MEMO

TO: Interested parties

FROM: Mark Stivers, Tax Credit Allocation Committee
Ben Metcalf, Department of Housing and Community Development

DATE: May 3, 2017

RE: Open forums on 1) maximizing opportunity for residents of large family developments and 2) reviewing the 50% of units threshold for TCAC special needs projects

The Tax Credit Allocation Committee (TCAC) and Department of Housing and Community Development (HCD) are interested in receiving input from the affordable housing community, the equity community, the disability community, and others on two separate topics that deserve greater attention and thought. The first relates to maximizing opportunity for residents of large family developments. The second relates to TCAC's 50% of unit threshold for defining a special needs project. In the interests of efficiency, TCAC and HCD propose to gather input on both topics in combined events and welcomes all interested parties to attend one of the three following open forums. We intend to spend 90 minutes on each topic with the special needs topic occurring second.

Tuesday, May 23	Mandela Gateway 1350 7th Street, Oakland (near West Oakland BART Station) 9:30 am – 12:30 pm
Thursday, May 25	Cueva de Oso Apartments 2132 Locust Street, Selma 10:00 am – 1:00 pm
Tuesday, May 30	Terracina Apartments (near the Vermont/Athens Green Line station) 1218 West Imperial Hwy., Los Angeles 10:00 am – 1:00 pm

Maximizing Opportunity with New Construction Large Family Developments

California continues to struggle with racial, ethnic, and economic segregation. However, research has shown that children who move to a lower poverty neighborhood experience higher college attendance rates and have increased adulthood earning potential. [1] While affordable

[1] Chetty, Raj, and Nathaniel Hendren. 2016. "The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment," American Economic Review, American Economic Association, vol. 106(4), April 2016.

housing developments often make integration possible, recent analyses have shown that low-income housing tax credit new construction projects continue to be sited disproportionately in lower-income and more ethnically and racially concentrated neighborhoods in California. These neighborhoods often overlap with indices of lesser economic opportunity and less access to high quality education.

Last year TCAC, in consultation with HCD, proposed two regulation changes relating to opportunity. First, TCAC proposed generally to increase threshold basis limits by 10% for projects located in highest-opportunity areas, as defined by the UC Davis Regional Opportunity Index. Second, TCAC proposed to prohibit new construction, large family, 9% tax credit projects in lowest-opportunity areas as defined by the same index, unless a project was part of a concerted community revitalization program involving the local government and significant investment outside of the project. Ultimately, TCAC adopted only the former with a caveat that it would consider alternatives to the UC Davis index for future years. TCAC did not adopt the latter but expressed its interest in continuing discussions on how to increase opportunity through new construction, large family investments.

TCAC and HCD continue to explore options for increasing opportunity for residents of family developments. We see this forum as an opportunity for brainstorming and have no specific proposal to offer for either TCAC or HCD programs. Nonetheless, it seems that any possible strategies likely will fall within the following categories:

- Points or tiebreaker incentives for large family new construction projects in high-opportunity areas
- Set-asides for large family new construction projects in high-opportunity areas
- Negative points or tiebreaker disincentives for large family new construction projects in lower-opportunity areas and/or areas experiencing segregation and concentrated poverty, unless part of a concerted community revitalization program
- Prohibitions on large family new construction 9% projects in lower-opportunity areas and/or areas experiencing segregation and concentrated poverty, unless part of a concerted community revitalization program
- Promoting increased community development, economic development, and infrastructure investments in lower-opportunity areas and/or areas experiencing segregation and concentrated poverty, as has been contemplated in the Transformative Climate Communities and Community Development Block Grant programs

Regardless of any particular strategy that may be pursued, TCAC and HCD are well aware that the map or index of opportunity used is of equal importance. TCAC and HCD have tasked a work group of academics and equity experts by mid-year to recommend an index of opportunity that is most appropriate to affordable housing purposes. While we welcome comments on possible indices as part of the forums, we envision postponing most public discussion on indices until we have received the recommendation of the work group.

TCAC Threshold for Special Needs Projects and Incentives for Including Special Needs Units in Non-Special Needs Projects

For some time TCAC has defined a special needs project as one reserving at least 50% of the units for special needs populations. TCAC defines special needs populations as:

> Individuals living with physical or sensory disabilities and transitioning from hospitals, nursing homes, development centers, or other care facilities; individuals living with developmental or mental health disabilities; individuals who are survivors of physical abuse; individuals who are homeless as described in Section 10315(b); individuals with chronic illness, including HIV; homeless youth as defined in Government Code Section 11139.3(e)(2); families in the child welfare system for whom the absence of housing is a barrier to family reunification, as certified by a county; or another specific group determined by the Executive Director to meet the intent of this housing type.

A TCAC special needs project may meet the 50% minimum threshold by serving one or more special needs populations. In other words, a project may, but is not required to, serve only a single special needs population.

In the interest of promoting integrated communities, HCD and the California Housing Finance Agency (CalHFA) have different standards or practices for special needs projects. CalHFA's Mental Health Services Act and Local Government Special Needs Housing programs generally limit assistance to no more than 20-30% of units for projects of more than 20 units. In its No Place Like Home program, HCD is proposing to limit assistance to no more than 49% of units with an exception for smaller projects.

For projects seeking funding from multiple state sources, these standards can create effective conflicts or at least require serving multiple special needs populations.

On another level, even though TCAC's special needs definition is not limited to persons with disabilities, there is some concern that the 50% threshold may concentrate persons with disabilities and raise issues of compliance with the *Olmstead* decision[2]. In *Olmstead*, the U.S. Supreme Court held that people with disabilities have a qualified right to receive state funded supports and services in the community rather than institutions and prohibits unjustified segregation of individuals with disabilities.

At the same time, persons with certain types and severities of disability often benefit from supportive services that are not available in market rate or general affordable housing and that are required of a TCAC special needs project. TCAC's 50% special needs minimum threshold increases the number of units with appropriate supportive services that are available. Were the threshold decreased or a limit imposed, it is likely that the number of special needs units would decrease, leaving special needs populations with fewer appropriate housing options.

TCAC and HCD are interested in your feedback on how to balance these competing values and ensure compliance with the *Olmstead* decision.

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[2] Olmstead v. L.C., 527 U.S. 581 (1999)

In addition, and in line with increased State and local efforts to address homelessness, TCAC and HCD seek feedback on incentivizing greater production of housing for persons with special needs in non-special needs projects. For example, what would incentivize a developer of a large family or senior project to include even 10% of units to serve residents with special needs?