

**CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE**

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DATE: June 20, 2008  
TO: Low Income Housing Tax Credit Stakeholders  
FROM: William J. Pavão, Executive Director  
SUBJECT: Land Lease Rent Prepayments

I am writing to clarify a matter that arose in the first round of the 2008 nine percent (9%) tax credit competition. The following describes how the California Tax Credit Allocation Committee (TCAC) views land lease prepayments contained within the development budget for purposes of calculating the third tiebreaker in both the 9% and 4%-plus-state credit competitions.

**Background: Land Lease Prepayments**

For a variety of reasons, some projects enter into extended land lease agreements with the property owner rather than purchasing the property. Frequently land lease payments are either de minimis (e.g., one dollar annually) or budgeted as an ongoing expense in the project operating budget.

In the first round of 2008, TCAC staff recognized that some applicants were displaying within the development budget (2008 9% Application, Section IV. Sources and Uses Budget) within the portion entitled "Other Project Costs" a line item labeled: "Other: Prepaid Ground Rent." This is a critical factor in calculating the third tiebreaker.

**Treatment within the Third Tiebreaker**

By regulation, the third tiebreaker is a feature of both the 9% and 4%-plus-state credit competitions (CCR Sections 10325(c)(12) and 10317(h)(2)). The third tiebreaker evaluates the lowest ratio of requested unadjusted eligible basis to total residential project costs excluding specified costs and financing features. One of the costs to be excluded from the third tiebreaker's denominator is "total land cost." This exclusion was meant to enable a fair comparison of the requested basis to project costs, excluding the widely varying costs of land throughout California and within its regions. Leaving land costs in the calculation would systematically skew the tiebreaker results to those projects with the highest land cost.

Consistent with the regulatory provision's intent, TCAC interprets the term "total land cost," as used within the third tiebreaker regulatory language, to include all costs associated with the acquisition of access and control of the land, including prepaid land lease rent contained within the development budget. To clarify this matter, and ensure that staff can more easily recognize all variations of total land costs, TCAC has amended its application's Sources and Uses form to add a labeled line item "Land Lease Rent Prepayment" among the subset of items listed as "Total Land Cost or Value." This

clarification eliminates any potential confusion among applicants and helps TCAC staff quickly locate the item when calculating the third tiebreaker score.

**Final Note Regarding Application Innovations**

The California Tax Credit Allocation Committee strongly advises any applicant who contemplates including an innovative feature within a TCAC application, to contact your regional TCAC analyst in advance. In this way, TCAC staff can provide clarifying technical assistance regarding how that feature might be viewed in scoring and under the program's threshold requirements. In addition, advanced notice enables TCAC staff to avoid neglecting such a feature in reviewing and scoring the application. In the absence of such advanced notice to TCAC staff, misunderstandings may arise regarding how TCAC would intend to evaluate such features during its application review.