



## California Debt Limit Allocation Committee

915 Capital Mall, Conf Rm 587  
Sacramento, CA 95814

September 29, 2021

### Committee Meeting Minutes

#### 1. *Agenda Item: Call to Order and Roll Call*

The meeting was called to order at 11:01, virtually, and in the Jesse Unruh Building in Sacramento, CA, with the Treasurer chairing from the Ronald Regan Building in Los Angeles, CA.

Voting Members:           Fiona Ma, CPA, State Treasurer  
Tony Sertich for Betty T. Yee, California State Controller  
Gayle Miller for Governor Gavin Newsom

Advisory                   Gustavo Velasquez, Department of Housing and Community  
Members:                 Development  
Tiena Johnson-Hall, California Housing Finance Agency

#### 2. *Agenda Item: Approval of September 8, 2021 Minutes*

##### **Committee Comments:**

There were no comments from the committee.

##### **Public Comments:**

There were no public comments.

**MOTION:** Miller moved to approve the September 8, 2021 meeting minutes. Sertich seconded the motion.

Motion passed unanimously via roll call vote.

#### 3. *Agenda Item: Executive Director's Report*

*Presented by Nancee Robles*

As of the first week of September, Sjoberg Evashenk Consulting had completed 106 hours toward the strategic planning project which is about 20% of the allotted time originally designated.

They completed interviews with over 70 staff to collect information to begin drafting organizational overviews.

The preliminary observations include:

- A growing workload with need for additional staff
- Information technology needs, with an emphasis on getting away from a paper process
- The need to update procedures in order to properly transfer institutional knowledge
- The need for specialized staff such as those with expertise in preparing regulations

Next steps are to examine the business processes, databases and record keeping to identify weaknesses and opportunities. To evaluate regulations to reflect changing priorities and operations, as well as the process in which they are tracked and monitored.



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Committee Member Miller requested an update on carryforward at this meeting.

In the April 2021 update provided to the Committee, the carryforward reported included allocation that was carried from one year to the next, yet most was already dedicated to impending bond transactions. Since dedicated allocation is not an accurate reflection of carryforward, carryforward that is presently available to be used for future projects will be reported and is current as of September 27, 2021.

CDLAC staff reached out to the Issuers who have applied for bond allocation within the last four years to verify the amount of carryforward retained and available by each.

The Issuers were also asked to report on any 2021 Allocation they intend to return to the Committee before the end of the year. Allocation returned before November 24, when the agenda for the last Committee Meeting on December 8, 2021 will be posted, is put back into the pools in which they came from and added to the amount of allocation available for Round 3 applications. Any allocation returned to the Committee after November 24, 2021 will be reallocated by the Committee. This is called reversion. Allocation that is reverted to the Committee is reallocated to Issuers that the Committee is confident will utilize the allocation for “like projects” within the allotted time of three years.

As bonds issue for amounts less than previously allocated, allocation is either reverted or retained by the Issuer depending on the instruction in each Resolution. Generally, unused allocation with a bond issue expiration date prior to the last Committee meeting of the year is reverted by being returned to the committee to reallocate. Unused allocation with a bond issue expiration date that extends past the calendar year is retained by the Issuer due to IRS reporting requirements. This is called Carryforward.

Carryforward allocation retained by an Issuer is used on a first in, first out basis for “like projects”. This means an allocation originally for housing cannot use the carryforward for an exempt facility and vice versa. Staff tracks and collects carryforward statistics from issuers to reconcile to CDLAC records. On April 28, 2021 the Committee approved to adopt Emergency Regulations § 5133, consistent with the Title 26 IRS Code § 146 to ensure carryforward is used whenever legally possible before current year allocation is awarded to a project. This helps protect and fully utilize the scarce resource of State Volume Cap.

Currently only two issuers have prior year carryforward allocation. California Municipal Finance Authority holds \$35,498,916.00 of 2020 carryforward allocation and City and County of San Francisco holds \$12,245,505.00 of 2019 carryforward allocation for a total of \$47,744,421 outstanding.

Since the last meeting CDLAC was represented at the:

Arya Groundbreaking in Bay Area city of San Jose along with Mayer Sam Liccardo. This was a project that received over \$34 million in bond allocation and \$2.5 million in tax credits for an 87-unit low-income multifamily housing project.

The Treasurer along with the CDLAC Executive Director attended a Grand Opening Ceremony at Foon Lok, which means “Joyous Community” in Cantonese, in Oakland. This 130 multi-family affordable project received \$59 million in bond allocation from CDLAC. Secretary Castro Ramirez, Assembly members Buffy Wicks and David Chiu were also in attendance. This event was where HCD Director Gustavo Velasquez announced his CA Housing Accelerator Program.



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For the third year in a row, Emily Burgos and Executive Director Robles assisted CalED by instructing a full day course on Financing Economic Development for its Accredited Certification in Economic Development (ACE Program). This is a California Certification, hosted by Fresno State. Anthony Zeto represented CDLAC and CTCAC at the CA Council of Affordable Housing conference and the Non-Profit Housing (NPH), Affordable Housing Conference by speaking on panel discussions.

In Legislative News, the infrastructure bill has many items of interest affecting CDLAC, yet one that is not expected to change is the State Volume Cap. The State volume cap is a calculation of a dollar amount (set by the IRS) per person within a State's population. Historically, the amount goes up slightly each year, however could remain stagnant or even go down from the previous year, depending on the population of a state.

A potential change that would affect CDLAC is the possibility of the 50% test lowering to 25%. The Treasurer's letters of support were extremely influential in this legislation moving forward. We will find out in the days to come if this change will take place. If it does it will not affect the third round of applications to be awarded in December, it would likely go into effect for 2022.

CDLAC received 103 applications for bond allocation requests. Staff are reviewing the applications to be prepared to present them to the Committee at its December 8, 2021 meeting.

### ***Committee Comments:***

Sertich appreciated the carryforward update and expressed the need to have this handled more formally in the next meeting in regard to next year. He pointed out the need to have regulations ready with the potential change from the 50% test to a 25% test.

Miller expressed the benefit of distinguishing between reversion and carryforward and requested additional transparency regarding carryforward. Reports on new allocations, reversion and carryforward as identified by issuers at each meeting or quarterly may be beneficial.

The Treasurer has previously asked for a demand survey to identify reversions and carryforward, which may help identify regional needs.

Robles specified when resolutions are sent to issuers, reversion funds are identified. Issuers don't have control over reversion because it is the committee who reallocates it. Regulations were changed in April to ensure the carryforward is being placed on highest ranking project so is used first. Currently there is no carryforward from 2018 remaining. 2019 has \$12 million. 2020 has the remaining amounts. This has been carefully tracked and issuers are frequently asked to report. The process has been working thus far and there will be a point where there is no additional carryforward.

Sertich asked if there are updates on regulation changes though understands there will be some comments on it on Agenda Item 7. Robles assured him though there are no dates to provide at this time, the team is active in the working group for these regulations.

### ***Public Comments:***

Matt Callahan with Southern California Partners of Home Ownership is requesting the Mortgage Credit Certificate program be reinstated since it was suddenly defunded, though had been



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beneficial.

Ben Barker with CMFA wanted to clarify the \$85 million carryforward mentioned at the previous committee meeting was a combination of carryforward from 2020. When they became aware of the possibility of projects not moving forward, they notified CDLAC as soon as possible so reversions could be reallocated in a timely manner.

#### **4. Agenda Item: *Consideration of Extension Requests for Qualified Residential Rental Projects Allocated in 2021***

*Presented by Nancee Robles*

CA-21-439 Maison's Village I has requested a 90-day extension.

Ben Barker with CMFA speaking on behalf of Maison's Village I, is requesting a 90 day extension due to extenuating circumstances. Joshua trees are now protected, which caused an issue since there are some on the property being developed in the Palmdale/Lancaster area. The team has been working with the group who put the trees on the list, and the group will be moving the trees within the next 90 days. This was put in to play after the allocation had been awarded. It is a big process as some areas of the states have more trees than others. The remediation plans and removal have all been put in place, and the developer can still close.

##### ***Committee Comments***

Sertich is sympathetic to the cause. When there are issues on the administrative side, he is less likely to be sympathetic. He specified this is different circumstances than the committee has heard over the last few months. Miller is also sympathetic to the situation.

##### ***Public Comments:***

There are no public comments.

**MOTION:** Miller moved to approve the extension request. Sertich seconded the motion. Motion passed unanimously via roll call vote.

#### **5. Agenda Item: *Discussion of Black Indigenous and People of Color (BIPOC) Regulations***

*Presented by Emily Burgos*

The Treasurer wanted to know if the program is working, to hear from the developers, and if they can apply under the regulations as they are.

##### ***Public Comments:***

Cherene Sandidge, President of Black Developers Forum (BDF) expressed appreciation for the Treasurer and the state's stance [on emerging BIPOC developers], and is now seeing this being discussed in other states. This is still a new pool. There is a misconception on what the pool is intended for as there is an assumption that just being BIPOC makes you eligible. It was intended for emerging developers to work in their community; who lack the experience to compete in the general pool. It is necessary to have continued dialogue to make recommendations for clarification, not only behind closed doors, but in a way for others to know this is a team effort to create an equal opportunity to get state funding.

The Treasurer requested the recommended changes be written and sent in so they can be taken into consideration. Miller urgently expressed support of the growth of this pool and to get



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regulations in place quickly to support it, while specifying unused allocations set aside for that pool revert back to the pool if unused, unless it is at the very end of the year.

Mike Miller, Executive Director of Bold Communities, which is a BIPOC based in Los Angeles, launched the program this year because of the BIPOC set aside, as a path in to the industry. Though the community is encouraged, there are specific challenges ahead, and will be submitting recommendations regarding that accordingly. He expressed thanks for the opportunity, understands there will be growing pains, but looks forward to working with the committee on expanding the pool.

Reese Jarrett in San Diego is also part of BDF and echoes Sandidge's comments. Jarrett recognized there will be some ramp up for developers to put those projects in place so the pool can be utilized. It is not that there is no interest, there may simply be time needed to set the projects in motion. He is part of the team that scored well in Round Three and may therefore have the opportunity to provide housing from that round. There are some amendments and adjustments that can make it more usable for the intended purpose. He wanted to congratulate the committee on putting it in place to give the opportunity to those who were previously locked out of it.

Sophia De Anda is not part of any organization but is concerned about BIPOC and identifies as a transgender Native American disabled veteran. De Anda articulated concerns over compliance not being enforced in regards to discrimination against these protected classes in the community. The Treasurer echoed the need to have these questions answered.

Regina Davis, a member of BDF, supports Sandidge's comments. She is working on an assessment and measurement of the pool from this year with Jarrett.

Todd Clater with Tabernacle Construction and a member of BDF, wanted to further articulate agreement with what's been said. There are still growing pains, and there are things they still desperately need help with in making progress on with ramping up the pool. This includes pre-development funding in order to pitch projects. He does not yet have the experience to graduate to the general pool, but needs to have the opportunity to get there. The goal being to make up for lost time, to help get the BIPOC community there.

John Gilmore with Community Housing Corporation, works with the BDF and wants to echo the same comments. The process is working like it was supposed to and anticipated there would be a lag in submitting the applications. There will be some ebb and flow as the pool gets off the ground. There is a graduation process to compete in the general pool where there is some equity. He is thankful and encouraged by how the program has been embraced and will continue to have recommendations as the pool grows and matures.

William Leach with Kingdom Development is a financial adviser and co-developer for emerging and established developers. They don't have any acquisitions and are only catalysts to get things done. By the nature of what they do, they are able to assist BIPOC developers and have some recommendations on how to improve. He recommends partnering emerging developers with experienced developers so they can get the opportunity to compete in the general pool if they can't compete in BIPOC. He also recommends awarding BIPOC last so if BIPOC would have won in the general pool, they would not need to take funds from the BIPOC pool affording another BIPOC entity an opportunity compete.

### ***Committee Comments:***

Sertich wants to verify what the goals are for BIPOC so changes in the regulations will produce the



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desired outcomes. The #1 stakeholder is the tenant and focus on them as much as possible. The point of this pool is to support more inclusion, to assist emerging developers, and being mindful of the community. There needs to be adequate time given so desired outcome can be achieved. Additionally, there are needs for other funding, such as pre-funding, and challenged entities like HFA and HCD to help toward these goals since CDLAC cannot help with that. Velasquez stated AB 434 made HCD consolidate some programs starting next year. Guidelines will be revised so the issue of incentives for BIPOC can be front and center for this review. HCD is willing to work with CDLAC since they are doing this review right now. This will help emerging BIPOC get that experience they need. HCD will be coming out with a proposal to align the whole housing system to not go too far off the course, but those conversations are not yet complete.

### 6. *Agenda Item: Reassign 2018 Carryforward Allocated to Resolution Number 21-157 Barry Apartments*

*Presented by Emily Burgos*

CA-21-542 Barry Apartments was awarded allocation at the August 11, 2021 Committee meeting. In compliance with the CDLAC regulations, City of Los Angeles' available carryforward was applied to its highest ranked project, CA-21-542 Barry Apartments. The award included \$5,815,376 in 2018 carryforward allocation, \$14,332,715 in 2019 carryforward allocation, and no current year allocation. Resolution number 21-157 was issued for the project with an issuance deadline in 2022. Staff is recommending the swap of \$5,815,376 in 2018 carryforward with current year allocation between CA-21-542 Barry Apartments and CA-21-546 Lumina.

#### **Committee Comments:**

There were no committee comments.

#### **Public Comments:**

Cristina Martinez with General Housing, on behalf of Barry, agrees with staff's recommendations. Andre Perry with the City of Los Angeles give support of the reassignment of allocation.

**MOTION:** Sertich motioned to approve the reassignment of allocations to CA-21-157 Barry Apartments. Gayle seconded the motion.  
Motion passed unanimously via roll call vote.

### 7. *Agenda Item: Recommendation for Adoption of Emergency Regulations*

*Presented by Nancee Robles*

California has been allocated \$4.3 billion in bond authority for 2021 of which \$3.9 billion has been allocated by the Committee for tax-exempt bond authority for affordable housing projects. The schedule for awards includes a Committee Meeting on December 8, 2021 by which time these emergency regulations must be in effect in order to allocate the prescribed \$1.5 billion allocation remaining for affordable housing in a manner that complies with all statutory requirements and also provides fair and consistent requirements for applicants. Timely allocation will address the existence of an affordable housing crisis in California as proclaimed by the Governor and the State Legislature. The amendments proposed by this promulgation will assist the Committee to meet those goals.



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All of the regulation changes being proposed today have already been approved by this Committee at its October 16, 2019 meeting and its May 20, 2020 meeting. The Emergency Regulations were approved by the Committee and filed with the Office of Administrative Law (OAL). Due to staff error the final step of completion, the filing of a permanent regulation packet, was not performed during the required timeframe causing expiration and necessitates the re-adoption of these Emergency Regulations.

### ***Committee Comments:***

Miller requested a consolidated red-lined version of recommended changes and to submit the package all at once in this manner. Robles clarified OAL does not allow agencies to proceed that way. Johnson-Hall stressed a need for more time and information to review all the regulations so there are no unintended consequences, so respectfully requested to carry the conversation to the October 20<sup>th</sup> meeting.

Miller asked if the packages could wait and be approved with other packages so the dates sync up. Robles clarified there is not three weeks to wait to submit these changes without consequences in Round Three. The goal is to reserve the November meeting in case there needs to be additional voting on regulations. As it stands, there are 5 packages of emergency regulations needing to be made permanent. Approving regulations on an emergent basis puts them in effect immediately, but it takes about 6 months to make them permanent. OAL is incredibly specific to the language that is being changed. They are only concerned with the language added or removed, and some of those sentences and definitions are on a different time frame. The goal is to align them all so they can work with only one package starting next year.

The Treasure asked if the emergency regulations are not made, if the guidelines will revert to last year's. Burgos identified that is the case, but the goal is to have the emergency regulations passed and continue with the most current changes and not revert. Staff have been working to make sure the package submitted is what has been passed at the board and applicants are applying for in Round Three. If this is not done, round 3 will have different regulations to abide by than the other two rounds.

Sertich did a quick search on mixed income and restricted rental units. Definitions in the board package takes income averaging into consideration, which is not accurate in Westlaw, so needs to be updated. Burgos clarified one of the reverted packages hasn't been input into Westlaw by OAL and is still reflected in Westlaw.

Johnson-Hall asked if it is the board's intention to submit current package to OAL. Burgos stated the only change recommended was to include the CalHFA program, otherwise there are no other changes and are the most current practices.

Miller requested a complete redline next time since there was some confusion which may be that the only thing presented are very specific to what is being changed some confusion surrounding it, so abstains from the vote since it wasn't clear in writing.

### ***Public Comments:***

Caleb Roope with Pacific Companies supports the passing of the emergency regulations. The applicants are operating off of what is currently understood.





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Mark Stivers with California Housing Partnership is in favor of adopting the regulations, since applicants have been working under these regulations.

Cherene Sandidge with BDF stated she is glad the committee is in support of the emergency regulations since the consequences of changing it at this time would have a huge impact for BIPOC and would hate to see it falter due to some definition of regulations. She wants to enact the regulations in order to keep BIPOC intact, and as a developer, wants to make sure regulations are received and approved expeditiously.

Sophia De Anda stated she is used to having the emergency regulations posted online and wants to be able to see them in order to maintain transparency for general public.

**MOTION:** Sertich motioned to approve the emergency regulations. Treasurer seconded the motion. Miller abstained from vote.

Motion passed with 2/3 majority via roll call vote.

### 8. *Agenda Item: Public Comment*

Darren Bobrowsky with USA Properties Fund inquired about the allocation of state credits in third round, based upon the possibility of credits running out, and how it is addressed with the committee. He stated the regulations are clear on where the cascade starts and how projects move down, going from largest to smallest until each has its allocation amounts. Because of this, the state credits run out after the first couple rounds. The concern is if projects would be skipped, or if there is an ability to fund from the next year's credits.

Sertich agreed the process needs to be nailed down prior to awards for next round.

Caleb Roope of Pacific Companies is part of the working group engaged in developing regulation recommendation. The working group is requesting feedback from the committee on what direction to take. One area in question is regarding tiebreakers and if public benefit produced should be taken into consideration. Another is potentially capping allocations to a certain percentage to allow others opportunities for awards since some tend to receive far more allocations than others. Additionally, there are certain jurisdictions who feel they don't get an opportunity to receive funding. These questions and more would benefit in the steering of the workgroup.

Sertich requested to have the processes be as transparent as possible and would like this topic brought to the committee so the direction can be discussed.

Sophia De Anda requested information on how the agencies handle developers who engage in discrimination, causing harm to the public. De Anda also requested to be contacted by the compliance team and provided her email address. The goal is to prevent evicting tenants due to discrimination.

#### ***Committee Comments:***

The Treasurer identified October 13, 2021 may be an option for a follow up committee meeting. Sertich and Miller verified they are available on the specified date.

### 9. *Agenda Item: Adjournment*