

**CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE**  
**Minutes of the November 18, 2020 Meeting**

**1. Roll Call.**

State Treasurer Fiona Ma chaired the meeting of the California Tax Credit Allocation Committee (CTCAC). Treasurer Ma called the meeting to order at 11:15 a.m. Also, present Anthony Sertich for State Controller Betty Yee; Gayle Miller for Department of Finance (DOF) Director Keely Martin Bosler; California Housing Finance Agency (CalHFA) Executive Director Tia Boatman Patterson and California Department of Housing and Community Development (HCD) Director Gustavo Velasquez

City Representative Vivian Moreno was absent.

**2. Approval of the Minutes of the October 14, 2020 Meeting.**

**MOTION:** Mr. Sertich moved to approve the October 14, 2020 Meeting Minutes. Ms. Miller seconded, and the motion passed unanimously via a roll call vote.

**3. Executive Director's Report.**

Executive Director, Judith Blackwell stated that staff has been working very hard on regulation changes for both CTCAC and the California Debt Limit Allocation Committee (CDLAC). She stated that meetings regarding these efforts were held on July 15, August 7, August 21, September 10 and October 14. Ms. Blackwell noted that staff has been preparing summaries after each meeting for purposes of transparency. She stated that the issues of concern will not be voted on today but that there would be public comments made on them later in the meeting. Ms. Blackwell noted sustainability and eligibility for housing in the low opportunity areas. She stated staff has already worked with HCD on a solution to move to a 40% spread instead of a 55% cut off in order to conform to HCD's requirements.

- End of Executive Director's Report

**4. Discussion and Consideration of a Resolution to Adopt Proposed Regulations, Title 4 of the California Code of Regulations, Sections 10302 through 10337, Revising Allocation and Other Procedures.**

Deputy Director, Anthony Zeto stated the proposed changes accelerated the process already established in the regulations initially to take place at the end of 2021. In response to the overwhelming demand for the disaster credits in 2020, he explained the changes would establish a Waiting List to deploy the full \$98 million in disaster credits in 2020. Mr. Zeto provided a summary of the proposed regulation change process stating that the proposed changes were published on September 30, followed by a public hearing held on October 15. He stated the public comment period concluded on October 21 and comments

were received from 15 individuals. Mr. Zeto stated the final proposed changes were published on November 3 and are being recommended to the Committee for approval.

**MOTION:** Mr. Sertich moved to approve the Resolution adopting the regulations, Ms. Miller seconded and the motion passed unanimously via a roll call vote.

**5. Discussion and Consideration of a Resolution establishing a Waiting List of pending applications for Federal Nine Percent (9%) Further Consolidated Appropriations Act, 2020 (FCAA) Disaster Area Low Income Housing Tax Credits, provided that credit remains available and such applications are complete, eligible and financially feasible and contingent upon adoption of proposed regulations.**

Mr. Zeto stated the Waiting List was a follow up to Agenda Item 4 and following the adoption of those changes, staff is recommending the Waiting List for approval.

Development Section Chief, Gina Ferguson stated there were a couple typographical errors on the proposed Waiting List. She noted BHDC Comstock Apartments (CA-20-175) and North Quarry Apartments (CA-20-181) were initially listed as not having letters of support, which was incorrect. Ms. Ferguson explained the list was updated to reflect those corrections.

**MOTION:** Mr. Sertich moved to approve the recommended Waiting List, Ms. Miller seconded and the motion moved unanimously via a roll call vote.

Efren Carrillo with Burbank Housing thanked the Committee's approach in awarding the disaster credits. He noted his project 3575 Mendocino Avenue (CA-20-184) was at the top of the Waiting List and stated it was the only project proposing to rebuild on a site directly impacted by the fires.

**6. Discussion and Consideration of a 2020 Second Round Application for Reservation of FCAA Federal Nine Percent (9%) Low Income Housing Tax Credits**

Ms. Blackwell stated Cashin's Field (CA-20-158) was a project located in Nevada County discussed at the previous meeting.

Mr. Zeto provided a brief summary of the two Grass Valley projects and the Cashin's Field project discussed at the previous meeting. He stated staff has completed the review for the project and now recommending it for approval.

Erin Minett, Mayor of Nevada City thanked the Committee for putting the project back on the agenda and noted community and county support for the project.

Ralph Nieders raised concerns regarding the toxic waste situation at Cashin's Field. He stated a letter was sent to the Committee in opposition to the project with 19 signatures. Mr. Nieders stated that the Department of Toxic Substances Control (DTSC) is currently reviewing the project but noted that nothing was being discussed.

Mr. Zeto stated that the applicant was participating in the meeting remotely and could address the issue.

Laurie Doyle, the applicant for Cashin's Field stated that they have engaged with a well-known environmental consultant, NB5, regarding the issue and they did not identify any evidence of adverse environmental conditions on the property. She stated that although the project is located in a historical mining district, no evidence of mining has been found on the property itself. Ms. Doyle noted that a soil study along with other experiments were completed to confirm no mine waste encountered on the property. To address the neighbor concern, she stated they have also consulted with the Nevada County Environmental Health Department and DTSC. Ms. Doyle stated that NB5 was in the process of preparing an investigation work plan to submit DTSC for review and approval. She noted the approval of the work plan is expected within the next few weeks. DTSC will review the report and conclude no evidence of mining was encountered and issue a site certification letter. Ms. Doyle stated they will work with DTSC on a voluntary cleanup agreement if any evidence of mining is encountered.

Mr. Sertich stated the issue of toxic waste is outside of the Committee's scope as they are focused on providing financing. He hopes that the entities involved are doing their due diligence on the project with the appropriate controls in place.

**MOTION:** Mr. Sertich moved approval the application, Mr. Velasquez seconded and the motion passed unanimously via a roll call vote.

**7. Discussion and Consideration of an appeal, if received, under TCAC Regulation Section 10330(b)(1).**

Ms. Blackwell stated Agenda Item 7 has been removed from the agenda because the appeal was approved at the staff level.

**8. Discussion of TCAC proposed regulation changes relating to CDLAC and TCAC alignment.**

Mr. Zeto stated that the Committee had a discussion at the previous meeting relating to the proposed regulation changes for both CTCAC and CDLAC and the timing of the adoption and when staff can begin accepting applications. Staff's intention was to facilitate a discussion with the Committee members regarding some of the proposed changes.

Ms. Blackwell stated that there are a few substantive changes as mentioned previously, but most are non-substantive changes.

The Committee opened the item up for public comment.

William Leach with Kingdom Development spoke in opposition to the proposed change to the developer fee. He stated the change would reduce the developer fee allowed if the applicant hired a financial advisor, entitlement consultant or application preparation firm. Mr. Leach stated his firm provides those types of services and a change of this nature would negatively affect him, but also stated it was more of an industry issue. He believes the change would actually increase the cost of affordable housing because financial advisors like his firm help expedite projects, which reduce costs across the board. Mr. Leach believes the change would also adversely affect emerging developers who rely on technical experts more familiar with the regulations. He also believes this will negatively affect the Treasurer's goal of increasing opportunity to women and people of color in the development space as it would be an increased barrier to entry. Mr. Leach stated the developer industry currently has a talent shortage and stated firms like his and the California Housing Partnership often share best practices with the development community and the change would limit them from doing so. He believes the quality of applications would also decrease because of this change and that the change will do more harm than good.

Caleb Roope with the Pacific Companies thanked staff for putting the regulation changes together and strongly supports the removal of the energy efficiency measures, which he stated are above and beyond what the California Building Code (CBC) currently requires. He stated owners do some of the measures voluntarily, but it is beneficial to not be mandated to do them. Mr. Roope explained the savings will be meaningful and spreading the limited resources around as many projects will result in more housing being built. He added that the CBC has aggressively moved forward stating that anything three stories or less pretty much has to have solar. Mr. Roope expressed his strong support for the changes to the sustainable building methods (SBM) category for CTCAC and CDLAC and that he will follow up in writing as well.

Treasurer Ma thanked Mr. Roope for his comments also thanked the working group.

Agatha So with the UnidosUS (formerly National Council of La Raza) commended the working groups and the two Committees for working on the proposed regulations. She stated they have 60 affiliates in California, many of which are non-profit community-based developers. Ms. So stated they have done some research and there are major disparities in the allocation of tax credits and housing resources to the demand among Latinos and other communities of color throughout the California. She added that these communities make up significant segments of California's essential workforce who need affordable rental housing. Ms. So stated they plan on submitting more in-depth comments following the meeting.

Andrew McAllister with the California Energy Commission (CEC) stated they have had a long history with TCAC taking proactive sustainable measures. He expressed opposition to the proposed change to strike the sustainability point category, especially at this time. Mr. McAllister stated a shift in the policy in the state from energy sustainability to decarbonization so rather than remove the point category, possibly pivot towards decarbonization in the sustainability point category, which could result in a win-win

situation without increasing unit cost. He restated his position and noted it was in the best interest of both the Governor and Legislature to move the state closer to its de-carbonization goals in a cost effective manner.

Christopher Cummings with Tenderloin Neighborhood Development Corporation (TNDC) stated his comment was in reference to Section 10327(c)(2)(C) of the regulations relating to the developer fee associated with simultaneous phases of projects. He stated the proposed change was to the construction start and completion date requirements from six months to twelve months. Mr. Cummings stated that his organization currently proposes projects in a small dense neighborhood so most of their projects in their portfolio are within ¼ mile of one another. He noted they are currently portfolio projects re-capitalizing with 4% credits and bonds and the proposed change consider their projects as simultaneous phases as described in the regulations thereby limiting their developer fee. Mr. Cummings stated they are not trying to game the developer fee limits but are falling victim to geographic circumstances of their portfolio and pipeline. He asked the Committee reconsider the rule by (1) exempting portfolio projects in dense geographic regions, (2) allow a waiver program where staff can review these on a case by case basis, or (3) revert back to the current six month requirement instead of twelve.

Mark Stivers with California Housing Partnership stated they will be submitting formal comments but wanted to highlight three of them. He stated the change to the tie breaker to remove the one-third weighting for the second tie breaker factor credit efficiency is a big concern. Mr. Stivers stated the one-third was instituted in 2011 to curb abuses that were occurring at that time. He explained the proposed change would give the developer an incentive to inflate their project cost to get a better tie breaker which is inconsistent with what the Committee is trying to achieve and enables gaming of the system. Mr. Stivers was in great support of making the old state credits available for rehabilitation projects paired with 4% federal credits. He asked the Committee to consider further focusing on the projects eligible for the 95% state rehabilitation credit since these are portfolio projects with no access to anything right now. In regards to the change of the At Risk definition, Mr. Stivers asked that the Committee revise the definition to state projects that will have remaining regulatory agreements anywhere below 60% Average Median Income (AMI) should not be allowed to be At Risk projects because they are not going to convert to market rate. He emphasized these projects would not be eligible for the At Risk set aside for CTCAC. Lastly, Mr. Stivers stated he was in support of Mr. Leach's comment regarding the developer fee definition and noted those fees were pretty much industry standards. He thanked the Committee for the opportunity to comment.

Crystal Huang with StopWaste in Alameda County urged the Committee to retain the SBM points in the regulations. She stated it is inconsistent with the Governor's executive order in 2019 for state agencies to consider greenhouse gas implications of their programs and their activities. Ms. Huang added that removing SBM would not reduce project construction costs and that SBM are significant drivers to help developers transition to newer construction methods and provide health and safety along with other benefits. She concluded by stating that they will be following up in writing.

Merrian Borgeson with NRDC believed there is an opportunity to update the SBM category, but removing the entire section is not the right solution. She noted there are items required by code that no longer need to be required by CTCAC. Ms. Borgeson mentioned other items that would lower the costs of housing and improve the well-being of residents. She noted state code does not currently require all electric buildings but awarding points to projects with all electric designs would lower costs by eliminating gas pipelines, and reduce air pollution resulting from burning gas. At a minimum, Ms. Borgeson suggested adding a point option for all electric design as well as other items not addressed in state code such as water efficiency. She stated the Committee could play a leadership role to promote cost savings and other alignment with state policy.

Treasurer Ma stated it would be helpful to the Committee to know of any ideas on green initiatives or climate change proposals that do not increase costs.

Mr. Leach expressed support for Mr. Stivers comment regarding the removal of the one-third from the tie breaker. He also supported Mr. Roope's comment to reduce costs by removing the energy efficiency point category.

Mr. Thompson stated he agreed with the statements made by Commissioner McAllister with regard to taking a new approach rather than tossing out the sustainability scoring altogether. He stated that by eliminating gas appliances, there will be improved indoor air quality within the dwelling units. Mr. Thompson added that at a minimum, the requirement to meet with a certified professional at the beginning of the project should be retained in the regulations to avoid major pitfalls.

Nehemiah Stone with Stone Energy Associates stated he was in support of the comments made by Commissioner McAllister and noted that without the support of CTCAC, the efficiency program administrators cannot sufficiently address energy efficiency for the low income housing community. He stated all-electric construction has shown to cost less in both upfront costs and long-term costs than dual fuel construction. Mr. Stone was also in support of the idea to focus more on electrification and de-carbonization.

Ms. Boatman Patterson stated more work needed to be done with the CDLAC tiebreaker on 4% projects with credit efficiency. She echoed some of Mr. Stivers comments but thought it might be helpful to see the comments in writing.

Mr. Zeto clarified Mr. Stivers' comment with regard to the tiebreaker was specific to the 9% program. With regard to the old state credits, he clarified that Mr. Stivers' comment was to go beyond limiting them to acquisition/rehabilitation projects, and further limit them to only those acquisition/rehabilitation projects eligible for 95% multiplier.

Mr. Sertich thanked staff for the public hearing last week working through all of the public comments. He agreed with taking a more holistic approach on the sustainability matters rather than cutting them out completely. Mr. Sertich stated that the electrification makes a lot of sense in terms of reducing carbon emission, which is a top goal for the State Controller. He stated the current system requires maximizing the points where it comes

down to the tie breaker, thereby making each point category a threshold. Mr. Sertich stated a different scoring system should be considered that values specific items in order to value the worth to the state and how much should be put in to get the most public benefit.

**9. Public Comment.**

Eric Shaw, Director of San Francisco Major's Office of Housing and Community Development asked if he could make some comments regarding Agenda Item 7 even though it was tabled.

Treasurer Ma stated that would not be possible since the item had passed.

Mr. Shaw stated they will be submitting written comments expressing their concerns about the project later.

**10. Adjournment.**

Treasurer Ma adjourned the meeting at 12:07 p.m.