CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
Minutes of the August 16, 2017 Meeting

1. Roll Call.

   Jeree Glasser-Hedrick for State Treasurer John Chiang chaired the meeting of the Tax Credit Allocation Committee (TCAC). Ms. Glasser-Hedrick called the meeting to order at 11:00 a.m. Also present: Alan LoFaso for State Controller Betty Yee; Eraina Ortega for Department of Finance Director Michael Cohen; California Housing Finance Agency (CalHFA) Executive Director Tia Boatman-Patterson; Department of Housing and Community Development (HCD) Director Ben Metcalf; and County Representative Santos Kreimann.

   City Representative Lucas Frerichs was absent.

2. Approval of the Minutes of the July 19, 2017 Meeting.

   MOTION: Ms. Ortega moved approval of the July 19, 2017 minutes. Mr. LoFaso seconded and the motion passed unanimously by a roll call vote.

3. Executive Director's Report.

   Executive Director, Mark Stivers reported that staff recently published Opportunity Maps on the TCAC website. During the 2016 regulatory process TCAC and HCD held discussions about the location of large family, new construction projects and how to maximize opportunities for residents in those locations. Staff gathered feedback from a number of academics to determine the best approach to mapping opportunities.

   Mr. Stivers reported that the first few maps and staff's methodology were published on the TCAC website and additional maps would be added by the end of the month. He noted that TCAC has requested public feedback regarding the maps and ideas for addressing opportunities for family projects.

   Ms. Glasser-Hedrick asked Mr. Stivers if he received any comments on the maps to date.

   Mr. Stivers stated that he had not received any comments to date. He explained that the deadline to comment was September 1st for most people and September 15th for those who had maps in development. He stated that staff would also take comments during the regulatory process.

   Mr. Stivers reported that TCAC has entered into a new contract for the California Utility Allowance Calculator (CUAC) reviews. New construction projects and a limited number of rehabilitation projects have been able to use the CUAC to calculate more accurate utility allowances for tenants. Mr. Stivers stated that TCAC has hired an outside contractor to review all CUAC submittals to ensure project owners have applied their data correctly. He noted that staff will try to extend the CUAC to more projects during future regulatory discussions.

Ms. Glasser-Hedrick asked Mr. Stivers if staff's goal was to expand or limit the CUAC with regard to new construction projects.

Mr. Stivers stated that the CUAC was currently limited to new construction projects and existing projects that received a Multifamily Affordable Solar Housing (MASH) award. He stated that staff would try to extend the CUAC to a larger class of rehabilitation projects including those that received solar subsidies other than the MASH award.

Mr. LoFaso asked Mr. Stivers if the CUAC reviews were conducted to establish equivalencies relative to environmental improvements or to provide a rudimentary calculation of how much owners could charge for utilities in the rents.

Mr. Stivers explained that TCAC's rent limits include both the rent paid by tenants and a utility allowance. As the utility allowance increases the project receives less income and the amount of debt the owner can leverage decreases. Mr. Stivers stated that utility allowances are generally set by a public housing authority for an entire county or region. The housing authority allowances do not assume any special sustainability features of a building. Consistent with federal law, TCAC has allowed certain projects that have sustainable buildings to utilize the calculator developed by the California Energy Commission to determine a realistic utility allowance.

Mr. Stivers announced that staff may schedule a special meeting prior to the Second Round awards meeting to discuss outstanding appeals. He explained that including appeals in the Second Round awards meeting could disrupt staff's ability to finalize their recommendations.

4. Discussion and Consideration of the 2017 Applications for Reservation of Federal Four Percent (4%) Low Income Housing Tax Credits for Tax-Exempt Bond Financed Projects.

Development Section Chief, Gina Ferguson, reported that staff reviewed 7 projects for this agenda item. She stated that 4 of the projects were new construction and 3 were acquisition and rehabilitation projects.

Ms. Ferguson stated that staff corrected a typographical errors in the Staff Reports for CA-17-737, CA-17-774 and CA-17-778 prior to the meeting. She noted that the CUAC review was not yet completed for CA-17-774 although the Staff Report indicated the project has utilized the CUAC for utility allowances.

Ms. Boatman-Patterson asked if the California Debt Limit Allocation Committee (CDLAC) application reviews typically occur before the TCAC reviews.

Ms. Glasser-Hedrick explained that a project owner must submit an application to CDLAC before their project can be brought before the TCAC Committee; however it is possible for the TCAC reservation to be approved in advance of the CDLAC allocation. She noted that staff has been developing a joint application, which they hoped will alleviate the deviation between the TCAC and CDLAC review schedules.

Ms. Boatman-Patterson stated that she was unable to find information about project costs from the TCAC Staff Reports. She asked if the information might be in the CDLAC reports.

Mr. Stivers stated that TCAC's application workbooks include a sources and uses budget where owners include line items for their costs. He noted that TCAC proposed to send project cost information to CalHFA two weeks prior to the Committee meeting even though staff reviews would not be complete at that time.

Ms. Ferguson stated that TCAC was delayed in sending the information this month. Staff provided the cost information to CalHFA one week prior to that day's meeting.

Mr. Stivers noted that staff intends to provide the project applications as well as the staff reports in the future.

Ms. Glasser-Hedrick stated that CDLAC will also provide information needed by CalHFA.

MOTION: Mr. LoFaso moved approval of staff recommendations. Ms. Ortega seconded and the motion passed unanimously by a roll call vote.

5. Discussion and consideration of appeals filed under TCAC Regulation Section 10330 for 2017 Second Round Competitive Applications.

Mr. Stivers reported that he denied the appeal submitted to him for CA-17-112. The project owner withdrew their subsequent appeal to the Committee and staff withdrew the project from this agenda item. He invited representatives from East LA Community Corporation (ELACC) to comment on the remaining appeal for CA-17-122.

Maury Guano stated that his firm made a miniscule reduction in basis, which was involuntary and did not result in an increase to the tie-breaker or the amount of credit requested.

Antonio Ramon stated that ELACC appealed the staff decision to disqualify CA-17-122 based on a de minimis reduction of $64,516. He stated that he would explain how the reduction relates to regulation Section 10317(d) and request that the Committee 1) approve the project as requested in the TCAC application or 2) approve staff to remove the basis reduction in order change the federal and state credit requests to the appropriate amounts.

Mr. Ramon stated that CA-17-122 was a transit-oriented development (TOD) in the Housing and Community Investment Department of Los Angeles (HCIDLA) managed pipeline. The project has 29 affordable units, of which 14 are designated for transition-aged homeless youth. The project applied for credits in the 2017 First Round competition, but was not funded.

Mr. Ramon noted that the timelines specified in the current application were crucial to several funding sources, including vouchers for transition-aged youth awarded by the Housing Authority of the City of Los Angeles and Affordable Housing and Sustainable Communities (AHSC) funding from HCD. He stated that delaying the project past April would prevent the applicant from utilizing the anticipated financing.

Mr. Ramon stated that construction of the first phase of the project was more than 80% complete. The leasing process was started on August 1st and the project was expected to be placed into service by mid-November. More than 1,500 applicants have applied for 35 units at the property. Mr. Ramon explained that the first phase of the project has a total of 50 units, a portion of which was set aside for tenants that were relocated during development. He noted that the first phase of the project, Cielito Lindo I, demonstrated the need for the second phase to be developed for the community.

Paul Beesemyer from the California Housing Partnership, stated that his firm served as financing consultant for CA-17-122. He explained that the applicant requested 130% boosts for both federal and state credits. They also included a federal basis reduction of about $64,000, which staff found to be in conflict with Section 10317(d).

Mr. Beesemyer stated the applicant requested tax credits as the result of a long underwriting process with HCIDLA, which manages the number of applicants and the amount of credits requested so that the total amount of credits requested equals the approximate amount available. He explained that in January of 2017 the project finished the underwriting process and received the amount of federal and state credit approved by HCIDLA.

Mr. Beesemyer stated that ELACC made no basis reduction during the HCIDLA underwriting process. During the First Round, ELACC received an estimate of local impact fees from the local building department, which resulted in a higher impact fee limit. ELACC considered excluding part of the impact fees from basis, but later decided to include a small reduction to the federal basis labeled “Reduction to match City of Los Angeles approved credit amounts” in both the First and Second Round applications.

Mr. Beesemyer stated that the reduction in credit was not a voluntary or intentional. He explained that CA-17-122 was not in competition with any other project and was not seeking a tie-breaker advantage. Approving the appeal would have no impact on another project; however denial of the appeal would cause a 9-month delay in the city of Los Angeles’ plans to fill its priorities.

Mr. Beesemyer stated that ELACC’s First Round application was not disqualified and received a point score, which gave the impression that the firm handled its first application correctly and could submit it for the Second Round.

Yaneli Ruiz from HCIDLA stated that she would like to confirm the statements in her agency's letter in support of the appeal. She stated that CA-17-122 was intended to utilize credits in the City of Los Angeles geographic apportionment. The project was not intended to compete under the special set-aside as evidenced by the project's low tie-breaker score. Ms. Ruiz stated that the city was in great need of affordable housing, especially for the homeless.

Ms. Boatman-Patterson asked if ELACC applied for funding in the set-aside or the geographic apportionment in the First Round.

Mr. Beesemyer stated that the project was considered in the set-aside just as a function of the housing type in the First Round. The project may have also been considered in the set-aside during the Second Round.

Mr. Ramon stated that the project applied unsuccessfully for special needs funding and then for the geographic apportionment. There were not enough funds in the geographic apportionment for the project to receive an award in the First Round.

Mr. Stivers stated that the project was not a priority for HCIDLA during the First Round. The agency had already submitted applications for funds available to the geographic region. In the Second Round the project applied unsuccessfully again as a special needs project and was again considered for the geographic apportionment this time as a priority for HCIDLA.

Mr. Stivers stated that there was enough credits available to fund CA-17-122 and two other projects in the region.

Mr. Beesemyer stated that the amount of credit requested did not change in the Second Round application; however the amount of basis reduction changed slightly.

Mr. Stivers explained that TCAC developed regulations to manage the excessive over allocation of state credits occurring in recent years. The regulations specify that special needs projects that qualify for state credits and a federal basis boost must maximize their request for federal credits before requesting state credits. He stated that reducing basis in order to meet the required threshold basis limit was considered by staff to be an involuntary reduction.

Mr. Stivers stated that the regulations provide two more reasons projects may reduce their basis. He explained projects may reduce basis in order to qualify for the maximum amount of federal credits, which is $2.5 million. Projects in smaller regions may also need to reduce basis so the amount of credit requested does not exceed the regional limits. Mr. Stivers stated that the basis reduction for CA-17-122 was small, but still below the threshold basis limit. He explained that if the adjustment had been made correctly, the project would have received $7,000 more in annual federal credits while saving the state $100,000 in state credits.

Mr. Stivers stated that the reduction in basis for CA-17-122 was not considered by staff to be involuntary. He stated that reduction was not one of the 3 types permitted in the regulations. He estimated that the sponsor would have saved the city of Los Angeles $2,000 in combined credits, which would have been available to another project had they carried out their application correctly. Mr. Stivers noted that the savings estimate was not large, but still undermined the notion that the sponsor had to reduce basis in order to maintain the credit limit set by HCIDLA.

Mr. Stivers stated that staff was unaware of the issues with ELACC's First Round for Cielito Lindo Phase II. He explained that staff completed the point review and then put the application on hold while they resolved an appeal for New Directions. Upon approval of the appeal for New Directions, staff withdrew Cielito Lindo Phase II from the First Round competition.

Mr. Stivers reported that TCAC has been meeting its housing type goals for special needs projects. He stated that funding CA-17-122 or not funding it would have an impact on the number of special needs projects TCAC can fund state-wide before it starts skipping projects. He explained that if credits were not awarded to CA-17-122 in the current round, staff would award credits to another region and the Los Angeles region would be able to roll over its unused balance to the next funding round. Accordingly, the region that receives additional funding in the current round would receive less credits in the next round.

Ms. Boatman-Patterson asked if correcting the application would result in the sponsor requesting more federal credit and less state credit.

Mr. Stivers confirmed that the applicant would request more federal credit and less state credit. He explained that if applicant increases their basis request, they will qualify for more federal credits, which will reduce the amount of state credits needed to fill the funding gap.

Mr. Stivers stated that he did not believe staff had authority to fix the application for CA-17-122 for the regulations prohibit the Committee from changing applications after receipt. He confirmed that if staff fixed the application, the project would receive an additional $7,000 in annual federal credits for 10 years and a $100,000 reduction of state credits. He noted that state credits sell at a lower price than federal credits so there would be no change in the amount of equity.

Ms. Boatman-Patterson asked Mr. Stivers to explain the impact of the revised credit amounts on the state.

Mr. Stivers stated that if staff corrected the application, the over allocation of state credits would be reduced by $100,000.

Mr. LoFaso asked Mr. Stivers to confirm that ELACC's First Round application included a $163,000 voluntary federal credit reduction.

Mr. Stivers confirmed that the application included a $163,000 credit reduction, which staff was not aware of because they did complete the review.

Mr. LoFaso stated that the core issue is the way the city of Los Angeles grapples with the state credit maximization rule. He stated that upholding the rule is important as TCAC strives to manage a scarce resource. He stated that adhering to the rule would result in a modest benefit to the city according to Mr. Stivers' earlier comment. Mr. LoFaso asked Ms. Ruiz to comment on the issue from HCIDLA's perspective.

Ms. Ruiz stated that sponsors tend to work on their applications up until the last minute. Sponsors make corrections even after HCIDLA has agreed on the amount of credits to be requested and they are not required to get approval from HCIDLA before submitting finalized applications to TCAC. She explained that sponsors are required to submit their pro formas to HCIDLA so the agency can gauge the amount of credits available in the geographic pool.

Ms. Ruiz stated that ELACC did not receive any letters indicating that a mistake was made in the First Round application so they used the same amounts in the Second Round application. Unfortunately, the sponsor was trying not to exceed the credit amount approved by HCIDLA, which led to the sponsor voluntarily reducing their basis.

Ms. Ruiz stated that HCIDLA updated its written agreements so developers will be aware of TCAC regulations regarding special needs projects. She stated that the agreements will state that TCAC will not make changes to applications and developers should HCIDLA if they feel it is necessary to adjust the approved credit amount.

Mr. LoFaso asked Ms. Ruiz how her agency accounted for the state credit portion of the request as it attempts to calculate the potential credits from the vantage point above state and federal credits.

Ms. Ruiz stated that her agency will start to work with TCAC to ensure that its process does not impact the state-wide apportionment.

Mr. Metcalf reiterated Mr. Ramon's comment that a delay in receiving credits could result in CA-17-122 missing disbursement deadlines. He stated that HCD supported funding the project and would utilize its authority under AB-1613 to extend the liquidation deadline.

Ms. Boatman-Patterson asked TCAC Counsel, Robert Hedrick if the Committee could direct staff to fix the application for CA-17-122 so that federal credits are maximized and state credits are reduced.

Mr. Hedrick stated that he believed the Committee has given similar direction in the past.

Mr. Stivers confirmed that the Committee gave similar direction to staff in the previous funding round.

Ms. Boatman-Patterson commented that TCAC and HCIDLA were both managing very complicated programs. She stated that the applicant made a true mistake, which is why the TCAC board must once again decide if disqualifying the project would result in a greater benefit or detriment. She stated that benefit would be to allow the project to proceed whereas the detriment would be the cost of time, money and housing in a location where it is greatly needed.

Mr. Guano stated that delaying CA-17-122 for 9 months would be harmful to the many families in Boyle Heights, one of fastest gentrifying areas in Los Angeles.

Ms. Ortega stated that she sympathized with HCIDLA's goals and Ms. Boatman-Patterson's comments. She agreed that the Committee should defer to the regional pipeline process to the extent the process does not interfere with TCAC's goal to maximize federal credits before utilizing state credits. Ms. Ortega stated that she supported the appeal, but would like to ensure that state-wide goals will not be undermined.

Ms. Glasser-Hedrick stated that the TCAC program is very complex and her goal was to keep it as transparent to users as possible. She stated that she did not support situations in which TCAC reviews projects differently in various regions unless the process is transparent in the regulations. She suggested that changing a credit request to increase the federal amount would result in a slight change to the tie-breaker.

Mr. Stivers confirmed that there would be situations in which changing an application would alter its tie-breaker.

Ms. Glasser-Hedrick confirmed that the current regulations prohibit the type of application change Mr. Stivers described. She stated that the local governments of Los Angeles and San Francisco may have unique opportunities with regard to application mistakes because they control their own allocations. She stated that TCAC's process will be open to tremendous scrutiny if such opportunities are not made transparent in the regulations.

Ms. Ortega stated that she believed Committee members had already given direction to provide deference to the regions several years ago when they approved HCIDLA to determine which projects should be funded its region. She stated that the Committee must ensure that state policies are not undermined by the deference they had previously given.

Mr. LoFaso stated that initially he was skeptical about granting the appeal because the Committee had granted forbearance for a similar application mistake at a prior meeting. He explained that he was uncertain as to why ELACC would make a similar mistake. Mr. LoFaso stated that there was no excuse for misinterpretation of the regulations in light of the previous appeal. He stated that HCIDLA must adjust its process so there are no further appeals of this nature. He stated that he would reluctantly support a motion to grant the appeal.

Ms. Ruiz stated that HCIDLA will start to work with TCAC immediately and adjust its regulations to coordinate the federal and state tax credits.

MOTION: Ms. Ortega moved approval of the application CA-17-122 for federal tax credits. Mr. LoFaso seconded the motion. The motion was passed by a roll call vote with Ms. Ortega and Mr. LoFaso voting aye and Ms. Glasser-Hedrick voting no.

6. Public Comment.

No public comments.

7. Adjournment.

The meeting adjourned at 12:05 p.m.