

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
Minutes of the June 12, 2019 Meeting

1. Roll Call.

Jovan Agee for State Treasurer Fiona Ma chaired the meeting of the California Tax Credit Allocation Committee (CTCAC). Mr. Agee called the meeting to order at 1:30 p.m. Also present: Anthony Sertich for State Controller Betty Yee; Gayle Miller for Department of Finance (DOF) Director Keely Martin Bosler; Jeree Glasser-Hedrick for California Housing Finance Agency (CalHFA) Executive Director Tia Boatman Patterson and Mark Stivers for California Department of Housing and Community Development (HCD) Director Ben Metcalf.

County Representative Santos Kreimann was absent.

2. Approval of the Minutes of the May 15, 2019 Meeting.

Deputy Director Anthony Zeto stated there was a slight edit to the Meeting Minutes and with that edit, staff recommended the Meeting Minutes to the Committee for approval.

MOTION: Ms. Miller moved the approval of the Meeting Minutes, Mr. Sertich seconded and the motion passed unanimously by a roll call vote.

3. Executive Director's Report.

Acting Executive Director, Vincent P. Brown stated that the search for a CTCAC Executive Director continues. He stated that beginning Friday, the State Treasurer will take a 10 City Tour to solicit comments to potential changes to CTCAC and California Debt Limit Allocation Committee (CDLAC) regulations over the next few months.

Ms. Miller took a moment to recognize Mr. Brown's lengthy career as a public servant for the State of California and congratulated him on his retirement and Mr. Brown thanked Ms. Miller for the kind gesture.

Mr. Sertich asked whether the listening tour would include discussion of regulation development regarding the new tax state credits that will be coming soon.

Mr. Brown stated the regulation developments for the new tax credit program would take place on a separate track and will be in place by January 2020.

4. Discussion and Consideration of appeals filed under TCAC Regulation Section 10330(b)(1), and if appeal is granted in its entirety, a 2019 First Round Reservation of Federal Nine Percent (9%) and State Low Income Housing Tax Credits (LIHTCs).

Mr. Zeto stated there were two appeals noted under the agenda item. He stated that the appeal for CA-19-019, Long Beach Villas, was resolved and granted at the Executive Director's level so there is no longer any pending appeal to be presented. As a result, Mr. Zeto stated that the project was reviewed by staff and is being recommended to the Committee for approval. He also added that the project does not affect the any other projects noted on the agenda today.

MOTION: Mr. Sertich moved the approval of CA-19-019, Long Beach Villas, Ms. Miller seconded and the motion passed unanimously by a roll call vote.

Mr. Zeto stated the other appeal was CA-19-023, Long Beach Assisted Living, and turned it over to the appellant for an opportunity to appeal their case.

Andrew Hanna introduced himself as the President of the Foundation for Better Housing, and was here to present the appeal on CA-19-023, Long Beach Assisted Living. Mr. Hanna introduced his consultants and managers: Steve Juan, Eric Jones, Mia Liu, Glenn Cumming and Christine Harris. Mr. Hanna stated Long Beach Assisted Living is a very important project to the State of California and went on to explain the need for more affordable assisted living projects in the State.

Glenn Cummings with Meridian Senior Living expanded on the shortage of affordable assisted living projects and how supply has not kept up with demand.

For purposes of the dialogue, Mr. Agee expressed the Treasurer's continued support for the idea of creating opportunities for home and community-based services. He added the State Treasurer is currently working with the State Legislature on long-term care master plans. Mr. Agee stated that the issue is not necessarily due to a deviation from goals, but whether the project is in position to comply with program rules and regulations, which have been made evident in the appeal letter. With that, Mr. Agee asked if the representatives from CohnReznick could speak to the appeal.

Eric Jones with CohnReznick stated they looked at the application for Long Beach Assisted Living and compared it to federal guidelines on general-purpose housing and in their opinion; the project meets the guidelines for general-purpose housing because the services provided are going to be optional and charged separately from the rents. He stated this is a general-purpose affordable housing project and complies with all Internal Revenue Service (IRS) standards as such. CohnReznick believes this project is eligible for LIHTCs.

Mr. Stivers stated that the appeal response letter mentioned some communication with the IRS and asked if staff could elaborate on it.

Mr. Brown stated that based on informal conversations amongst staff and the IRS, this project does not qualify for LIHTCs. Mr. Brown also stated that IRS was in house last month reviewing staff files, thus CTCAC is very sensitive to comments made by the IRS.

Mr. Stivers stated that it would be a great risk for the developer to accept the credits if there was concern the IRS was not going to recognize them.

Ms. Ferguson stated they had some communication generally with the IRS regarding assisted living and concerns were raised regarding the level of care and supervision that might be a part of some of the services offered. Ms. Ferguson noted the IRS offered to speak directly with the developer to get more details on the project and determine whether it presented an issue with the general public use rule. She explained that the conversation with the IRS in regards to assisted living facilities and the general public use rule continued as the project application was submitted for review.

Ms. Miller asked whether it was made clear in the conversations with the IRS that the services were not a requirement of being housed in the project and were optional.

Ms. Ferguson stated she would need to go back and check her records but she noted staff does not have much details on it from when the question was initiated. She explained that when the application was submitted and went under competitive review, staff was no longer actively engaging with the IRS and providing more details as the tracks were kept separate.

Mr. Hanna asked Ms. Ferguson if their tax credit application was sent to the IRS.

Ms. Ferguson stated no it was not.

Mr. Hanna understands that some email correspondence were exchanged between CTCAC and the IRS but stressed that the IRS has not made a determination on their tax credit application. He also noted that he requested copies of such communication but never received it.

Mr. Brown stated that in previous conversations, staff informed Mr. Hanna to contact the IRS directly to obtain a determination but to staff's knowledge, that has not occurred. He stated that staff had gone as far as they could with the application and advised Mr. Hanna to contact the IRS directly as the best course of action. Mr. Brown stated it is not staff's responsibility to send the application to the IRS.

Ms. Glasser-Hedrick stated she is in agreement with Mr. Stivers on the general use rule, which was the most compelling part of the documentation that was provided. She wanted to hear more analysis from CTCAC staff regarding the application not being a special needs project, which she believes would pull the discussion back into the realm of CTCAC regulations. Pursuant to CTCAC regulations, the Executive Director has the discretion to determine whether projects can be classified as special needs or not, with specifics on what a special needs project is. Ms. Glasser-Hedrick inquired about that component.

Mr. Zeto stated staff made the determination in accordance with the IRS general use rule.

Mr. Stivers stated that he would give the benefit of the doubt to the applicant on their score but stated it would be a great risk to the developer if they cannot complete the project, creating issues with the investor and negative points issued through further Committee action. In regards to the special needs issue, two target populations were mentioned. One was persons with disabilities, but the special needs category in CTCAC regulations does not reference persons with disabilities, it refers to persons with disabilities transitioning from institutional care, which was not described in the applicant's target population. The second special needs population is persons with chronic illness, which the applicant does seem to cover. Mr. Stivers explained that it is not clear given there are two different populations, 45% of the units will be reserved for persons with chronic illness. He added that he is concerned the applicant did not meet the criteria set forth in the CTCAC regulations with this regard.

Mr. Agee stated that since the application came in prior to the new administration's arrival and due to shared goals in terms of the populations served, staff was willing to sit down together in order to restructure the application in a way that best meets the needs of both staff and the developer.

Mr. Hanna stated that their target population for special needs meets the definition for special needs verbatim having cited the regulation on their application under their Special Needs Attachment 4 of the application.

Mr. Agee stated that staff could continue the dialogue to figure out how to restructure the application. He stated that after listening to Mr. Stivers' comments, there were additional considerations that he became aware about as it relates to health and human services. Mr. Agee stated that these additional considerations speaks to the need of doing a deeper dive in the interest of shared goals.

Mr. Sertich stated the other big issue was the project not meeting the requirement of CTCAC's regulations on the cash flow test, which also needs to be addressed. He appreciates the developer's thinking with regard to the project's design but wants to make sure this is the right program to help fund the project. Mr. Sertich agrees with Mr. Agee that staff should continue to work with the applicant to restructure the project and make sure the project meets the requirements of the Committee's program.

Mr. Hanna stated the project is using a HUD 232 construction permanent loan program and describe the details of the program as it relates to cash flow.

Mr. Agee stated that the Committee's commitment is to revisit this application at a later date and to work together with the applicant as well as staff towards shared collective goals, and to determine whether this program is the best fit to finance such a project.

5. Discussion and Consideration of an appeal filed under TCAC Regulations Section 10330(b)(1), and if appeal is granted in its entirety, a 2019 First Round Reservation of Federal Four Percent (4%) and State Low Income Housing Tax Credits (LIHTCs) for Tax-Exempt Bond Financed Projects.

Mr. Zeto introduced CA-19-700, NOVA Apartment, and turned it over to the appellant to present their case before the Committee.

Rob Wilkins, Regional Director for Affirmed Housing introduced himself and noted that Affirmed Housing has developed and is operating close to 400 apartments in various locations in the State of California, explicitly to serve the homeless population. He added that NOVA Apartments is a 100% permanent supportive housing project, which will house 56 badly needed units for the City of Oakland and Alameda County. He then expanded on the dire need of supportive housing and the increasing number of homeless in Alameda County.

Mr. Wilkins stated the basis for their appeal was that they misinterpreted CTCAC's regulations in regards to 4%+State applications to include uncommitted federal affordable housing program (AHP) funds as a construction and permanent financing source. He stated they did not contemplate receiving and the AHP award until July 2020. They assumed for financing purposes, they would need to show more deferred costs to conversion during the construction phase and more deferred developer fee during the permanent phase of the project until the AHP award, which accounts for less than 2% of the total development cost.

Mr. Wilkins stated that granting their appeal would not increase the cost of the project or require the introduction of any new sources. He added it would also not affect the project's financial feasibility, would not increase the tiebreaker or credit amount of the application as submitted. Most importantly, Mr. Wilkins stated it would not affect the readiness of the project. He stated that granting their appeal would not displace another project from receiving competitive tax credits in any other region from this round. However, Mr. Wilkins stated that denying the appeal would delay seriously needed housing for the homeless in the East Bay region and put the project at risk of not being completed at all. He added construction costs will likely rise, pushing the project above the high cost threshold and that other funding sources and vouchers would be in jeopardy of recapture as well. Mr. Wilkins noted if the appeal is denied, there will likely be zero projects and units funded in 2019 using competitive credits in the East Bay region.

Mr. Wilkins referenced an appeal from a previous meeting (September 2018) where the Committee used its discretionary authority to revise an inadvertent error on an application and grant its appeal. Mr. Brown, acting on behalf of State Treasurer John Chiang at the time cited the Treasurer's position on increasing the production of affordable housing as his reason for supporting the appeal to allow changes to the application under appeal consideration. Mr. Wilkins stated that current State Treasurer Fiona Ma is also on record in sharing the same goal of increasing the production of affordable housing as well. He closed his comments by respectively asking the Committee to grant their appeal for

NOVA Apartments and noted that projects like these are critical with regards to meeting the state's housing goals over the next few years. Mr. Wilkins thanked the Committee members of their time.

Mr. Agee gave Mr. Brown an opportunity to speak since his name was referenced on the appeal from the September 2018 Committee meeting.

Mr. Brown was unsure in regards to what project Mr. Wilkins was referring to from the September 2018 meeting and noted there was a different counsel at the time as well.

Mr. Wilkins clarified that he was referring to the Bridge Housing project from the September 2018 Committee meeting.

Mr. Brown stated that it is not clear if this was the same kind of project and could not make that determination without going back first and revisiting the September 2018 meeting. He also added that the members on the board were all new to the Committee.

Mr. Agee noted that Mr. Wilkins reached out a couple times and he apologized for not following up concerning his last communication. Mr. Agee noted that it would have been beneficial if he were made aware of the decision made at the September 2018 Committee meeting so that he could have done some research and checked in to it.

Mr. Wilkins stated that the decision made at the September 2018 meeting was included in the appeal letter to the Committee.

Mr. Agee stated that in his reading of the submitted appeal letter, the projects were not under the same circumstances.

Mr. Sertich stated that his reading of CTCAC's regulations does allow the Committee to make changes to the application. He noted the change is very technical and does not increase the costs nor the fundamental financing structure of the project. In Mr. Sertich's view, the Committee should make the change and move the project forward.

Ms. Glasser-Hedrick stated she has dealt with a number of appeals in the past and noted she would approach the appeal in a slightly different way. She added that placing parameters around the discretion given to the Committee in CTCAC's regulations is important. Over the course of her career in the housing industry, Ms. Glasser-Hedrick stated that she has seen other projects disqualified for not meeting program requirements. She understands that Committee can evolve over time and that the desire to get additional units built is at an all-time high due to the housing crisis. However, to the extent that staff can provide some parameters if there are to be changes to an application, it would provide greater transparency to the development community about what the Committee's discretion may be. Ms. Glasser-Hedrick noted that this is a hard task for staff to tackle and suggests that a Committee member be designated to provide feedback regarding the parameters that are developed so that they make sense.

Mr. Sertich stated he agrees with Ms. Glasser-Hedrick and noted that such parameters would be helpful to both the Committee and development community.

Ms. Miller stated she is reluctant to change parameters on the fly and echoed Ms. Glasser-Hedrick's comments about being as transparent as possible to the entire development community to level the playing field. She also added that she spoke with Mr. Wilkins and noted that there is a second round of funding on July 1, 2019 as an option to fall back to. She expressed that the balance with limited funds is determining how best to make sure the playing field is level. Ms. Miller thanked the Committee for bringing up the discussion and thanked the developer for their hard work.

Mr. Sertich added that resources are always limited to some extent but in this case, there are slightly more than typical than on the 9% credits.

MOTION: Mr. Sertich moved to grant the appeal for CA-19-700, NOVA Apartments, Mr. Agee seconded and the motion passed 2-0 by a roll call vote. Ms. Miller abstained.

Mr. Zeto stated staff also completed the review of the project in the event the appeal was granted. Based on the result of the appeal, staff is recommending the project for approval.

MOTION: Mr. Sertich moved the approval of CA-19-700, NOVA Apartments, Mr. Agee seconded and the motion passed 2-0 by a roll call vote. Ms. Miller abstained.

6. Discussion and Consideration of the 2019 First Round Applications for Reservation of Federal Nine Percent (9%) and State Low Income Housing Tax Credits (LIHTCs).

Mr. Zeto stated that Ms. Ferguson was going explain the recommended list but first informed the Committee that staff does not have a recommendation for the Native American apportionment due to pending appeals and the timing. If the appeal is ultimately granted, staff will bring the recommendation to the July 2019 meeting. Mr. Zeto clarified that the decision on the Native American apportionment does not affect any of the other projects under this agenda item.

Mr. Zeto stated that project CA-19-037, Jordan Downs had a pending appeal where the credits were reduced. He explained that the appeal has since been granted but due to the timing the preliminary recommended list was posted with the reduced amount. As a result, Mr. Zeto noted that staff will hold the project off until the July 2019 meeting and recommend it for approval at the full credit request. Mr. Zeto closed by clarifying that this project does not affect any of the other projects noted on the recommended list here today.

Ms. Ferguson stated staff has reviewed the list of amended projects, they meet program requirements, and recommended them to the Committee for approval.

MOTION: Ms. Miller moved to approve staff's recommended list of projects as amended to remove one project, Mr. Sertich seconded and the motion passed unanimously by a roll call vote.

Mr. Stivers took this time to recognize the hard work staff puts into the 9% rounds and thanked them for their service.

Mr. Zeto also took this time to commend Ms. Ferguson for her hard work and for successfully steering the first round of 9% applications.

7. Discussion and Consideration of the 2019 First Round Applications for Reservation of Federal Four Percent (4%) and State Low Income Housing Tax Credits (LIHTCs) for Tax-Exempt Bond Financed Projects.

Ms. Ferguson stated that two projects on the recommended list were seeking 4% credits with state credits. She added the projects meet program requirements and are being recommended to the Committee for approval.

MOTION: Ms. Miller moved to approve the two projects seeking 4% and state credits on staff's recommended list, Mr. Sertich seconded and the motion passed unanimously by a roll call vote.

8. Discussion and Consideration of appeals filed under TCAC Regulations Section 10330(b)(2).

Mr. Zeto stated there were two appeals under this agenda item. He added that CA-18-119, Fancher Creek Senior Apartments, requested to have their appeal considered at the July 2019 meeting due to timing issues. Mr. Zeto informed the Committee that staff approved the appellant's request. As a result, only one appeal will be considered at this meeting. Mr. Zeto introduced the appeal for CA-18-096, The Woodlands II, and turned it over to the appellant to present their case before the Committee.

Dan Horn, President of Palm Communities, stated he was a second-generation affordable housing developer and that he was here today to appeal negative points issued by staff due to the project, located in Redding, not closing construction on time. He added that an appeal letter was sent to the Committee to explain why the project was late in meeting the readiness deadline. Mr. Horn also stated he could outline certain information and answer any questions the Committee may have. He explained that there were two natural disasters that occurred in the region and the Woodlands II project was the only one that funded in the geographic region in that round so no other projects were affected. Mr. Horn stated that the negative points would affect a future project he plans to submit for the next round of funding. Mr. Horn stated the regulations allow the Committee to show discretion in such an event and requested that the Committee rescind the negative points issued by staff.

Ms. Miller moved to grant the appellant's request.

Mr. Stivers stated the regulation relating to the readiness points makes it clear that failure to meet the readiness deadline results in the rescission of credits or negative points. He felt strongly that the Committee should hold up to this requirement but noted that to the

extent the Committee thinks the appellant's argument is compelling in regards to the cost increases in Redding, Mr. Stivers suggested the Committee could limit the negative points to a duration of June 30, 2019 thereby allowing the appellant to still apply on July 1 for the second round. He added that in return, the Committee would maintain the integrity of the regulations and the negative points would not really affect the appellant in any way.

Mr. Sertich thanked Mr. Stivers for the explanation. He stated this was an unforeseen circumstance with the fires occurring both before and after the award was issued.

Mr. Agee asked the appellant if he was aware of any other projects that were similarly impacted in the area.

Mr. Horn stated that the closest project was 150 miles away, with some as far as 180 miles away. He noted there were also a few projects on the other side of the Sierras but their closest market was Reno, Nevada. Mr. Horn stated the rest of the affected projects were closer to either the coast or Sacramento. He added the markets for the other affected projects were in different geographic regions with the closest being 150 miles away. Mr. Horn stated he understands staff's concern but does not really understand how it applies under the circumstances of his appeal.

MOTION: Ms. Miller amended her motion to maintain the negative points but to limit the duration through June 30, 2019. Mr. Sertich seconded and the motion passed unanimously by a roll call vote.

Mr. Brown noted that this was a very sensitive project and staff struggled to quantify if there was any real impact on construction costs. He also appreciated the former Executive Director's input to maintain the integrity of staff's findings.

9. Discussion and Consideration of the 2019 Applications for Reservation of Federal Four Percent (4%) Low Income Housing Tax Credits (LIHTCs) for Tax-Exempt Bond Financed Projects.

Ms. Ferguson stated that project CA-19-456, Stonegate Village I, was the 4% component of a 4%/9% hybrid project approved under the 9% recommendation under Agenda Item 6. She noted the project meets program requirements and recommended it for approval.

MOTION: Mr. Sertich moved to approve the project, Ms. Miller seconded and the motion passed unanimously by a roll call vote.

10. Public Comment.

Mr. Stivers stated he had three observations from the 9% awards that he thought were interesting. He noted there are five 9% and one 4% plus state large family new construction projects that received a tiebreaker incentive for higher opportunity areas which is definitely an increase from previous years thereby bringing staff towards the goal of creating more housing choice for low-income families. Mr. Stivers added there were

10 new construction projects selecting the average income option, which is very new. He noted that in the past, he has only seen this with rehabilitation projects and explained that it is interesting to see new projects utilizing the 20%-80% AMI range. Lastly, Mr. Stivers stated that most of projects receiving state credits are not certificating their state credits. He explained that it might be something to look into since certificated credit pricing is generally 12-14% higher. He encouraged people to look into this time permitting.

11. Adjournment.

Mr. Agee adjourned the meeting at 2:25 p.m.