

**CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE**  
**Minutes of the March 29, 2022 Meeting**

**1. Call to Order and 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 11:02 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 Tiena Johnson Hall and California Department of Housing and Community Development (HCD) Director Gustavo Velasquez.

City Representative Vivian Moreno and County Representative Terra Lawson-Remer were absent.

**2. Approval of the Minutes of the February 23, 2022 Meeting**

**MOTION:** Mr. Miller moved to approve the February 23, 2022 Meeting Minutes. Mr. Sertich seconded, and the motion passed unanimously via a roll call vote.

**3. Executive Director's Report**

CTCAC Executive Director, Nancee Robles announced that on the outreach front on February 28, 2022, Deputy Executive Director Anthony Zeto and Development Section Chief Gabrielle Stevenson gave a presentation of the CDLAC and CTCAC programs to public policy graduate students at the McGeorge School of Law. In other news on February 1, 2022, Ms. Robles used her authority to grant the request of CalHFA to allocate to \$200 million in 2022 state tax credits for projects financed by CalHFA's Mixed Income Projects (MIP). Earlier this month CalHFA returned \$109,973,431 of those state tax credits after exhausting its funding resources. Those state tax credits will be available for the first 4% allocation round. On the National Pool front unused housing credit of other states for any calendar year is assigned to the Secretary for inclusion in the national pool that is reallocated among qualifying states for succeeding calendar years. Ms. Robles informed the committee that CTCAC, as a qualifying entity of the state, has submitted a request to the IRS for an allocation of credit from the National Pool.

Treasurer Ma asked when CTCAC is informed the amount.

Mr. Zeto stated that typically the National Pool is announced in October.

End of Executive Director's Report

**4. Discussion and Consideration of a Resolution Authorizing the Executive Director of the California Tax Credit Allocation Committee to Enter into a contract, pending finalization of the procurement process, with Spectrum Enterprises, Inc. for an initial period of up to three years, not to exceed \$315,000, with the option to extend for one year, for an additional amount not to exceed \$105,000, to provide professional tenant demographic data collection services related to compliance with the Housing and Urban Development (HUD) program requirements as required under the Housing and Economic Recovery Act of 2008.**

Mr. Zeto stated that in 2008 Congress passed the Housing and Economic Recovery Act (HERA). In 2008, CTCAC was required to collect and submit tenant demographic data to HUD. CTCAC has contracted with Spectrum Enterprises, Inc. in the past and they have a notice to award out for a dollar amount that exceeds the \$300,000 already delegated to the Executive Director. Staff requested approval of a resolution authorizing the Executive Director to enter into this contract with Spectrum Enterprises, Inc..

**MOTION:** Mr. Sertich moved to approve the resolution. Mr. Velasquez seconded, and the motion passed via a roll call vote of 5-0.

**5. Recommendation of a Resolution Delegating Authority to the Executive Director to Grant Extensions to Readiness to Proceed Deadlines for Projects allocated Federal Nine Percent (9%) Low Income Housing Tax Credits (LIHTCs) with USDA Components**

Ricki Hammett, with CTCAC, stated that this is a recommendation for approval of a resolution to delegate authority to the Executive Director to grant extensions to the readiness to proceed deadlines for the low income housing tax credit projects, when necessary, for projects that have a USDA component. This request is a result of changes to the USDA's timeframes due to recent changes at USDA, such as going from 47 regional offices to one central location and also implementing a new computer system, which has caused shifting of timeframes. This recommendation is similar to the approval of bond allocation issuance deadlines extensions for CDLAC.

Treasurer Ma called for questions from the committee.

Mr. Sertich wanted to clarify that they are only receiving extensions on projects that delays are caused by the USDA.

Treasurer Ma called for questions from the committee.

Jeffrey Streiffer, with the Goldfarb and Lipman LLP, agreed that the USDA has been a real bottleneck for a number of projects. He asked if the committee would like to clarify the scope of the authority of whether it applies to projects currently experiencing readiness deadline issues from allocations received in 2021 or whether this would just be going forward.

Ms. Hammett confirmed it would apply to previous projects and moving forward.

Edgar Morales stated that he formerly worked with USDA at the office in California. He stated that USDA moved from a regional state by state process with applications processed at the state level to now the federal level. The federal level staffing issues have caused delays that have put developers and borrowers in a challenging spot that has not been seen over the last 15 years. Mr. Morales spoke on behalf of the developers and applicants in the tax credit system stating that most of the delays have been caused by USDA. He added the USDA staff is great, but they are restricted to what they can do.

Treasurer Ma asked if they were going to run into any deadline with these delays.

Ms. Robles said yes, delays are running into deadlines and she would use her authority if the committee granted it.

Mr. Sertich said that there are statutory deadlines that CTCAC has no control over.

Ms. Robles said that so far staff has not encountered any statutory deadlines.

**MOTION:** Mr. Sertich moved to approve the resolution. Ms. Miller seconded, and the motion passed via a roll call vote of 5-0.

**6. Discussion and Consideration of an appeal filed under CTCAC Regulations Section 10330 (b)(2)**

Mr. Zeto said that CTCAC received an appeal to the committee of assessment of negative points for Coachella Valley 1 Apartments (CA-21-032) for failure to meet the readiness to proceed deadline of December 27, 2021. Mr. Zeto turned it over to the appellant, which Mr. Streiffer is representing.

Mr. Streiffer stated that he represents Community Housing Opportunities Corporation (CHOC) who is the sponsor for Coachella Valley 1 Apartments. He explained that this is a USDA project that experienced delays due to USDA realignment that the committee just passed a resolution to grant some relief. That was not previously available at the time negative points were awarded to this project with the readiness deadline of December 27, 2021. CHOC was proactive with the committee with communicating when there was an issue moving forward through the USDA process. They have been able to obtain cooperation from the committee to keep the project moving forward despite all of the challenges of getting through the USDA process. The appeal letter they submitted, dated February 24, 2022, has a more complete history and background on the project. He gave the committee some updates on the status of the project. They have resolved the issue with the USDA and they received a letter of support dated December 10, 2021 from the USDA acknowledging it was going to take some time to move through their regulatory approval processes and the delay was not a result of the applicant. They have received the approvals from the USDA on the underwriting, they received the letter of conditions from the agency, the 538 loan guaranty commitment has been approved and they are on track with an April closing. CHOC has a supplemental bond request pending for their Monarch Apartment Homes project (CA-22-422) in this current round for CDLAC and the negative points adversely affect their ability to obtain that supplemental allocation. Initially they requested CTCAC to exercise its discretion to either reduce the negative points assessed or shift the time period the negative points would apply so not to unfairly penalize the Monarch Apartment Homes project with the pending the supplemental bond allocation application. They suggest this appeal is the ideal situation for the relief authority granted to the Executive Director to extend the readiness to proceed deadline.

Mr. Zeto said the current regulations require CTCAC to rescind the credits or issue negatives points, that is why the negative points were issued. Also, he clarified some of the delays that were outlined involved conflict with funding sources USDA and HCD with their Joe Serna Farmworker program. The delays, while the project does have USDA financing, were also related to issues with HCD's Joe Serna Farmworker program.

Treasurer Ma said that they do have a letter from the USDA that the delays were not the result of the sponsor. She asked if that is typical for USDA to submit these letters.

Mr. Zeto stated that it was not typical.

Treasurer Ma asked Mr. Velasquez if he had any comments on the Joe Serna Farmworker program.

Mr. Velasquez asked Mr. Streiffer to elaborate on the issues with the Joe Serna Farmworker program.

Mr. Streiffer said there was a conflict that came up between the funding sources with tenant selection priorities between the USDA Section 515 Program and Joe Serna Farmworker eligibility requirements. They believe the delay was related to USDA, where they took an unexpected interpretation of the regulations that viewed the situation as a conflict. They did not agree that there was a conflict between the two programs. USDA regulations specifically said that if there were other public agency sources of financing that had tenant selection priorities that those tenant selection priorities would control over the USDA Section 515 program. Due to the realignment and dealing with new staff that interpretation was unexpected and novel. Though they could have appealed it, the process would have taken months to complete. Mr. Streiffer stated they were able to resolve the issues by having the sponsor contribute a sponsor loan in lieu of the HCD financing.

Mr. Sertich asked for clarification that the HCD financing is no longer with the project.

Mr. Streiffer confirmed that was correct.

Mr. Velasquez stated that the Joe Serna Farmworker program requires that the tenants are farmworkers and they do run into situations like this where the population doesn't exactly match the intended purpose of the program statute. In cases where this happens, Mr. Velasquez stated they cannot proceed with that support.

Mr. Sertich asked Mr. Velasquez if they have had to deal with this on other projects.

Mr. Velasquez said that he is not aware of a situation in this context. He stated the department has to verify the tenant population and that takes time and that could have been part of the cause of the delay. Mr. Velasquez stated they have had to rescind awards because the population does not fit farmworkers, but not in the context of an appeal.

Mr. Streiffer said that the project did intend to serve farmworkers and that they are hoping that phase two of the project, on a separate adjacent parcel, that they may be able to serve farmworkers and thanked HCD's staff for their assistance.

Mr. Sertich said that on the CDLAC side for delays they have allowed projects to return the bonds without issuing negative points but kept the performance deposit. On the CTCAC side negative points were assessed and the deposit was not returned.

Mr. Zeto said that staff chose to assess negative points and not rescind tax credits.

Treasurer Ma asked if negative points are going to be applied to the next two rounds.

Mr. Zeto said that the negative points are applied to any applications submitted by the developer for the first round of 2022. He also confirmed that staff assessed negative points to other projects that did not meet the deadline as well.

Ms. Johnson Hall asked if it is always two points assessed.

Mr. Zeto said that there was another project assessed five points but the circumstances for that project was different for failing to meet the deadline. The other project with the USDA component was assessed the same two points with the same timeframe.

Mr. Johnson Hall said that she thinks it is important to be consistent.

Mr. Sertich said it would be nice to have a report on projects that are assessed negative points as part of the Executive Director's Report. It might be helpful to see.

Ms. Miller is concerned about that. She would like this program to function on the administrative side without the committee. She doesn't understand what value that gives as it is clear in the regulations. She compared it to the Franchise Tax Board (FTB) telling us whom they are auditing. At some point this program has to run on its own without so much committee interaction. This project didn't meet the requirement and they were assessed negative points. Ms. Miller stated this is a consequence of doing business with state money and is happy to move the staff recommendation. She added that if staff were to focus on folks that can't meet the deadlines we are never going to get to a point where we are building as much housing as we can. Ms. Miller doesn't need to see the negative points assess unless the committee wants to change the regulations, but she worries about how much time they spend on these types of things. She understands the spirit and agrees with it though she worries they would go in the opposite direction of a well-functioning program.

Mr. Sertich clarified that his request was not to be involved in decisions, rather just to see what was out there.

Ms. Miller asked if there could be a compromise where a summary total in the aggregate was provided rather than individual names of projects.

Treasurer Ma said she thinks that would be preferable probably for developers as well.

Mr. Streiffer said that if the committee feels that the delay was not due to USDA and the incompatibility and can't use the Executive Director's authority that was just approved, he requested that the committee use the discretion it has to either reduce the points or shift the timeframe of the negative point period so it does not affect the Monarch Apartment Homes project, as they are trying to ensure they continue to meet the 50% test for the project currently under construction. This is the first affordable housing project built in Palm Springs in the last decade, so it is an important project for the community.

Treasurer Ma asked if they are assessed negative points would it affect this project.

Mr. Zeto confirmed that the negative points have been assessed and applies to this project unless the committee grants the appeal. He clarified this would impact the competitiveness of the Monarch Apartment Homes project for a supplemental bond allocation as well as any other projects submitted by CHOC in the current round.

Mr. Streiffer stated that without the supplemental bond allocation, the Monarch Apartment Homes project is at risk of failing the 50% test, which would affect the investment in the project and kill the project.

Ms. Miller said to Mr. Streiffer that when they initially applied, they applied understanding the 50% test and now the project is not going to meet the requirements and need a supplemental bond allocation. She asked Mr. Streiffer if they were going to stop construction on a project that said already met the requirements.

Mr. Streiffer clarified that the project does currently meet the 50% test and they plan to continue to meet it. With the current rise of construction costs and interest rate, they are too close and skirting that threshold. The supplemental bond allocation is to provide comfort in meeting that test. The project met the application requirements and currently meets the 50% test, though there is a risk.

Ms. Miller thanked Mr. Streiffer for the clarification and confirmed with him that they do not intend to stop the construction of the project.

Mr. Streiffer confirmed they have not intention of stopping the project.

Treasurer Ma asked if projects at risk of failing the 50% test are going to come back for supplemental bond requests in the first round and if so how would they compete.

Ms. Robles said that some projects will apply and will compete with everyone else.

Ms. Zeto said the project can apply in the second round where the negative points will no longer apply.

There was no motion to grant the appeal.

There was no public comment.

## **7. Public Comment**

There was no public comment.

## **8. Adjournment**

Treasurer Ma adjourned the meeting at 11:38 a.m.