% Financing Applications with Federal and State Tax Credits for ARRA Funds for both Cash in Lieu of tax credits and Gap Filler financing.

Mr. Pavão explained that the recommended projects received funding reservations after the first 2009 competitive 4% competition. He stated that the project sponsors attempted to secure tax credit investors after receiving their TCAC funding reservations. Mr. Pavão stated that 10 of recommended projects were unable to secure equity partners and were seeking cash in lieu of their credits. The remaining 11 projects were able to secure equity investments and were seeking gap filler assistance.

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

7. Discussion of and Action to adopt a Resolution for 2009 9% Financing Applications for HCD Backfill using TCAP funds.

Mr. Pavão stated that six projects were being recommended for funding. He noted that Young Burlington received a complete HCD Backfill award in 2009. Additionally, the Villas at Gower received a partial backfill. Mr. Pavão explained that the sponsor for Villas at Gower demonstrated that they were exhaustive in trying to obtain backfill assistance from other public entities but were not successful.

Milisent England, from Affordable Housing Associates, commented on behalf of Harmon Gardens. Ms. England stated that Harmon Gardens was a new construction supportive housing project located in Berkeley. She stated that the project would serve 15 homeless young adults with special needs. Ms. England stated that all of the project units excluding the resident manager's unit would serve low-income households earning between 30% and 50% of area median income. She stated that the project received a 9% credit allocation, which the sponsor had to exchange for ARRA funds due to a lack of investor interest in the small special needs project. She stated that the project received support and funding from the city and county and was ready to begin construction this spring. Ms. England stated that the project was unable to move forward with construction because the construction lender was concerned about the sponsor's MHP loan. She requested backfill assistance in order to secure the MHP loan and insure the project began construction in this spring.

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

8. Discussion of and Action to adopt a Resolution for 2009 4% Financing Applications for HCD Backfill using TCAP funds.

Mr. Pavão stated that there was approximately \$13.9 million in ARRA funds still available. He recommended the Committee utilize the funds to originate TCAP loans for Erna P. Harris Courts Apartments and 220 Golden Gate Avenue. He noted that the two projects were also approved under Agenda Item 6.

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

9. Public Comment.

There were no public comments.

10. Adjournment.

The meeting adjourned at 4:00 p.m.