

California Debt Limit Allocation Committee

Jesse Unruh Building
915 Capitol Mall, Room 587
Sacramento, CA 95814

May 15, 2013
Meeting Minutes (Agenda Item 2)

OPEN SESSION

Call to Order and Roll Call (Agenda Item 1)

Michael Paparian, Chairperson, called the California Debt Limit Allocation Committee (CDLAC) meeting to order at 11:04 a.m.

Members Present: Michael Paparian for Bill Lockyer, State Treasurer
Jennifer Rockwell for Edmund G. Brown, Jr., Governor
Ruth Holton-Hudson for John Chiang, State Controller

Advisory Members Present: Claudia Cappio for the California Housing Finance Agency (CALHFA)
Laura Whittall-Scherfee for the Department of Housing and Community Development (HCD)

Approval of the Minutes of the March 13, 2013 Meeting (Agenda Item 2) (Action Item)

Jennifer Rockwell moved approval of the minutes from the March 13, 2013 meeting. Upon a second by Michael Paparian, the minutes passed 3-0 with the following votes: Jennifer Rockwell: Aye; Michael Paparian: Aye; Ruth Holton-Hudson: Aye.

Executive Director's Report (Agenda Item 3) (Informational Item)

Sean Spear began his report by notifying the Committee Members about changes to some of the documents in the Agenda packet. The first document relates to Agenda, Item 6, (2175 Market Street Apartments) one of three projects proposed for a state extension went forward and issued its bond. The extension was no longer needed. The description of that project was struck from the staff report. The purple document refers to a revision to the definition of a Final Conclusive Determination Letter, which related to Item 4 - the Emergency Regulations Proposal. The yellow document referred to a couple of Staff report updates relating to individual multi-family deals that were proposed for approval under Item 8.

Mr. Spear stated that if the Agenda Items 7 and 8 were approved, CDLAC would have allocated a little over \$102 million in 2013 volume cap. There had been quite a few projects that have used previous year carry-forward allocation, to the tune of a little over \$400 million, in previous approvals. CDLAC is doing approximately the same amount of volume thus far in terms of applications coming in; however, most of them are making active use of previous year carry-forward allocations which means the applicants are not necessarily making much use of the current year allocation that is available. This is a condition that staff will continue to see going forward. In part, the most active issuers have existing carry-forward allocations that were made available at the end of the last three years.

Mr. Spear then went on to update the Committee Members on the status of a couple of emergency regulations that have been previously approved and are now making their way to final approval as permanent regulations. There is a process by which CDLAC works with the Office of Administrative Law (OAL). Specifically, there were two items that staff was dealing with now. The scattered-site regulations package, which were originally approved in January 2013 as emergency provisions, are in front of OAL now for permanent approval. Staff is hopeful that these regulations will receive final approval in the next couple of weeks. The second item is the Home Improvement & Rehabilitation Program Emergency Regulations that were originally approved back in December 2012. There was a 45 day public comment period taking place right now. That period ended on May 20. A public hearing was scheduled to be held May 21 to discuss any issues or comments the public may have regarding the permanent regulations. Staff was expecting everything to be in place within two months of the public hearing.

Consideration and Approval of Proposed Emergency/Permanent CDLAC Regulations for Submittal to the Office of Administrative Law (OAL) (Agenda Item 4) (Action Item) – Leslie Campaz

Ms. Campaz stated that in an effort to align the CDLAC Regulations with TCAC's changes since February 2012, and also modify other various CDLAC regulations, staff proposed an emergency regulation process to modify the current regulations to reflect said changes.

The following were the proposed revisions to the Qualified Residential Rental Program (QRRP) not previously considered by the Committee members:

- 1.) Add a definition of the Department Of Finance (DOF) Final & Conclusive Determination Letter
- 2.) Add language to clarify that those QRRP pool projects with redevelopment related project financing that is subject to the approval of the DOF are required to have obtained a Final & Conclusive Determination Letter prior to submitting an application to the Committee.
- 3.) Add language to the Sustainable Building Methods Standards to clarify that requirements are only applicable when investment in such elements are proposed in the projects scope of work and/or the Capital Needs Assessment.
- 4.) Add language to enable the use of fiberglass on exterior doors.
- 5.) Add language to require that all waivers must be submitted to CDLAC at least ten (10) business days prior to the application deadline and that floor coverings shall no longer have a minimum thickness.
- 6.) Add language to clarify that if more than twelve (12) months have passed since the earliest property inspection date, then a new Capital Needs Assessment is required.
- 7.) Add language to clarify the full-time equivalent formula for social workers and bona fide service coordinators, and align CDLAC regulations with TCAC's regulations regarding pharmacies and medical clinics.
- 8.) Expand the scattered-site project non-competitive round market study waiver requirements.

Should the Committee approve these revisions, staff plans to submit the emergency rulemaking packet to OAL immediately thereafter. A five (5) day public comment period will commence on the day of submittal with possible enactment ten (10) days thereafter. If approved as per schedule, the emergency regulations would be in place in time for the September 18, 2013 application round.

RECOMMENDATION:

Staff recommended approval of the proposed revisions to the CDLAC Regulations, and their submission to the Office of Administrative Law for emergency and regular rulemaking consideration.

Mr. Spear added that Leslie Campaz is CDLAC's newest analyst who has very quickly jumped in to her role as project analyst as well as shepherding through the emergency regulations.

Ms. Rockwell commented on the substitute language for the DOF Final and Conclusive Determination Letter. She stated that the language in the binder appears more accurate.

Mr. Spear stated that the language was quoted from the DOF's website. CDLAC then attempted to summarize the language in a way that people who are not industry practitioners might be able to understand the definition.

Ms. Rockwell stated that she is not comfortable with the language revision. She stated that the DOF does not have the ability to revoke the property tax revenue. County Auditors control collection of property taxes at the local level. DOF can approve items on a Recognized Obligation Payment Schedule (ROPS) for payment and can state that something is an enforceable obligation, but the DOF does not actually have that authority. She stated that she is comfortable with what is in the binder, but not with the rewrite.

Mr. Paparian addressed concerns he had with the original language which appeared to him that CDLAC is dictating something to the DOF.

Ms. Rockwell then stated that language is actually the statutory limitations. Once the DOF does provide a final and conclusive letter, it is barred forever onward from reviewing whether or not the item itself is an enforceable obligation. All DOF can do is review whether or not the amounts on a ROPS match what the enforceable obligation covered.

Mr. Paparian asked if the final and conclusive determination letter is described in the statute.

Ms. Rockwell stated that the process is described in the statute. DOF acknowledges that the process was gone through with the letter. Once it is on a ROPS, there will be no subsequent review.

Mr. Paparian asked if the DOF defines it in regulations or otherwise.

Ms. Rockwell stated no.

Mr. Spear stated that CDLAC wanted to pick up the notion that it is a written confirmation. Perhaps the first four lines could be struck so language will effectively state "Final and Conclusive Determination Letter means a written confirmation that the obligation is valid and irrevocable by DOF."

Ms. Rockwell stated that that would work as long as the written confirmation of who is involved was added.

Mr. Paparian asked what language is being struck.

Mr. Spear stated that the language after "Final and Conclusive Determination Letter means" should be struck until the fourth line that starts with "Determination" and picks up with "a written confirmation". The last sentence may be changed to say "as per statute if the confirmation is granted, then DOF review is such payments as future ROPS schedule" which would make it clear that it is a statute that is requiring DOF to treat it as such.

Mr. Hedrick stated that the last sentence is not definitional, nor is it within the purview of CDLAC to say one way or the other. It is a statutory mandate. It exists whether the language is here or not. For the sake of clarity, and to get it past OAL, it would be wise to remove that final sentence.

Ms. Rockwell then stated it was her understanding that a Final and Conclusive Determination Letter means a written confirmation of the DOF "that its determination of an enforceable obligation as approved on a ROPS is final and conclusive and reflects DOF's approval of subsequent payments made pursuant to the enforceable obligation."

Mr. Spear stated that that was correct.

Mr. Paparian then asked if the last sentence could be struck. The important issue is that it is a DOF document.

Mr. Spear stated yes.

Ms. Cappio asked if the emergency nature of the regulation is due to the language and not about floor thickness.

Mr. Spear stated yes.

Ruth Holton-Hudson moved approval of staff's recommendation with the suggested revisions by the Committee. Upon a second, the motion passed 3-0 with the following votes: Ruth Holton-Hudson: Aye; Michael Paparian: Aye; Jennifer Rockwell: Aye.

Consideration and Approval of a Waiver of Negative Points and Forfeiture of Performance Deposit for the Aspens at South Lake Tahoe Apartments (11-177) Qualified Residential Rental Program (QRRP)

(Agenda Item 5) – Richard Fischer

Mr. Fischer reported that on May 18, 2011, the Aspens at South Lake Tahoe Apartments Project ("The Aspens" or "Project") was awarded \$9,000,000 in tax-exempt bond allocation. Due to the delay caused by the RDA lawsuit, CDLAC permitted projects delayed from closing to return their allocation and reapply in the December 14, 2011 Allocation Round. Following the Committee approval of a new allocation for the Project, the new issuance deadline was April 2, 2012; with a final extension to August 14, 2012. After some discussion, the California Statewide Communities Development Authority (the Applicant) notified CDLAC by letter that SLT Pacific Associates, a California LP (the "Project Sponsor") wanted to return the awarded allocation in order to pursue the project as a 9%-Level Housing Tax Credit transaction.

The Project Sponsor had a resolution and loan commitment for the Project in the amount of \$2.5 million from the South Tahoe Redevelopment Agency (STRA). In March of 2011, the Project Sponsor applied for tax-exempt bonds and 4% tax credits, with the bond allocation awarded in May and the tax credit allocation awarded on June 22, 2011. On June 27, 2011, the RDA dissolution legislation was signed into law (AB1X26).

Shortly following the enactment of AB1X26, a lawsuit was filed by the California Redevelopment Association and other parties challenging the constitutionality of the law. This lawsuit placed all RDA-supported projects in limbo while the lawsuit was adjudicated over the seceding months. Following the resolution of the lawsuit in December 2011, STRA removed the Project from their Enforceable Obligation Payment Schedule based upon their understanding of what constituted an "enforceable obligation" under the law. The 'loss' of the STRA \$2.5 million loan commitment effectively stopped the project from proceeding as a bond transaction. Despite this, the Project Sponsor still pursued the construction of the Project as an affordable housing development. To this end, the Project Sponsor

applied for an allocation of 9% Tax Credits in March of 2012 securing an award from TCAC on July 11, 2012. The Project Sponsor closed on April 5, 2013 and is currently in construction on the Project.

The Committee has taken the position that projects that fail to proceed with their awarded allocation due to the elimination of the RDAs may be fully subject to all applicable penalties. While the circumstances of this project would seem to fully merit such consideration, there are three mitigating factors that necessitate a further review. First, while the Aspens did not proceed in as rapid a fashion as intended (due to the RDA Dissolution), the Project is still proceeding to deliver its public benefits. Second, the Project was awarded allocation in a non-competitive CDLAC allocation round (both times). As such, no other project was disadvantaged in the awarding of allocation to this project; and since the Project did not issue its bonds, the reverted allocation is now available for use on another project to be issued by the same Applicant. Lastly, though the STRA felt compelled to remove their loan commitment to the Project based upon the law, they have continued to voice the importance of the Project to their community and their strong support its development.

Under normal circumstances, CDLAC staff would make its recommendation to approve or deny a request to waive penalties based upon the verification of the facts presented and the waiver test described in the Background section of the staff report. However, the changing legal landscape and its direct impact on this project's financing structure make it a singularly unique situation and chain of events. Thus, in this case where: 1) the public benefits will still be provided; 2) the allocation is still available for provision to another eligible project; and 3) no other eligible projects were prevented from securing an allocation in the same (non-competitive) allocation round that the Project was awarded in; then CDLAC staff conclude that the waiver test does not apply here. Further, CDLAC Staff concludes that the Project Sponsor should not be penalized for the reversion of the allocation alone.

RECOMMENDATION:

In light of the unique circumstances described, staff recommended the approval of the Waiver of Forfeiture of the Performance Deposit and Negative Points for the Aspens at South Lake Tahoe Apartments Project (11-177).

Michael Paparian moved approval of staff's recommendation. Upon a second by Ruth Holton-Hudson, the motion passed 2-0-1 with the following votes: Michael Paparian: Aye; Ruth Holton-Hudson: Aye; Jennifer Rockwell: Abstained.

Consideration and Approval of Issuance Date Extensions for Various Projects – Qualified Residential Rental Program: (Agenda Item 6) (Action Item) – Richard Fischer

<u>App.</u>	<u>Project</u>
12-150	Moonlight Villas Apartments
12-142	Park Village Apartments

Mr. Fisher reported that issuance date extensions are being requested for two (2) awarded QRRP projects. All relate to project development, and/or fellow agency assistance processing issues. None involve RDA processing issues.

RECOMMENDATION:

Staff recommended the approval of the following issuance date extensions:

12-150	Moonlight Villas Apartments	August 13, 2013
12-142	Park Village Apartments	August 13, 2013

Jennifer Rockwell moved approval of staff's recommendation. Upon a second by Ruth Holton-Hudson, the motion passed 3-0 with the following votes: Jennifer Rockwell: Aye; Ruth Holton-Hudson: Aye; Michael Paparian: Aye.

Consideration of Appeals and Applications for an Allocation of the State Ceiling on Qualified Private Activity Bonds for Single Family Housing Programs and Awards of Allocation (Agenda Item 7) (Action Item) – Sarah Lester

Ms. Lester stated that the Committee received one (1) application requesting its 2013 Fair Share Single Family Housing allocations for a total of \$25,000,000, all for the issuance of Mortgage Credit Certificates under the City of San Diego's Single Family Housing Program.

RECOMMENDATION:

Staff recommended approval of \$8,767,021 (the calculated fair-share amount) to fund one (1) program in the Single Family Housing Program as noted above.

Ruth Holton-Hudson moved approval of staff's recommendation. Upon a second by Jennifer Rockwell, the motion passed 3-0 with the following votes: Ruth Holton-Hudson: Aye; Jennifer Rockwell: Aye; Michael Paparian: Aye.

Mortgage Credit Certificate Programs:						
13-034	SL	Housing Authority of the City of San Diego	MCC		San Diego	\$8,767,021
MCC Count	1	Subtotal - Mortgage Credit Certificate Program Applications:				\$8,767,021
Total SFH Count	1	Total - Single Family Housing Programs:				\$8,767,021

Consideration of Appeals and Applications for an Allocation of the State Ceiling on Qualified Private Activity Bonds for Qualified Residential Rental Projects, \$30 million Maximum Allocation Limit Waivers, and Awards of Allocation (Agenda Item 8) (Action Item) – Richard Fischer

Mr. Fisher stated that CDLAC received two (2) QRRP allocation requests for over \$30,000,000. The projects are Harbor Village Apartments and Calden Apartments.

Staff recommended approval of both requests.

Mr. Spear stated that the Board will take up separate motions for all items at the end of Mr. Fisher's presentation.

Mr. Fisher stated that CDLAC received a total of \$265,770,468 in projects to be recommended by staff.

RECOMMENDATION:

Staff recommended approval of \$265,770,468 to fund thirteen (13) projects in the General Pool.

Ms. Rockwell requested that the MacArthur Transit Village Apartments project have a separate vote.

Mr. Spear recommended that the Committee vote on the \$30,000,000 projects, then consider two (2) separate motions related to the approval of the projects as a whole.

Mr. Paparian asked if there was a motion to waive the \$30,000,000 on applications 13-037 and 13-035.

Jennifer Rockwell moved approval of staff's recommendation. Upon a second by Ruth Holton-Hudson, the motion passed 3-0 with the following votes: Jennifer Rockwell: Aye; Ruth Holton-Hudson: Aye; Michael Paparian: Aye.

Mr. Paparian asked if there was a motion on application 13-024, MacArthur Transit Village Apartments.

Ruth Holton-Hudson moved approval of staff's recommendation. Upon a second by Michael Paparian, the motion passed 2-0-1 with the following votes: Ruth Holton-Hudson: Aye; Michael Paparian: Aye; Jennifer Rockwell: Abstain.

Mr. Paparian asked if there was a motion to move approval of staff's recommendation on the remaining items.

Ruth Holton-Hudson moved approval of staff's recommendation. Upon a second by Jennifer Rockwell, the motion passed 3-0 with the following votes: Ruth Holton-Hudson: Aye; Jennifer Rockwell: Aye; Michael Paparian: Aye.

General Pool Projects:						
13-009	SL	City of Lancaster	Cedar Ridge Apartments	Lancaster	Los Angeles	\$7,500,000
13-024	RF	California Municipal Finance Authority	MacArthur Transit Village Apartments	Oakland	Alameda	\$26,725,000
13-032	CA	California Municipal Finance Authority	Cochrane Village Apartments	Morgan Hill	Santa Clara	\$11,250,000
13-035	CA	City of Los Angeles	Vistas Apartments	Los Angeles	Los Angeles	\$10,707,645
13-037	SL	City of Los Angeles	Harbor Village Apartments	Los Angeles	Los Angeles	\$63,683,756
13-039	RF	City of Los Angeles	West Valley Towers Apartments	Los Angeles	Los Angeles	\$10,924,067
13-040	LC	County of Contra Costa	Oak Ridge Family Apartments	Oakley	Contra Costa	\$6,000,000
13-041	CA	City and County of San Francisco Mayor's Office of Housing	1100 Ocean Avenue Apartments	San Francisco	San Francisco	\$19,500,000
13-042	SL	California Statewide Communities Development Authority	Colonial House Apartments - (Supplemental to #11-154)	Oxnard	Ventura	\$1,850,000
13-044	LC	California Municipal Finance Authority	Calden Apartments	South Gate	Los Angeles	\$76,000,000
13-047	SL	California Statewide Communities Development Authority	Plaza Mendoza Apartments	Fresno	Fresno	\$7,480,000
13-036	RF	City of Los Angeles	Coral Wood Court Apartments	Los Angeles	Los Angeles	\$14,000,000
13-038	CA	City of Los Angeles	Orangewood Court Apartments	Los Angeles	Los Angeles	\$10,150,000
General Pool Count	13	Subtotal - General Pool Project Applications:				\$265,770,468
Total QRRP Count	13	Total - Qualified Residential Rental Project Applications:				\$265,770,468

Consideration of Appeals and Applications for a Re-Allocation of American Recovery and Reinvestment Act – Qualified Energy Conservation Bonds and Award of Allocation (Agenda Item 9) (Action Item) – Richard Fischer

Mr. Fisher stated that the Committee received one (1) complete application from the City of Oakland for a street-lighting energy conservation project requesting \$8,605,765; the full amount of remaining QECB allocation available from CDLAC. Due to a recent IRS Notice (2012-44), a locality’s street-lighting improvement project may qualify as a Green Community Program; a designation previously reserved for loan and grant programs. As such, this application had to be considered under CDLAC’s QECB Loans/Grants Program Sub-Pool; where it scored zero (0) competitive scoring points. The application met both the Loans/Grants Program Sub-Pool threshold requirements and the Capital Expenditures Pool threshold requirements under the CDLAC Regulations. Since this application round was not competitive, the application’s score does not prevent the Committee from awarding allocation to this eligible and qualified project.

RECOMMENDATIONS:

Staff recommended approval of \$8,605,765 in reallocated American Recovery and Reinvestment Act – Qualified Energy Conservation Bond authority to fund one (1) program, ARRA-091.

Jennifer Rockwell moved approval of staff’s recommendation. Upon a second by Ruth Holton-Hudson, the motion passed 3-0 with the following votes: Jennifer Rockwell: Aye; Ruth Holton-Hudson: Aye; Michael Papanian: Aye.

Mr. Spear stated that with the assumed success of this project’s issuance, this approval commits all of the QECB allocation that CDLAC had available; thus marking the end of our QECB Program. Over the life of this program, over \$250,000,000 in allocation administered by the State was put out for a wide variety of eligible projects. Our program has been noted nationally as a success; especially when considering that some other states have used no allocation at all. CDLAC has been ranked number one (1) in the nation in the amount issued. The second-ranked state was only able to use less than 25% of what CDLAC was able to allocate.

Ms. Rockwell asked if there is a possibility that the unused allocation from a state could be reallocated to other states.

Mr. Spear stated that the way the program was set up by the Treasury, the allocations were made available through the State to the individual localities. There was no state-to-state reallocation authority provided by Congress.

<i>Qualified Energy Conservation Bond Program:</i>						
ARRA-091	RF	City of Oakland	Oakland Street Lighting Conversion Project	Oakland	Alameda	\$8,605,765
QECB Count	1	Total - Qualified Energy Conservation Bond Program Applications:				\$8,605,765

Public Comment (Agenda Item 8) (Action Item)

There was no public comment.

Adjournment (Agenda Item 9)

The Chairperson adjourned the meeting at 11:35am.