

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
Minutes of the September 19, 2018 Meeting

1. Roll Call.

Vince Brown for State Treasurer John Chiang chaired the meeting of the California Tax Credit Allocation Committee (CTCAC). Mr. Brown called the meeting to order at 2:00pm. Also present: Alan LoFaso for State Controller Betty Yee; Jolie Onodera for Department of Finance Director Keely Martin Bosler; Lisa Bates for Department of Housing and Community Development (HCD) Director Ben Metcalf and County Representative Santos Kreimann.

California Housing Finance Agency (CalHFA) Executive Director Tia Boatman-Patterson and City Representative Ray Mueller were absent.

2. Approval of the Minutes of the July 18, 2018 Meetings.

MOTION: Ms. Onodera moved the approval of the meeting minutes. Mr. LoFaso seconded and the motion passed unanimously by a roll call vote.

3. Executive Director's Report.

Executive Director Mark Stivers started off by thanking staff for their work on the 9% rounds. He noted that these rounds are incredibly stressful due to the large number of projects that are reviewed within a short period of time.

Mr. Stivers stated that depending on the outcome of the appeals and exchanges between federal and state credits, staff is almost surely going to have some additional credits available that will need to be awarded before the end of the year. He stated that staff plans to bring forward a waiting list of projects for the remaining credits at the October meeting.

Mr. Stivers stated that TCAC received 33 applications for the 4% tax credits which will be brought to the committee at the October meeting. He also noted that this was a pretty big round, keeping TCAC on track to end up 2018 half way between the 2016 and 2017 figures for units financed.

Mr. Stivers also stated he submitted regulation changes for public comment on September 4th and four hearings will be held throughout the state beginning next Monday with public comments due by October 29th. Mr. Stivers will review and respond to the comments during the month of November and prepare a final recommendation towards the end of November. The final recommendation will be brought to the December 13 committee meeting.

Mr. Stivers also noted staff will be putting out for comment the next version of the opportunity maps later this month with a separate public comment period. Staff will

respond to the comments and the maps will be brought to the December 13 Committee Meeting for approval and use in 2019.

Mr. Stivers stated the Government Accountability Office in Washington, DC issued its final report on the Low-Income Housing Tax Credit (LIHTC) program looking at the cost of projects. California was one of 10 States that were reviewed. The bad news is that California had the highest cost among the 10 jurisdictions that were reviewed with a median price of \$326,000 per unit for 9% projects from 2011-2015. Mr. Stivers also stated that the range per unit was very large in California, anywhere from \$100,000 to \$700,000 per unit. The report did not contain any criticism or recommendations for California. Mr. Stivers stated that the report talked about the need to do a deeper level of cost certification at the contractor level and looked to the Internal Revenue Service (IRS) to provide guidance. The report also talked about standardizing cost data and how to classify costs across states. Mr. Stivers stated that although staff has been nervous about the report, it shows California to be higher than other states and explains why that is. Mr. Stivers expressed that the report was a fair assessment of the situation and there were no recommendations for staff to do business differently but staff remains mindful of costs.

4. Discussion and Consideration of the 2018 Second Round Applications for Reservation of Federal Nine Percent (9%) and State Low Income Housing Tax Credits (LIHTCs).

Development Section Chief, Gina Ferguson stated there were 32 projects staff is recommending for federal 9% and State LIHTCs. She noted that staff has reviewed the projects and they meet program requirements.

Mr. Stivers added that Main Street Plaza which was talked about in the last CDLAC meeting is also on the agenda since it is a hybrid project. He noted that there is a 9% and 4% component. Mr. Stivers also stated the comments made by the Department of Housing and Community Development (HCD) from the previous meeting are applicable to Main Street Plaza. He noted HCD's award is a factor in TCAC's tie breaker score. He noted in the applicant's view the award will not change. Mr. Stivers stated that it is his recommendation that the Committee maintain this project on the list for the reservation today. If the applicant accepts the reservation, which they have 20 days to do, and the HCD award is later reduced, negative points will be issued. Mr. Stivers stated that the applicant has 20 days to work things out with HCD and either accept the award or reject the award with the risk of negative points if the issue is not resolved.

Ms. Bates stated that they should be able to work the issue out with the sponsor within that time frame. She also noted that the applicant resubmitted their application to HCD this morning and that they will expedite the review process.

Mr. LoFaso asked whether the negative points mean that the reservation is lost to benefit another project or if the credits would go back to the waiting list.

Mr. Stivers stated that he doesn't believe there would be a rescission of credits in this case.

MOTION: Mr. LoFaso moved the approval of the 32 projects. Ms. Onodera seconded and the motion passed unanimously by a roll call vote.

5. Discussion and consideration of the 2018 Applications for Reservation of Federal Four Percent (4%) Low Income Housing Tax Credits (LIHTCs) for Tax-Exempt Bond Financed Projects.

Ms. Ferguson stated that 3 of the projects from the previous staff recommendation are hybrid projects which contain a 4% component that staff is recommending for approval as well.

Ms. Ferguson pointed out a slight typo on the agenda, Warm Springs TOD Village should be affordable number 1 which is reflected in the staff report instead of affordable number 2. Ms. Ferguson stated that the three projects have been reviewed by staff and meet program requirements.

MOTION: Mr. LoFaso moved the approval of the 3 projects. Ms. Onodera seconded and the motion passed unanimously by a roll call vote.

6. Discussion and Consideration of appeals filed under TCAC Regulation Section 10330, and if appeal is granted in its entirety, a 2018 Second Round Reservation of Federal Nine Percent (9%) Low Income Housing Tax Credits (LIHTCs).

a.) Bay Meadows Affordable

Mr. Stivers laid out the issues, stating that TCAC regulations require 9% projects to meet a housing type as a threshold requirement and that housing type is also a point category. In this case the project intended to meet the Large Family housing type. The Large Family housing type requires that 25% of the low income units have 3 or more bedrooms. In the application that was presented to staff, 23% of the low income units had 3 or more bedroom, 1 three bedroom unit short of the requirement. The appeal letters submitted by the applicant refer to an inadvertent error and ultimately asked staff to make a change to the application by switching out the three bedroom manager unit and convert it into a three bedroom low income unit so that the project meets the 25% requirement. The change would replace the three bedroom manager unit with a two bedroom unit which otherwise would have been a low income unit.

Ms. Seshadri on behalf of BRIDGE Housing Corporation appealed the project. She stated the project is comprised of 68 large family units with one unit designated as a managers unit. The project includes 25% or 17 three bedroom units, 28% or 19 two bedroom units, and 47% or 32 one bedroom units. She stated the project was designed to meet TCAC threshold requirements for the Large Family project type

and noted the project contains 25% three bedroom units and 25% two bedroom units plus 2 additional two bedroom units. She added Bay Meadows Affordable was only 1 of 2 projects that submitted applications for a 9% tax credit allocation in the South and West Bay region in the second round. Ms. Seshadri stated that if the Committee were to grant the appeal, it would not disadvantage any other projects from receiving an allocation because there are enough credits to fund both projects. She added if the appeal is denied, there will be no other Large Family construction project in the region to deliver desperately needed affordable housing to the area.

Ms. Seshadri stated the basis for their appeal is that they inadvertently assigned one of the 17 three bedroom units to the manager. She added that they would be happy to remedy the error by reassigning the manager's 3 bedroom unit as a low income household and assigning a two bedroom unit to the manager from the two extra 2 bedroom units included in the project above the minimum 25% two bedroom additional threshold requirement. She asked the committee to recognize that the error in the application does not impact the financing structure of the project or its readiness to proceed. She also noted an appeal from 2016 where the Committee opted to use its discretionary authority to recognize that staff found an error in the application which did not affect the financing structure of the project and moved to grant the appeal. Ms. Seshadri asked the committee to similarly apply its discretion and grant the appeal for the Bay Meadows Affordable project. She also noted that if the project does not receive a 9% tax credit allocation this round, the construction will be delayed till December 2019 which will result in significant cost escalations and potential loss in local subsidy sources. She noted that construction cost escalations in the Bay Area are currently averaging 6% per annum which translates to an additional \$3 million in hard costs for Bay Meadows Affordable. Ms. Seshadri stated that delaying projects that are ready to proceed will only result in a net loss of affordable housing units for the State. She thanked the Committee for their time and respectfully asked the chair to grant the appeal.

Mr. Prowse from the City of San Mateo stated that the County and local Housing Authority sent a letter of support for the project. He stated that to reject the appeal would be devastating to all parties which are working together to building affordable housing at the location. He also added that if denied, the cost escalation that Ms. Seshadri had mentioned would likely need to be covered by local subsidy sources which would otherwise fund additional housing units in other affordable housing projects. Mr. Prowse added that Bay Meadows Affordable also has an award of 12 project based VASH vouchers which must be secured by the end of 2018 or risk recapture by HUD.

Ms. Council introduced herself as the Housing Manager for the City of San Mateo. She stated that the Bay Meadows Affordable is a unique and exciting opportunity which is planned as a sustainable, transit-oriented neighborhood. Ms. Council stated that these units are desperately needed and noted that the last tax credit project was back in 2015 which generated 1000 applications for 60 units. She noted that rents in the area have doubled in the last five years and tenants with Section 8 vouchers can't

find landlords to participate in the program. She also noted there is serious concern in regards to the financial feasibility if the project does get delayed since the cost of the project is already so close to the high cost cap of tax credits. Ms. Council urged the committee to consider the appeal given the project does meet the large family bedroom requirements.

Mr. Stivers stated that he declined to grant the appeal because switching the 3 bedroom manager's unit to a low income unit was a change to the application. He quoted section 10322(f) of the TCAC regulations and stated that the committee may only change an application as permitted by sections 10317d, 10325c7b and 10327a. He noted that none of these sections are applicable to the situation. As a result, staff did not have an ability to change the application so it was scored as presented.

Ms. Onodera asked the Senior Counsel to weigh-in regarding whether the Committee has the discretion to grant the appeal.

Mr. Hedrick stated that the Committee is bound by the language of the regulations referenced by Mr. Stivers, 10322(f), which limits the ability to change an application to the three circumstances referenced earlier, none of which are applicable to the appeal. He noted that the Committee's action in 2016 was done notwithstanding the provision.

Mr. LoFaso stated that he disagreed with Mr. Hedrick in 2016 and he's going to disagree with him again today.

Ms. Onodera asked Mr. Stivers if this project will be displacing another project if it is granted.

Mr. Stivers stated that it will not be displacing another project in this round, but if the project is not funded the credits will be available in the South and West Bay region in the first 9% round in 2019 so it could be displacing a project in the next round depending on the nature of the applicants that come in. He also noted that although the project will clearly have cost escalations if delayed, you could in theory fund a different project in the area which has a lower cost per unit and, as a result, fund more units.

Ms. Seshadri reiterated that they are not requesting a change to their application and that they are asking the Committee to consider their error in the application as not materially impacting their project since the manager's unit has not yet been designated in the architectural drawings.

Mr. LoFaso recited regulation 10322(f) that only the Committee can change an application. He stated that the adverb "only" in the section leaves the ambiguity as to whether the three sections are the only circumstances when a change can be made. Mr. LoFaso stated that he has learned where to draw the line in regards to appeals

that come before the Committee from the appeals heard in the May meeting. Mr. LoFaso stated that he was in favor of the appeal.

Ms. Onodera said she appreciated Mr. LoFaso's comments, particularly his reading of Section 10322(f) regarding the adverb "only."

Mr. Brown stated that he agreed with Mr. Hedrick's and Mr. Stivers' strict reading of the regulations but that this appeal is more nuanced. All are aware of the Treasurer's position on increasing the production of affordable housing in California, so he is supportive of the appeal.

MOTION: Mr. LoFaso moved to grant the appeal and recommend Bay Meadows Affordable for a reservation of tax credits. Ms. Onodera seconded and the motion passed unanimously by a roll call vote.

b.) The Woodlands II

Mr. Stivers stated that also under this agenda item was the Woodlands II appeal. The appeal was on the agenda as a place holder but he explained he granted the appeal prior to the Committee meeting. As a result, Mr. Stivers stated that staff is recommending the project for a tax credit award.

MOTION: Mr. LoFaso moved to approve Woodland II for an award of LIHTCs. Ms. Onodera seconded and the motion passed unanimously by a roll call vote.

7. Discussion and consideration of appeals filed under TCAC Regulation Section 10330 on behalf of Imperial Garden & Calexico Senior Apartments and Las Praderas (AKA Calexico Ramin) affecting the 2018 Second Round Applications for Reservation of Federal Nine Percent (9%) and State Low Income Housing Tax Credits (LIHTCs) in the Inland Empire Region.

Mr. Stivers stated that these two projects were on the agenda item in the event of an appeal but that neither project appealed to the Committee by the deadline. As a result staff recommends Las Praderas for an award of LIHTCs.

MOTION: Mr. LoFaso moved to approve Las Praderas for an award of LIHTCs. Ms. Onodera seconded and the motion passed unanimously by a roll call vote.

8. Discussion and Consideration of an appeal filed under TCAC Regulation Section 10330 on behalf of The Link (CA-18-102) is granted in its entirety, The Link will be the recommended application for a Reservation of LIHTCs and Villa de Vida (CA-18-069) will not receive a Reservation of 2018 Second Round Federal Nine Percent (9%) and State Low Income Housing Tax Credits (LIHTCs).

Mr. Stivers laid out the issue, stating that the appeal has to do with the point score in the service amenity category and noting the project has 86 low-income units, 72 of which

serve the special needs population. He stated that the regulations require that in order to receive services points, the services must serve all the units in the development, not just the special needs tenants. Mr. Stivers explained that the application included a letter from the service provider stating they will serve only 72 clients, in other words the special needs units which is less than the 86 unit requirement. As a result, staff determined that services were not being provided to all the residents and declined to award services amenities points to the project. Mr. Stivers stated that in response, the appellant provided a letter from the services provider stating that this was a typographical error and meant to say they were serving all 86 of the residents. Because this was inconsistent with three points of evidence in the application, staff declined to see the letter as clarification but instead a change to the application. Under regulation 10322(f), staff could not make the requested change to the application since it was not one of the 3 enumerated changes that the regulations allow.

Mr. Silverwood introduced himself on behalf of Affirmed Housing to appeal their project, The Link. He stated that The Link is designed to provide housing and services to chronically ill homeless individuals in San Diego, which has the second largest homeless population in California and fourth in the nation. Mr. Silverwood stated that the Committee's decision today is a matter of life or death for many of the homeless folks that the project intends to serve. He stated that the application had contained two errors that led staff to reduce 10 points. He explained that the approval of the appeal would set no precedent for the Committee since the applicant is following section 10327(a) of the existing regulations which allow for initial application errors as long as long as the errors do not create an infeasible project or impact the sources of funds associated with the project. He added that the project has all of its entitlements in place with all local funding from the City of San Diego committed and 72 project based vouchers from the San Diego Housing Commission. Mr. Silverwood stated that their error mistakenly cited the wrong number of units that would receive services in the building, rather than all 86 low income units, only the 72 project based voucher units were cited in the MOU. Mr. Silverwood stated that when they were questioned by TCAC staff, their service provider Father Joe's provided a clarifying follow up letter which stated all residents in the building would receive services. He also stated TCAC staff determined the project's annual services budget was inadequate if all the units were covered and thus the project would not be financially feasible. Mr. Silverwood stated this is not true and he had HCD regulations to support it.

Mr. Silverwood stated the appeal is based on section 10327(a) of the TCAC regulation and he recited the regulation to the Committee. He added there is no TCAC regulation with regard to service expense for homeless residents and stated that HCD is the only state agency with these regulations. He stated if the HCD service limits are applied to the units, the project is still well within their budget and thus the project is financially feasible. Mr. Silverwood closed his statement by asking for the Committee's support in approving the appeal.

Mr. Stivers clarified that his decision was not in any way based on the feasibility of the project reaffirmed that staff was not concerned in regards to the feasibility of the project.

He stated the fact that the letter from the service provider came in after the application was submitted constituted a change to the application which is not acceptable under TCAC regulations.

Mr. Stivers concluded that the appeal boils down to the fact that the application proposed lesser services than staff was hoping to see.

Mr. LoFaso stated regulation 10327(a) is not an issue since the applicant is not looking to add additional sources to the project. He added this appeal is similar to the last one in that there are errors on the front end of the application in not adding the proper documentation to the package. Mr. LoFaso concluded by stating that he takes the applicant's word in regards to the services certification.

MOTION: Mr. LoFaso moved to grant the appeal. Ms. Onodera seconded and the motion passed 2 to 0 by a roll call vote with Mr. Brown abstaining.

For purposes of clarification, Mr. Stivers stated that the appeal is with condition that services will be provided to all 86 units.

9. Discussion and Consideration of a Resolution Authorizing the Executive Director of the California Tax Credit Allocation Committee to Sign Contracts and Interagency Agreements.

Mr. Stivers stated the resolution allows the Executive Director of TCAC to enter into contracts of up to \$300,000 and any contract over \$50,000 will be notified to the board at the next subsequent meeting, which is consistent with most of the BCAs in the Treasurer's Office. This is an increase to the previously set limit of \$250,000.

MOTION: Mr. LoFaso moved to approve the resolution. Ms. Onodera seconded and the motion passed unanimously by a roll call vote.

10. Public Comment

Mr. Leach with Kingdom Development shared a few remarks regarding the Government Accountability study that Mark had mentioned earlier. He stated that during the 2011 - 2015 period, other state agencies experienced a decrease in development costs while California experienced an 18% increase in costs. He also added a few notes in regards to some of the cost-driver findings which were consistent with a 2014 California report. Mr. Leach also highlighted that the study showed the average project in California was more expensive than the average project in New York City and Chicago, which are some of the most densely populated cities in the world. He advised the Committee to regularly gauge the cost per unit in an effort to keep costs down.

11. Adjournment.

Mr. Brown adjourned the meeting at 3:00 p.m.