



## CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

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### MEMBERS

FIONA MA, CPA, CHAIR  
State Treasurer

GAVIN NEWSOM  
Governor

BETTY T. YEE  
State Controller

EXECUTIVE DIRECTOR  
JUDITH BLACKWELL

## A G E N D A

### Thursday September 10, 2020

**TIME:**  
**1:00PM**

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

**Via Phone:** (888) 557-8511 **Participant Code: 5651115**

**Via Zoom:** **Meeting ID:** 836 5940 6551 **Passcode:** 797645

### OPEN SESSION

1. Call to Order and Roll Call
2. Approval of the Minutes of the August 21, 2020 Meeting (Action Item)
3. Discuss and Choose Between Various Regulation Structures and Strategies (Action Item)
4. Public Comment
5. Adjournment

### FOR ADDITIONAL INFORMATION:

Judith Blackwell, Executive Director  
Evan Kass, Senior Program Manager  
California Debt Limit Allocation Committee  
915 Capitol Mall, Room 311  
Sacramento, CA 95814  
(916) 653-3255

The Agenda is also available on our website: <http://www.treasurer.ca.gov/cdlac>

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**California Debt Limit Allocation Committee**

Jesse Unruh Building

Room 587

915 Capitol Mall

Sacramento, CA 95814

**August 21, 2020**

Meeting Minutes

**OPEN SESSION**

**1. Call to Order and Roll Call**

State Treasurer Fiona Ma called the California Debt Limit Allocation Committee (CDLAC) meeting to order at 11:02 am.

Members Present:

Fiona Ma, CPA, State Treasurer

Ms. Miller for Gavin Newsom, Governor

Mr. Sertich for Betty T. Yee, State Controller

Advisory Members Present:

Mr. Velasquez, Department of Housing and Community Development

Ms. Boatman-Patterson, California Housing Finance Agency

Treasurer Ma stated that before beginning the meeting, she wanted to say that Ms. Blackwell is out on personal matters and would be out for a couple of weeks. In the meantime, Ms. Jopanda, Chief Deputy, would be taking over the administrative matters and Mr. Walker would oversee signing off and ensuring the process runs smoothly. Furthermore, Treasurer Ma mentioned that the preliminary initial allocation for the awards were posted before the meeting and asked that if there were any questions, to please direct these to Mr. Walker at [Spencer.Walker@treasurer.ca.gov](mailto:Spencer.Walker@treasurer.ca.gov) or 916-651-6846.

**2. Approval of the Minutes of the August 7, 2020 Meeting. (Action Item)**

Treasurer Ma asked if any Board members had any edits for the meeting?

Mr. Kass stated that there were some edits from Mr. Zeto and Ms. Boatman-Patterson.

Treasurer Ma asked if there were any other edits or comments or additions from Board members?

Tony Sertich motioned to approve the minutes and Gayle Miller seconded. The minutes were approved unanimously.

### **3. Discuss and Choose Between Various Regulation Structures and Strategies (Action Item)**

Treasurer Ma stated that the working group had been working on some of the changes that were proposed at the last meeting to the CDLAC regulation changes. Treasurer Ma asked if Mr. Kass wanted to add anything.

Mr. Kass stated that staff went through several different structures as CDLAC and TCAC are working on alignments and that all the presentations from July 15, 2020 onward are posted on the CDLAC website for reference. Furthermore, Mr. Kass stated that as staff hears the working groups' updated presentation, it will be taken into consideration.

Treasurer Ma stated that the meeting was to open up for questions and answers later on during public comment, and this would be the opportunity for any members of the public to give their input as well on the minor changes that were proposed at the last meeting on select regulations or any other comments that they may have.

Mr. Roope stated that what is being presented during the meeting does not represent the working group's final recommendation, but rather their work in progress. Mr. Roope mentioned that the working group is now down to just a few issues that they need to spend a little more time on.

Mr. Shoemaker stated that the working group believes that regardless of how good a scoring system is in place, there are certain policy levers that are important to have clarity on when it comes to adjusting the system. He stated that the set-asides and the pools the numbers are meant to be things that can be adjusted on an annual basis and does not know if the committee will want to set ceilings or floors as part of this. Furthermore, Mr. Shoemaker stated that there had been controversy about the preservation and other pools because many have strong feelings about whether these pools should be bigger or smaller.

Mr. Roope stated that Mr. Shoemaker did a good job in explaining the working group's status. Mr. Roope mentioned that once the working group receives the feedback that the committee wants, the percentages would be adjusted and modified.

Mr. Shoemaker asked if the committee had any more questions, if not, the next item would be talking about the scoring system. He stated that there are many definitional issues that are going to come forward in the future, such as what percentage of homelessness and the definition of extra-wide.

Treasurer Ma asked if there were any questions about pools or set-asides or geographic distribution?

Ms. Miller stated that the committee would discuss scoring, pools, and set-asides once they knew what the allocations were in January 2021. Furthermore she asked if it would be a good idea to tell developers to get their applications in right away rather than having allocations three times in a year in order to front load as

many shovel ready projects and get as much development as early as possible. Ms. Miller stated that she would like to hear ideas about this thought and consider it for next year in terms of allocations and pools.

Treasurer Ma added to Ms. Miller's point and stated that with disaster credits, there are three different application periods that are set aside and at this time we are 2.5 times oversubscribed therefore she suggested using all those credits earlier in the year.

Mr. Sertich thanked Treasurer Ma. He expressed his concern about allocating all the money in two rounds because staff wants to make sure that the best projects are awarded and that the projects coming in during the first round may not be the best projects, especially if they are tied to other funding mechanisms. Furthermore, Mr. Sertich added that having several rounds that are clearly defined up front makes more sense and staff needs to be careful about changing things as they go, so allocating everything up front is not a good idea.

Ms. Boatman-Patterson stated that she is uncomfortable having a pool set-aside specifically for extremely low and very low income groups. She explained that before in the 9% program, there was a history of segregated concentrated areas of poverty and found it extremely problematic to have 100% deeply targeted affordable housing. This was not in reference to permanent supportive housing, rather recreating what was done in the 60s and 70s where creating public housing units that needed deep operating subsidies to continue to go forward. Ms. Patterson stated the need to look at the historical data of the 4% program as they did with the 9% program. She would like to see data on levels of affordability, the average affordability levels of the developments, the location of the developments, and not just whether they are geographically distributed (i.e., are the 4% projects in high resource areas or areas of segregation and concentrated poverty).

Mr. Velasquez stated that he saw the pros and cons of the front-loading of applications and was thinking about the best approach. He mentioned that it is important to focus on the deeper affordability as this is where the greatest need for affordable housing is, but he also agrees with Ms. Boatman-Patterson that projects should not continue to be build deeper affordability in areas of concentrated poverty.

Mr. Shoemaker stated that he wanted clarification on VLI/ELI because he believed that it was originally intended to be a HCD pool and other places may be funding similar housing types. He mentioned that the working group wanted to have a pool that ensured that the program would have MHP level affordability being funded at a preferential rate within the program, including the long list of HCD projects that have yet to receive tax exempt bonds. Mr. Shoemaker stated that another piece are the regions as they are large and some parts of them have concentrated poverty and others have large school districts that are racially exclusive, therefore, he states that it is not the regional distribution that would determine fair housing.

Ms. Miller asked why there was a need for a separate pot for very low-income.

Mr. Shoemaker stated that the purpose of the pot was to have a preferential pot for HCD projects and projects funded by HCD. Mr. Shoemaker stated that the difference between a HCD project and a typical 4% bond project is that it actually hits deeper affordability than just a typical bond project on its own.

Treasurer Ma asked to open up the discussion on “Other Affordable” and its definition.

Mr. Roope stated that he could speak “Other Affordable”. He stated that it is meant to capture all those projects that do not fit into new construction and preservation. Furthermore, he added that as a working group, they settled that there are those projects that are hard to define and there are others such as hybrid of new construction and preservation. He added that for that reason and due to the feedback the committee received throughout the year, the bottom line of this issue is being worked out.

Treasurer Ma asked if the Preservation category was still for the at-risk developments and not for cosmetic?

Mr. Roope stated that the Preservation pool was still for the at-risk developments and added that when the working group gets into scoring, the committee will see how the true at-risk properties are favored in these 20 point categories that are coming.

Mr. Sertich added that his concern on using the pools is that it would end up in the same place that the program was earlier during the year and that everything is falling into the “Other pool” and the scoring system itself is not measuring the program’s priorities. Ultimately, Mr. Sertich stated that he feared using the pools would not be the most accurate way to avoid projects that the program did not want to fund.

Ms. Boatman-Patterson stated that she understood Mr. Shoemaker’s concerns because there are several outstanding HCD projects and she would not want to use CDLAC and the bond system to resolve an issue that the program may be having internally. She would like to work internally with the HCD partners and the Department of Finance because she stated that some of the projects that have been waiting for allocation should not have to go through another competitive process. Furthermore, Ms. Boatman-Patterson stated that there are other ways in which some of the HCD projects could be financed as opposed to trying to use the CDLAC system to help manage the pipeline.

Mr. Shoemaker stated that the CDLAC scoring system should continue to support the HCD pipeline. Furthermore, he stated that most of the HCD loan products were designed specifically for 4% tax credits.

Ms. Boatman-Patterson stated that when those programs were designed to go with bonds, it was before bonds became competitive. Furthermore, she stated that it was never intended for the projects to have to go through two competitive processes and though the projects need to get funded, she is not sure that they need to continue to be funded with bonds as it could take three years to fund all the projects.

Treasurer Ma asked to move on to the next topic.

Mr. Roope stated that the overall scoring system the working group is proposing tried to remove some of the biases that exist in the current program and that the bias in the program is minor in terms of having a couple of issues that would cause projects to fail. If you are a large family project, there would be a bigger advantage over other housing types and in a qualified census tract, a low-income area would have an advantage as well. Furthermore, he stated that the current tie breaker disadvantages high cost markets and disadvantages building bigger units. Another thing the working group is working towards is the budget bill of AB-83 that allocates the \$500 million state tax credits and that there are mandates in the bill meant to comply with the system. Additionally, Mr. Roope stated that the working group is trying to put the order of the scoring system similar to how it is currently laid out in the regulations. He stated that the working group in terms of the tie-breaker for 2021 is proposing using the existing tie-breaker with some modifications and then by 2022, rolling out a better measurement of public benefit relative to total state investment as the Controller previously specified.

Mr. Roope specified that category #1 is a 20-point category in total that is shared between New Construction and Preservation. He stated that this category is meant to try to keep acquisition rehab and new construction projects from having different scoring methodologies and different high scores. Furthermore, Mr. Roope stated that Category #2 was exceeding minimum income restrictions and is currently a 35-point category, but the working group is proposing it as 20-points through having an average affordability of 50% AMI or the 60% AMI, but committing to a minimum of 10% at 30% and 10% at 50% AMI as this targets AB-83 compliance of building extremely low and very low-income units. For category #3, Mr. Roope suggested to measure the average affordability as opposed to the highest unit's affordability. He stated that currently under the CDLAC scoring, the highest targeted unit is compared to the market and that the working group is trying to encourage a different approach by taking the average affordability, the average AMI affordability and using that compared to the market. Mr. Roope stated that category #4 is the general partner management company experience and asked how to include minority owned businesses that are beginning and not quite experienced to avoid them having to partner with a more experienced partner. Mr. Roope mentioned that for category #5 housing types, this would replace the large family points and would allow to expand to give points to other housing types much like the 9% does, that way large family and seniors are not at odds with each other and that a senior project could score just as well as large family. Furthermore, he mentioned that the working group is supportive of adding a housing type called high density housing because the project would not have to conform to large family or senior.

Mr. Sertich stated that one of the other things that came up as staff developed these proposals was to remove housing types altogether on the bond program. Mr. Sertich asked if that was something that was discussed by the working group.

Mr. Shoemaker stated that the working group did talk about the removal of housing types altogether on the bond program, but that he does not believe it is something that the group agreed with.

Mr. Roope stated that the stricken area is not needed if moved to a regional pool set-aside type system and an AB-83 mandate is calling for cost containment, and as of right now, CDLAC has no measurement for

cost containment. He stated that this is an area where the working group needs to do more work. Additionally, Mr. Roope proposed a separate project to look into the data set and improve the data, as well as make additions to the types of boosts that are allowed under the system, such as the construction type. He stated that the project would hopefully involve a partnership with the Turner Center and other resources available.

Treasurer Ma mentioned that elevator service buildings in some of the projects in general are expensive and asked what the current rules on elevators are, such as if they are required in all buildings or only buildings of certain types or heights.

Mr. Roope stated that current regulations do not require elevators, but from a practical point of view, sponsors who develop multi-story buildings, especially for seniors, are going to want elevators. He stated that it is important to recognize the additional costs of an elevator system and the expense of that and the current basis boost that is currently in the regulations. For the leveraging and soft resources category, Mr. Roope mentioned that this is an area where the working group sees an alignment of CDLAC and TCAC making sense with the 9% program as over the years, the 9% program has done an adequate job of defining leverage, although it is broad. Furthermore, Mr. Roope proposed removing the taxable tail provision because currently, it does not accomplish anything since the amount of bonds that can be acquired for a project is 60% under current regulations.

Mr. Kass stated that at the last meeting, Ms. Boatman-Patterson brought up the point of the need to better use recycled bonds to bring down total costs, especially with the proposed elimination of the taxable tail. Mr. Kass asked if this had been discussed at length.

Mr. Roope mentioned that the working group has talked about recycled bonds, but have not spent real time honing in on the issue and would like to include that in the proposed changes. He stated that the working group would like to support recycled bonds that were purchased by Apple or some other private organization and if operated like residual receipts financing, recycled bonds would be a positive thing to replace gap financing.

Mr. Sertich stated that his concern with leveraging goes hand-in-hand with the cost containment measure and it is that leveraging in and of itself does not necessarily buy public good and that there are many funds that come in that are additive and bring public good, but he believes the goal should be measuring the public good more efficiently.

Mr. Roope thanked Mr. Sertich and mentioned that the working group is hearing his concerns. In terms of the basis limits, Mr. Roope stated that the basis limits suffer from a lack of a number of projects, therefore data can sometimes be old and skews the cost downward because of the inflation that has happened. He mentioned that part of what the working group might be studying is how to better consolidate different counties in ways that would grab a more current data set than what is being used right now so that there is

more of a regional cost basis. He suggested looking at the super regional proposal for the geographic regions as opposed to the county by county approach that is currently being used where the data is flat.

Mr. Shoemaker stated that he wanted to go back to Mr. Sertich's comment about leveraging because he thinks that it is important that the working group understand the committee's point of view on it. Mr. Shoemaker mentioned that the working group discussed this and one thing noted was the importance of continuing to incentivize local governments to pass bonds to participate in affordable housing.

Mr. Sertich stated that he agreed with Mr. Shoemaker's comments and would not want to discourage the locals from investing, but that he also believed that staff should not award projects just because they have local money at the expense of other projects that are doing more public benefit that do not have county money or HCD funds.

Mr. Shoemaker stated that he understood Mr. Sertich's views and stated that Mr. Roope and he are facing a bit of a dilemma with a committee that is new and he does not know how to best handle it. Mr. Shoemaker believed that the working group has proceeded from an understanding that one of the things the working group believes about the tax exempt bond program is that it ought to function as a neutral backbone. He stated that the working group is going to work with staff to match the pools and resources to the investments coming from HCD, CalHFA, and local governments.

Mr. Sertich stated that there are policy decisions that would be made that would leave it the way it is or would be changed with certain driving policies. Additionally, he stated that it is important to understand what policies are being driven to accordingly make the correct decisions.

Ms. Boatman-Patterson mentioned that she believes the concern Mr. Sertich might be having about local dollars making projects more expensive did not come from local governments that went and got their own bond allocation, rather it came about under the TCAC rules when it was required to have local funds be in the tie-breaker.

Ms. Miller stated that in some of the areas where the working group does not have agreement, it is the role of the government to intervene. Furthermore, she mentioned that the idea of coming in with full financing is the only way these projects are built and is the reason the low income tax credit works differently than all other tax credits because it does need to be a combination of funding. She stated that the question of whether CDLAC is a neutral backbone or not is a question staff wants answered in 2021. Additionally, she stated that whenever state dollars are involved, how is that going to be measured and how is staff going to arrive at whether or not the state is better off than it would have been otherwise needs to be determined. Ms. Miller thanked the working group for their continuous work and efforts.

Mr. Shoemaker stated that the working group was trying to get a take from the committee's views, though not always uniform, and bring it back to the working group for discussion. Mr. Shoemaker mentioned that the working group has many ideas about measuring public benefit and one of the things taken as an



understanding from staff was that the HCD loan program had been set up to interact with the 4% bond program.

Ms. Miller stated that the state had made a certain commitment to fund some programs through HCD and as staff learns more about the need, it would be measured for both CDLAC and TCAC.

Treasurer Ma stated that this meeting is important because staff is trying to get on the same page.

Mr. Roope stated that the working group is working closely on the public benefit question and mentioned that the Readiness to Proceed category is from the 9% program and there is not much to talk about there. He stated that Site Amenities has been worked on by the working group a bit and they are trying to reduce the land costs and expand the number of sites available, therefore reforming the site amenities category, but nonetheless believe the two programs should be aligned. Mr. Roope stated that the next category for discussion was service amenities and are recommending to align and make the scoring system 120 points total. For the tie-breakers, Mr. Roope suggested taking the bond request and adjusting it for the variability of costs that occur in higher cost regions versus lower cost regions. Additionally, Mr. Roope stated that measuring bond requests to justify costs is important and adjust the units actually being produced and measure that according to the size of units produced and the people that are being served. Moreover, Mr. Roope stated that the working group is concurrently reviewing the Controller's Office proposal and the working group is interested in the idea of measuring public benefit relative to total state investment.

Treasurer Ma asked if when talking about the calculation of the bedrooms, if three bedroom units receive more points?

Mr. Roope stated that the higher the adjusted bedroom count is, the lower your tie-breaker score becomes, which he says is a good thing in the system. He mentioned that projects receive more help to improve their score by building a three bedroom unit over a one bedroom unit.

Treasurer Ma stated that as the population shifts and with the demographics changing, seniors need an extra bedroom to have a caretaker or relative come in.

Mr. Roope stated that two-bedroom units would be treated more favorably than one-bedroom units in the system. He mentioned that in the current system, the system does not distinguish between two unit types and it favors the smaller unit because it is a just a pure unit evaluation. Mr. Roope stated that the new proposal is meant to correct this.

Treasurer Ma asked if Board members had any questions.

Ms. Miller told Mr. Shoemaker that she was confused when he stated that the question of public benefit was not yet an area of consensus from the working group, but agreed that the Controller's plan deserved more consideration as staff moves into a more understanding housing system in 2022 and beyond.

Mr. Shoemaker stated that if staff were to take a look at the scoring system that Mr. Roope provided, when looking at the depth of affordability on the 9% side, the chart goes down much further, therefore the more affordable housing produced in terms of average affordability, the more points garnered. Moreover, Mr. Shoemaker mentioned that if the committee recommended providing more gradation within the scoring system and measuring deeper public benefit, then the working group would adjust the scoring system to provide more public benefit measures within the score.

Ms. Miller stated that Mr. Shoemaker's statement made sense and mentioned that the administration had some ideas around his ideas as well, but are still finalizing. Ms. Miller asked if there was a consensus around the idea that four bedrooms is then four times greater in the scoring system or if it was a rule of thumb that could then be adjusted.

Mr. Roope stated that Ms. Miller asked a good question and that the working group had not debated the issue or focused on any dialog around it. Mr. Roope asked if staff wants to see developers trying to aggressively produce 100% four bedroom units so that they can max out their tie-breaker score. Furthermore, he stated that that is not what good policy says and some limitations in the category remain because developers can build as many four-bedroom units as they want, but only 10% of the total units that they develop are to count, the rest would be counted as two-bedroom units. Additionally, he stated that it is the same thing with three-bedrooms as only 30% of those would count and then the rest would only count as two-bedroom units for the tie-breaker.

Ms. Boatman-Patterson thanked the working group for their efforts towards the regulation changes and she believes that they have done a good job of looking at the scoring system and at the values of the benefit, but believed that a remaining issue is cost containment and how to measure cost containment in relationship to the public benefit. Furthermore, Ms. Boatman-Patterson stated that the current tie-breaker in the CDLAC scoring is a proxy for cost containment as the amount of bonds requested is taken over the number of restricted units so that the more units built, the fewer bonds that are requested become the tie-breaker. She stated that a problem staff saw was that having that as a tie-breaker is harmful to higher cost counties because they need more volume cap and said that San Francisco projects are competing with Fresno projects.

Mr. Roope stated that Ms. Boatman-Patterson had good questions and stated that the cost containment category is something that everyone is doing when it comes to measuring the basis limits in the 4% program, it is not a competitive factor. He stated that developers are trying to comply with the cost containment measures and the threshold basis limits, so they are trying to borrow an existing infrastructure knowing that the existing infrastructure is not adequate for truly measuring a competitive system. Mr. Roope stated that the current CDLAC tie-breaker does do cost containment its own way and says that the more bonds you request for the more units produced, the better off the project is. Additionally, he mentioned that the State Controller's proposal does not focus on cost containment and the working group wanted to focus on the cost containment provision for at least 2022. Mr. Roope stated that a big area of contention for the working group is the distrust with the basis limits in terms of using them as a competitive factor. He mentioned that as a working group, they might say that they want to see a greater boost because certain projects would not work,

but for now are leaving this as a place holder at a minimum to make sure that it complies with AB-83. Moreover, in response to Ms. Boatman-Patterson's question on San Francisco versus Fresno, Mr. Roope stated that the regions themselves are diverse enough to where some type of balancing act needs to occur and San Francisco projects can compare to other Bay Area projects, therefore it is important to understand and recognize the variance from developing projects in different regions.

Ms. Miller stated that she agrees with Ms. Boatman-Patterson in terms of how to equitably have the regional allocations. She also agreed that staff needed a new cost containment measure for 2021 and stated that she does not believe that the tie-breaker works.

Treasurer Ma stated that she wanted to give a heads up that a Board member had to leave at 2 p.m., therefore would lose a quorum.

Mr. Roope stated that he did not have anything else to add and was ready to answer questions.

Mr. Sertich stated that Mr. Roope made an important point in terms of the idea of cost containment and the focus on that and the Trailer Bill language. He believed that the Controller's Office is much more focused on the efficient use of state resources rather than overall cost containment as the federal money TCAC receives is state controlled resources. Furthermore, he stated that the scoring model focused more on the use of the resources than on the cost of the overall project. Additionally, Mr. Sertich believed that there is a differential there and would like to hear what the other board members think about what that difference is about because he thinks it is true that the cost containment measure is looking at the total cost of the projects and the total bond allocation.

Mr. Roope stated that the threshold basis limits look at what the allowed basis limits you can have are versus the actual basis you are requesting. Additionally, he stated that the measure would say how much the project is projected to cost and the measurement would be used to identify a score.

Mr. Sertich stated that he was looking at how the threshold limit was being used. Asked to hear from other Board members in terms of what their focus should be and if it should be on how much the state is putting in or how much the total cost is, or both.

Treasurer Ma stated that since the meeting had the benefit of many public experts, she would like to defer on conversation until after the public comments. She asked if any other board members had any comments, otherwise she was going to take public comments.

Ms. Miller asked Ms. Boatman-Patterson her thoughts of determining the scores when you get into that level of detail.

Ms. Boatman-Patterson asked what the purpose of tie-breakers were in bonds because given that applications are in multiple rounds, it seems like the tie-breaker was irrelevant because it seems like the cut-

off was more of the dollar amount when having multiple rounds as opposed to the tie-breaker. She stated that she would like to hear from the public about the meaning of cost containment and the need of a tie-breaker in a competitive situation.

Mr. Roope stated that the working group observed when using a tie-breaker in the CDLAC system that it had different gradations, which could be seen from the list coming out at some point for the round. He stated that projects scoring 130, 125, 120 would be distinguished by their tie-breaker of bonds requested per unit. Mr. Roope mentioned that in the 9% program, the tie-breaker has a lot of value and it matters who gets funded and who does not, therefore the tie-breaker is relevant as staff has flattened the variance that exists in the current system in 2021 by removing the large family bias and QCT bias.

Mr. Velasquez stated that the issue of public benefit is important to him as HCD focuses a lot on this and asked the working group if there was anything in their expertise that would get to any public benefit that is absent.

Mr. Roope stated that for 2021, a real comprehensive analysis of public benefit would be missed. He believed that the Controller's proposal does a better job of doing, which is why he states that it is worthy of study and why the working group is committed to keep analyzing it and measuring it because the current proposal has limits of how much public benefit being delivered. Additionally, Mr. Roope stated that on a comprehensive level, the working group measures many things that are directly public benefit and even the pools and set-asides address public benefit.

Mr. Velasquez mentioned that Mr. Roope's statement answered his question and stated that Ms. Boatman-Patterson asked the question about the tie-breaker versus none.

Mr. Roope stated that having a tie-breaker still matters in the context of what the tie-breaker is doing as proposed and assumes that the new system would result in many applicants achieving a maximum score, except for maybe in the preservation categories where distinguishing scores would emerge. Mr. Roope predicts seeing more commonality of maximum scores on the new construction side and stated that it will continue like this for 2021 unless the committee adopts a new proposal.

Mr. Sertich stated that the discussion is very helpful as it helps bring some of the decisions that staff need to make. He stated that if staff wants to measure the maximum public benefit, then it is not possible by assuming that if everyone receives maximum points for each category and then the tie-breaker becomes the cost containment measure that maximizes public benefit. Mr. Sertich stated that he does not think public benefits stop at some of these limits and that is how the programs have been operating. Therefore, Mr. Sertich stated that if staff wants to get to a place where maximum public benefit is achieved, the cost containment measure and the public benefit measure must be placed on level footing. Furthermore, Mr. Sertich stated that he appreciates that the working group will continue to look at these issues.

Treasurer Ma stated that there was a question about the HCD backlog and proceeded to ask Mr. Velasquez if he had a spreadsheet on the backlog of HCD projects.

Mr. Velasquez stated that a summary would be sent out.

Ms. Lester stated that she would like to get a little clarification on what shovel ready projects mean?

Mr. Roope stated that shovel ready projects are when a project receives the last of their finances and bonds and the project would essentially be ready to close the financing and start construction, meaning that they have building permits in hand or a grading permit that would allow to proceed construction within a six month period. Mr. Roope stated that this is what the TCAC standard is and that is what is being proposed for the CDLAC standard.

Ms. Lester asked Mr. Roope if shovel ready projects would fall into his suggestion of readiness. She asked if there was any way to provide something that the project would be proceeding within six months because she sees that many projects are coming back for extensions indicating that we are giving allocations to many projects that are not shovel ready. Furthermore, Ms. Lester stated that CDLAC is the last piece of the financing and would think that all other financing would be in place before they come seek a bond allocation.

Mr. Roope stated that a good standard is the tax credit program and incentivizes the projects that are the most ready. He stated that if developers do not perform, the allocation is returned to the state and it gets reallocated and developers receive negative points. Furthermore, Mr. Roope stated that negative points is a strong incentive to perform, therefore many projects on the 9% side are meeting their readiness deadlines. On the other hand, Mr. Roope mentioned that CDLAC has not been in a competitive system prior to this year, so developers can casually say they are not quite ready, but that there is something about deadlines that causes people to mobilize around it. Mr. Roope stated that constantly receiving extension after extension is a change that the program needs to figure out, especially being in a competitive round.

Mr. Zeto stated that all the construction financing is required to be committed at the time of allocation in order to receive readiness points thereby requiring the project to meet the 180 (or 194) day deadline. He stated that it was rare that the deadline not be met.

Treasurer Ma stated that she was opening up the discussion to public comment and was interested in hearing comments about the working group's proposal and any comments regarding the proposed CDLAC changes from the last meeting. Treasurer Ma encouraged written comments be sent to Mr. Walker and stated that if there were more detailed comments that pertained to regulation changes to please submit them but to keep their comments focused for the board level discussion of the meeting.

#### **4. Public Comment**

Ms. Lightman agreed with Mr. Shoemaker that there is some confusion in the direction that they are receiving, but she has heard a few people mention public housing during the meeting. She reiterated the working group's comment about HUD's definition of very low income being fairly substantial as the vast majority of residents in the community are working people, working families, or seniors, and mentioned that many seniors have to work in order to get by.

Mr. Kerner reiterated Mr. Sertich's point about leverage points and stated that he believes it is interrelated to some of the cost control measures that the Controller's Office is interested in. Additionally, he believes that deals that do not have additional public funds are a more efficient use of state resources and states that deals that do not have additional public funds are a more efficient use of state resources. Moreover, Mr. Kerner stated that in some cases, there are opportunities to seek public resources, which are turned down, but if he scoring system indicates that leverage points were available for these resources, they would be incentivized to ask for public resources that the project does not necessarily need. He stated that there is a limit of 60% and willing to take the risk and go down to as low as 51% and said if developers are willing to do that, that would benefit the state and he requests that the working group take a look at that and see if there is a better way to structure the points. Mr. Kerner stated that he is encouraging the committee to look at the relative values of rural, preservation and other points which are all going to be a lot of rehabilitation deals, which some might be a more efficient use of state resources than others.

Mr. Schwartz stated that he agreed with Mr. Kerner on a couple of things and wanted to come back to some of his points because there was some confusion between efficiency of state resources and motivations for keeping local governments and local voters motivated to raise their own funds. He stated that during the last several election cycles, local voters reached deep in many communities across the state to invest in affordable housing with the expectation that the state makes sure it invests its resources well and not linger for long periods of time.

Mr. Leach stated that if the CDLAC program goes to a maximum score with a tie-breaker scoring system similar to the Controller's Office proposal of measuring the efficient usage of state resources in comparison to the benefit, he would like to share some insights. The first is that the type of tie-breaker would incentivize cost efficiency and incentivize cost containment. He stated that if there is an efficiency measure, there would be a limited amount of ways to receive a better score and stated that projects could be designed to have more public benefit and reduce the cost that it is going to take to build it. Additionally, Mr. Leach expressed that he believes the Legislative mandate to focus on cost containment is done with a tie-breaker, similar to what the State Controller's Office is proposing. Moreover, Mr. Leach agrees with staff that local agencies, counties, and cities should be motivated to help finance affordable housing.

Treasurer Ma asked if there were any more comments regarding the proposed changes that Mr. Kass and Mr. Zeto proposed from the last meeting.

Mr. Sertich stated that he was not sure if that was the totality of the proposal of changes that are coming from staff this year or if any more are coming.

Treasurer Ma stated that things that needed to be fixed were proposed and staff did not believe that there would be much discussion or opposition, therefore just wanting to keep the process going and continue drafting changes.

Mr. Sertich stated that he appreciates staff's work on this and thinks most of them were helpful.

Mr. Roope stated that some of the changes that staff proposed were different than what the working group were proposing in the proposal, such as the idea of the QCT 5 points or defining the redevelopment areas. Additionally, Mr. Roope stated that the working group proposed that the QCT category be eliminated as it does not match with the proposal that staff made in the prior meeting.

Ms. Boatman-Patterson stated that she would like to receive an understanding of what some of the differences were for what staff had proposed versus what the working group is proposing. Ms. Boatman-Patterson felt that there were some changes that staff were proposing that she was not keen on a requirement that 50% of the development be set aside for special needs in the bond program as this is problematic when dealing with fair housing or the Olmstead act with large developments that have all special needs participants. Furthermore, Ms. Boatman-Patterson would like to hear from the working group, the areas where CDLAC should not be aligning with the 9% program just for the sake of aligning.

Mr. Roope mentioned that he would call attention to some of the staff proposed changes. He stated that the first was the definition of a homeless project. Furthermore, he stated that the working group feels that there is a different threshold than 50% for article 34 and are emerging around more of a 45% definition.

Mr. Shoemaker stated that HCD staff have worked on the issue and to his understanding, they have arrived at a 49% definition because of the Olmstead consideration.

Ms. Boatman-Patterson stated that she has had discussions with HUD on a few of these fair housing Olmstead issues and knows that the 49% was also helping the HCD article 34, but mentioned that after hearing back from HUD, it depended on the size of the project. Furthermore, Ms. Boatman-Patterson mentioned that perhaps a lower threshold, such as 25% would give the flexibility to go further depending on location and size of the project.

Mr. Shoemaker stated that it would be a good idea to get comments from the working group on what is a good policy threshold. He stated that Mercy Housing operates supportive housing in the state and have 150 unit buildings that are 100% permanent supportive housing with no HUD issues with them.

Mr. Roope stated that staff is proposing alignment of certain definitions, such as the site amenities and that the working group will be coming forth with a specific list of recommendations because they have not

disseminated some of their more minor recommendations, but that there will be proposals. He stated that the working group wants to eliminate the sustainable building methods category from both CDLAC and TCAC because they believe that there is already an advanced stable energy code that makes affordable housing affordable, therefore seeing it as a cost containment measure. Furthermore, Mr. Roope suggested eliminating the community revitalization category and have specific recommendations for the preservation points category. For the large family units category, Mr. Roope suggested the requirements be a little less heavy on the three bedrooms and for leveraging, he noticed in the staff's proposal that there was a recommendation to have a calculation similar to TCAC that boosts for large projects. Additionally, Mr. Roope suggested eliminating the forgone developer fee category and for the income averaging provision, suggested supporting income averaging counting 70% and 80% as restricted units. Moreover, Mr. Roope mentioned that for the tie-breaker, the staff proposal suggested adding in credits as part of the calculation and stated that this suggestion could go one or two ways: one is to treat the state credits as a resource that is in a bucket and the other is for projects that come forward asking for bonds, if scored sufficiently, would automatically receive an award of state credits.

Mr. Velasquez stated that in the earlier question about elevators, it is an important matter and should not be dismissed and also wanted to know the issue about access to broadband.

Mr. Roope stated that in the scoring system, currently high-speed internet is an amenity that developers can choose in their list of amenities. He stated that it is not necessary if projects score points in other ways in the amenities, the high speed internet could be foregone. It would become a policy question for the committee if high speed internet should always be required.

Mr. Velasquez thanked Mr. Roope and mentioned how COVID has compounded disparities in access to opportunities. Furthermore, he stated that it is seen with the online learning of the students and the empowerment of minorities.

Treasurer Ma stated that Mr. Velasquez had a good point, especially now with distance learning and the kids. Treasurer Ma further stated that no one knows when students would get back to in-class learning or when the next round of COVID would hit.

Mr. Shoemaker stated that Mr. Roope's point is something that would be great to coordinate with other state agencies. He stated that he thinks it is important to form a partnership like with the CPC around energy efficiency dollars and have a clear stated mandate that broadband is a public infrastructure that would be provided at a discounted rate in affordable housing and then becoming something that would be easy to make a requirement.

Treasurer Ma stated that this would be a good bill for the affordable housing authors in the Capitol.

Mr. Sertich stated that that was something that staff would need to make a decision on to move forward and believed that the proposals that the working group have come up with is workable as it would improve



outcomes for projects for the following year. He acknowledged that staff has worked hard and have built more new units through the program from this year but believes that a better scoring system in place and a better application in place would allow for more units to be built. Furthermore, he stated that significant changes need to happen this year and appreciates the work that has been done by the working group in trying to come to a consensus.

Ms. Miller thanked Treasurer Ma and stated that she was not ready today to make any final decisions, but that she believes staff is close in a lot of areas. She stated that staff knows what the outstanding issues are such as the public benefit measure, the tiebreaker, and determining the regionalism. Furthermore, she suggested not accepting any applications in November and that the applications would come in 2021. Lastly, she believed that the requirements of AB-83 would be met.

Mr. Sertich stated that he is not saying staff needs a different process, but that staff needs to make sure that everyone has all of their voices.

Ms. Boatman-Patterson stated that she does not know that staff needs to do a separate process with the working group coming and presenting, but she does believe that staff will need actual regulations to review. She stated that after staff comes up with this consensus, the actual regulations would be posted adequately so that everyone could then review those regulations and come to a public hearing to be able to comment.

Treasurer Ma stated that the next scheduled meeting for CDLAC is September 16, 2020 and that it is an allocation meeting. She asked how sensitive these allocation meetings are.

Mr. Roope stated that the next scheduled meeting might not be the best time to have a policy meeting, as the disaster credits are awarded at that meeting. He stated that as a working group, they are trying to produce consensus recommendations and are going to discuss the tiebreaker, work on the Controller's proposal, and work on other items where they do not have consensus. Mr. Roope added that if there were to be two more meetings, one to have another discussion and another to make a decision, then the working group would try to get to a consensus by the next meeting.

Ms. Miller thanked Treasurer Ma and wanted to clarify with Mr. Roope that some of this is the work of the government so there is no expectation that the working group must come to a consensus. Furthermore, she added that in terms of public benefit, she believes that the staff is looking at a scoring system that maximizes the efficient use of public subsidy and benefit with certain factors not unlike the Controller's plan, except it would be built into the scoring system. She added that topics already talked about are the number and size of units, proximity to amenities, and location of the development.

Mr. Velasquez thanked Treasurer Ma on behalf of himself and everybody at the Governor's office for steering this process.

Treasurer Ma wanted to thank the working group for their hard work and all the time they have spent in bringing their work to the table. Furthermore, she added that hopefully there would not be too many changes after the working group continues to deliberate considering all of the comments they have heard during the past few months.

Mr. Sertich wanted to thank Ms. Boatman-Patterson for clarifying. Mr. Sertich added that he was not saying he wanted a longer public comment period, rather he was saying that as staff receives the full regulations, it is important to make sure staff has had an ample opportunity to go over them.

Treasurer Ma stated that two more meetings are necessary before a decision is made and there is no need to overlap the September 16, 2020 allocation meeting.

Mr. Roope asked that the committee decide if September 16, 2020 is a good date.

Treasurer Ma mentioned that she had two proposed dates and asked that the Board members check their calendars as well as the working group members for September 2<sup>nd</sup> or 3<sup>rd</sup>.

Ms. Miller asked Treasurer Ma if she would be willing to move the meeting to the following week because of the Legislative session as she does not know if she would be able to get some of the answers before then.

Treasurer Ma suggested Thursday, September 10, 2020, at 1:00 p.m. as Labor Day is the 7<sup>th</sup>.

Ms. Boatman-Patterson asked if there was a deadline for October 15, 2020 to get the regulations in place.

Mr. Walker stated that was assuming applications with a deadline in November 2020. Furthermore, he stated that as the regulations are not adopted, that would not be possible.

Treasurer Ma asked if there was a federal annual allocation deadline for housing as well. Additionally, she believed that Ms. Blackwell was also trying to allow for that.

Ms. Boatman-Patterson stated that she believed so.

Mr. Roope stated that the working group believes that if the regulations were adopted in December and every year in mid-January the allocations are set, pools and set-asides are set, the working group would support that kind of approach.

Mr. Leach stated that he would appreciate it if the pools were first set in January and then the projects apply because he believed that when these happen concurrently, it adds more uncertainty.

Mr. Shoemaker stated that the working group is wondering if the committee had general feedback on the overall framework that the working group proposed on the set-asides and pools subject to definitional changes, percentage changes, and regions.

Treasurer Ma stated that was a good question and asked for Ms. Miller's input.

Ms. Miller expressed that she did not fully understand Mr. Shoemaker's question as she feels that she answered that question earlier and that staff thinks the working group is moving in the right direction. She stated that she understands that the state has made a commitment to HCD funded projects and she does not think that Mr. Shoemaker hearing staff say that the commitment will not be met.

Mr. Shoemaker stated that he believed Ms. Miller thought he was asking the same question again and was going to just listen to the committee speak now.

Ms. Miller asked Mr. Shoemaker if his question was whether or not staff believed the working group was moving in the right direction?

Mr. Shoemaker asked if the framework of having set-asides, pools, and the regions make sense to the committee because while the working group has presented it a few times, he does not think the working group has actually had any feedback about whether or not the overall framework makes sense regardless of what the pool is, whether it is an HCD pool or any other thing.

Ms. Miller thanked Mr. Shoemaker and apologized for her misunderstanding of his question.

Mr. Sertich stated that he believed it was important to have the regional pools and set-asides as part of the process.

Treasurer Ma stated that for her, that is a public and private partnership because having the working group means they are stakeholders. She added that they know what the projects are, what can and can't be done. Furthermore, she asked that she would like to see a consensus so we can meet the committee's housing goals.

Ms. Boatman-Patterson stated that Mr. Roope and Mr. Shoemaker had done a great job as she believed the framework reflected the work and direction that the board had given to them. She stated that Ms. Miller believed some work may be policy decisions that the board would need to decide.

Mr. Roope stated that their work and direction was worthy for the working group.

Ms. Boatman-Patterson stated that she wanted everyone to understand the process for OAL and the public comment periods for meeting deadlines.

Treasurer Ma stated that a public comment period is necessary.

Mr. Walker stated that the process after staff drafts the regulations and are approved, there is a public comment period for 45 days, and if there are comments, staff will respond to them. Furthermore, Mr. Walker mentioned that if public comments required additional changes to the regulations, staff would revise the regulations and come back for board approval, then an additional 15 days are required for another public comment period.

Treasurer Ma asked about the OAL process.

Mr. Walker stated that OAL would give the board up to one year to get the process done. He stated that if OAL does not approve them, staff would have to go back to address the issues in the regulations. Furthermore, he mentioned that if a decision is not made within the year, the process would start all over.

Ms. Miller stated that the OAL process was not relevant as the trailer bill gave emergency rule authorizing Mr. Walker, therefore time periods are not as strict given the emergency rule making authority at CDLAC.

Mr. Walker stated that Ms. Miller is correct, however in the emergency process, the board still has 180 days to fix regulations, therefore the regulations would have to notice the regulations again, subject to the 45 day public comment period. Furthermore, Mr. Walker stated that the emergency regulation process only gives the board six months to get emergency regulations in place.

Mr. Roope asked if the committee were to adopt the regulations in December, would it work out if applications happen on February 15, 2021 as it would be over 45 days? Mr. Roope stated that it is necessary for the working group to know when things need to be done, then the committee will know there is pressure for them to get things done sooner with their approval, and stakeholders could help accelerate the process.

Treasurer Ma stated that adopting the regulations in December is late and she is looking at November if 60 days are required for a notice plus changes. Furthermore, Treasurer Ma stated that the changes for the February round might not happen and the changes would probably be implemented for the following round.

Mr. Roope stated that the stakeholder community would appreciate clarity in the matter so that they can ready their projects. He asked if adoption and finalization for the regulations could happen concurrently to make it permanent.

Ms. Miller stated that the emergency regulations do not require the 60 day period as these essentially go into effect right away.

Mr. Kass stated that emergency regulations, after the board approves the language, requires a five business day posting period.

Mr. Walker stated that was correct.

Mr. Kass stated that implementing emergency regulations requires 10 calendar days for OAL to act. Furthermore, Mr. Kass stated that this is a very compressed timeline to get them in as emergency regulations that can be used and adopted and worked with, but at the same time staff can work towards making those permanent instruments of that process.

Mr. Walker stated that emergency regulations have to be approved by OAL and by the Secretary of State, and once they have been filed by the Secretary of State, then they become regulations that are adopted.

Treasurer Ma asked if voting and passing the emergency regulations in December will allow us to take applications in February as staff would not have to wait for the 45 day and 15 day public comment period as this would be effective immediately. She added that applications would be accepted and then are able to apply to the OAL to make these emergency regulations permanent.

Mr. Walker stated that the applicants who apply during that 6 month period of the emergency regulations being in effect pending finalization of the regulations to permanent status have to make sure that those are in place before those emergency regulations expire, which is at the end of the 180 days.

Ms. Miller stated that Treasurer Ma's statement was not correct. She stated that emergency regulations go into effect the day that the board decides on them. She asked Mr. Walker if they could take this conversation offline and put a memo on CDLAC's website on this as she did not want anyone to be confused by the 180 days.

Treasurer Ma added the possibility of getting rid of the OAL process somehow.

Mr. Walker stated that TCAC has a specialized provision in statute unlike any other BCA's and that is why TCAC has to stamp their regulations because they cannot deny them. He added that CDLAC does not have that same emergency regulation process and hopes with the alignment of CDLAC and TCAC that CDLAC will have the same emergency regulatory language.

Ms. Miller stated that it was not too late since the trailer bill financial language is still being worked on. Furthermore, she stated that this matter would be left in the hands of the Governor.

Ms. Boatman-Patterson stated that CDLAC does more than just housing. She added that HCD has a similar guideline making process, TCAC has a guideline making process, but that CDLAC is bigger than just housing.

Treasurer Ma stated that she would take just the housing aspect since it is a mandate and there is a crisis, so she is willing to do that.

Mr. Jarrett stated that he is a small developer of color that had been navigating through this process for affordable housing. His concern is that the direction that seems to be going is to make the bond program look more and more like the 9% program, but that the 9% program had been a very high hurdle to many small and minority developers. Mr. Jarrett added that he wanted to let the board know about this kind of movement and the restrictions and impediments that are created because of that.

Treasurer Ma thanked Mr. Jarrett and said that a discussion would be had on his concern. She added that the staff talked about under General Partner and Management Companies experience, whether there is something staff should be doing to encourage smaller developers or give those opportunities to small developers like himself.

Mr. Jarrett stated that experience is a very significant requirement and requires that the developer have a default penalty if they do not perform. Mr. Jarrett added that developers have to demonstrate their capacity to do projects and added that it should not be such a high hurdle to get into the development process.

Treasurer Ma stated that staff would take a look at Mr. Jarrett's statement.

Treasurer Ma adjourned the meeting for further discussion on September 10, 2020 at 1:00 p.m.