



## California Tax Credit Allocation Committee

915 Capitol Mall, Conf Rm 587  
Sacramento, CA 95814

September 28, 2022

### CTCAC Committee Meeting Minutes

#### 1. *Agenda Item: Call to Order and Roll Call*

The California Tax Credit Allocation Committee (CTCAC) meeting was called to order at 10:27 a.m. with the following Committee members present:

Voting Members: Fiona Ma, CPA, California State Treasurer, Chairperson  
Anthony Sertich for California State Controller Betty T. Yee  
Gayle Miller for Department of Finance (DOF) Director Joe Stephenshaw  
Zachary Olmstead for Department of Housing and Community  
Development (HCD) Director Gustavo Velasquez for the Department of  
Housing and Community Development (HCD)  
Kate Ferguson for Tiena Johnson Hall, Executive Director of California  
Housing Finance Agency (CalHFA)

Advisory Members: City Representative Vivian Moreno - ABSENT  
County Representative Terra Lawson-Remer - ABSENT

#### 2. *Agenda Item: Approval of the Minutes of the July 20, 2022 Meeting – (Action Item)*

**MOTION:** Mr. Sertich motioned to approve the minutes of the July 20, 2022 meeting, and Mr. Olmstead seconded the motion.

Chairperson Ma called for public comments:  
None.

Motion passed unanimously via roll call vote.

#### 3. *Agenda Item: Executive Director's Report*

*Presented by: Nancee Robles*

Ms. Robles welcomed a new staff member, Cheng Lee, who joined the Placed in Service Department under manager Marisol Parks.

Ms. Robles said the Compliance Department issued an updated memo regarding its electronic storage requirements. As part of Compliance guidance, CTCAC included a requirement that all projects in the CTCAC portfolio create and maintain an electronic copy of the resident file for each household. This went into effect in February 2022 with a completion date requirement of December 2023. Due to the global pandemic and volatile housing market affecting affordable housing, Compliance is extending the due date to December 2024 for large 100% tax credit properties with more than 161 LIHTC units or mixed-use properties with conventional and tax credit units. Detailed information will be posted on the CTCAC web site.

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Since the last Committee meeting, there have been eight grand opening and groundbreaking events. Ms. Robles highlighted the grand opening of Veterans Village of Carson, which was held on August 25, 2022. She attended the event along with Treasurer Ma, Gloria Pulido from the Treasurer's External Affairs team, and Shela Tobias-Daniel, Executive Director of CPCFA. This project received \$1,600,000 in federal tax credits and a brownfield forgivable loan from CPCFA.

In legislative news, SB 971 (Newman) has been approved and chaptered. This bill requires any housing development financed on or after January 1, 2023 with HCD funding or with LIHTCs to allow residents to maintain one or more common household pets.

AB 2873 (Jones-Sawyer) has been approved and chaptered. This bill requires any housing sponsor receiving tax credits to submit an annual report to the Committee that includes a detailed and verifiable supplier and contractor plan for increasing procurement from women, minority, disabled veteran, and LGBT-owned business enterprises. CTCAC will need to develop guidelines for housing sponsors to prepare supplier and contractor diversity plans and establish goals.

AB 1288 (Quirk-Silva) is enrolled and pending the Governor's signature. This bill would authorize \$500,000,000 in tax credits for competitive years if there is a provision for it each year in the budget. This bill would also allow CTCAC to determine readiness closing dates to account for market conditions and disasters, and CTCAC would determine how to best allocate each year's additional state tax credits, except MIP, across the 9% and 4% federal credit programs. This bill would have a sunset date of 2028.

AB 1654 (Robert Rivas) is enrolled and has been presented to the Governor. This bill creates a set-aside of the state LIHTCs for farmworker housing projects. From 2024-2034, \$25,000,000 or 5% of the amount available in the state budget each year for LIHTCs would be set-aside for farmworker housing.

AB 2006 (Berman) is enrolled and has been presented to the Governor. This bill would streamline compliance monitoring among HCD, CalHFA, and CTCAC. Through an MOU, it would ensure that only one entity conducts a physical inspection of a project.

Chairperson Ma asked if HCD, CalHFA, and CTCAC all currently conduct property inspections. Ms. Robles confirmed there is some overlap among all three entities.

Chairperson Ma called for public comments:  
None.

4. **Agenda Item: Discussion and Consideration of appeals filed under California Code of Regulations, title 4, section 10330, and if appeal is granted, a Reservation of 2022 Second Round Federal Nine Percent (9%) and State Low Income Housing Tax Credits (LIHTCs) - See Exhibit A for a list of appeals.** – (Action Item)  
*Presented by: Gabrielle Stevenson*

Ms. Stevenson introduced the appeals filed:

Project 1: Village Senior Apartments (CA-22-049):

This project was presented with a negative cash flow, and they did not have a firm commitment from HCD for their capitalized operating subsidy reserves (COSR). The project was disqualified due to the negative cash flow and 15-year proforma. They have since appealed with a revised application, which is not allowed per CTCAC regulations. Staff recommends that the project be disqualified. If the appeal is

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granted, it will eliminate another project that staff has analyzed and determined meets all state and federal requirements and is already on the preliminary recommendation list.

Project 2: Palmer Park Manor (CA-22-044):

This appeal was withdrawn and it will not be discussed.

Project 3: The Hunter House (CA-22-093)

This project is 100% special needs with rent overburden for many of the units.

Project 4: Estrella (CA-22-089):

This appeal was withdrawn because the project is already on the preliminary recommendation list and the outcome of the appeal will not impact its status.

Project 5: North Housing PSH I (CA-22-085):

This project does not have a firm financing commitment.

Project 6: Baden Station (CA-22-080):

This appeal was granted at the staff level. The project meets all requirements and will be recommended for award during this agenda item, since it is not on the preliminary recommendation list.

Ms. Stevenson said the Committee will need to decide on the three appeals that have not been withdrawn or granted at the staff level.

Chairperson Ma call for public comments:

Victoria Brady from Cabrillo Economic Development Corporation spoke on behalf of Village Senior Apartments. The project has been around for over ten years, and the developer has been working with both CTCAC and HCD staff to eliminate barriers of entry for housing for seniors, homeless, and veterans with this project. The project was disqualified due to lack of a COSR commitment from HCD. The project received an HHC award from HCD the day before the tax credit application was due, and at that time, it did not include the COSR award. HCD notified the project that day that they were ineligible for a COSR award, and they would need to revise their budget, which has since been done and accepted by HCD. The project asked CTCAC to approve the updated budget.

Mr. Sertich said the regulations clearly state that documents must be submitted at the time of application. While the timing is unfortunate, it is hard to grant this appeal. Ms. Miller agreed.

Mr. Olmstead expressed regret about the timing. HCD tries to make awards in time for other applications to be submitted, often by putting other things aside to do so. Despite the miscommunication, they were not able to award a COSR to this project.

Libby Tyler, Community Development Director for the City of San Pablo, spoke on behalf of Alvarado Gardens, which will receive an award if the appeal for North Housing PSH I is not granted. San Pablo is a disadvantaged community with the lowest income of the 109 Bay Area communities. They have a desperate need for affordable housing, and the developer has applied several times for tax credit assistance. Both the City of San Pablo and the non-profit economic development corporation are strong supporters of the project. The site is ideal for affordable housing since it is near a senior center, library, and grocery store. It is on a public transit line and one block from county health services. Ms. Tyler asked the Committee to consider supporting the project.



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Sylvia Martinez, Director of Housing Development for the Housing Authority of the City of Alameda, spoke on behalf of North Housing PSH I. The project has been in development for over 30 years. The site was dispositioned by the Navy under the Surplus Land Act and must be used for supportive housing to ensure that as the base is redeveloped, mostly with high-end housing, there is room for all residents of Alameda and the Bay Area to live on the island. The Housing Authority proposed to build over 550 affordable housing units over the next ten years. This is a significant project for the City of Alameda and for the Housing Authority, and they have put an abundance of resources into the project in the form of a subsidized ground lease, vouchers, loans, soft money, and fee waivers. The inability to fund this project puts all 586 future projects at risk because the affordable homeless housing must be created first, and it delays the availability of permanent supportive housing options, of which the community is in desperate need. Ms. Martinez has been involved with the CTCAC program since the 1990s and believes staff carefully considered the options. In response to this appeal, CTCAC staff said the HUD process for the Annual Action Plan was a barrier, and Ms. Martinez believes there was a miscommunication about the nature of that process. The HUD Annual Action Plan is a reporting action, not a funding decision or a condition of funding; it is Island City Development's job to obtain tax credits to move the project forward, and they should be able to do so at this time.

Ms. Martinez cited CTCAC Regulation Section 10325(f)(8), which states deferred payment financing should be demonstrated as committed with a form of commitment. This was submitted in the form of a letter from the City of Alameda referencing the City Council action in June 2022 discussing the commitment. They are the governing body for all the funds discussed in that letter, and they committed the funds as authorized. Section 10325(f)(8)(B) states the commitment should be final and not preliminary, which Ms. Martinez believes is a key issue. HUD does not have decision-making authority on how this project gets funded or how much funding it receives. HUD provided the funds to the City of Alameda by formula, and they require a report on what the City does with the funds which is the purpose of the Annual Action Plan. The City of Alameda has sole authority to award those funds and the action in June was final. There is no need to present loan documents or conduct a second vote and the project needs to bring tax credits to the City and move toward closing. Section 10325(f)(8)(C) states the fund commitments must be from funds within control of the entity. All funds were either collected directly by the City, such as inclusionary funds, or the City received them by set formulas. Some of the funds were from prior years, so they have been within the City's purview for quite a while.

Ms. Martinez said the HUD reporting process does not affect the final decision and is not a barrier to the applicant bringing the final package to loan closing. The HUD process does not dictate which projects to fund or the amount of funding. The City's role is to make those determinations, which they have done. Once the project is awarded tax credits, the City can bring it to funding and closing. Ms. Martinez expressed hope that the Committee would recognize the importance of the project to the City and the Bay Area.

Chairperson Ma asked how many units are in this project. Ms. Martinez indicated there are 45 permanent supportive housing units in the project and the project is located on a former Naval shipyard. If the homeless housing is not built, the remainder of the 12 acres cannot be developed, and the Navy can take back the land. She confirmed it is the first development on the site.

Ms. Stevenson said CTCAC staff analyzed the project and the letter from the City of Alameda stated, "the Home Investment Partnership Program is conditional on Department of Housing and Urban Development acceptance." The same verbiage was used to describe the CDBG funds. Whether or not it is considered



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ministerial, staff must analyze all projects on a level playing field. Any time a document from a city says it is conditional, it is not confirmed financing and cannot be accepted.

Mr. Sertich asked if this was an issue for other projects with CDBG funding. Ms. Stevenson replied it was a matter of timing because this project's Annual Action Plan was not submitted until July 13, 2022, which was after the June 30, 2022 deadline. Staff used the documentation provided by the applicant to evaluate the project. Mr. Sertich said he understands, but he wonders if other applicants may not have that clause in their commitment letters because it is ministerial. Ms. Stevenson indicated at least one other applicant has been disqualified for this same reason and it was just an unfortunate timing issue. The projects must be reviewed on a level playing field and firm commitments had to be submitted by June 30, 2022. The document submitted stated the funding was conditional, which was the basis for the decision.

Mr. Olmstead asked if HUD subsequently approved the Annual Action Plan. Ms. Martinez said HUD approves by not disapproving, and HUD has not disapproved. The Annual Action Plan was submitted July 13, 2022, and HUD had the opportunity to ask for additional information at the end of August, but they did not. Chairperson Ma asked if that meant HUD approved the plan. Mr. Martinez said if HUD does not disapprove, it is deemed approved.

Mr. Sertich asked if the timing of the HUD Annual Action Plan is the same for the City of Alameda every year. Lisa Fitts from the City of Alameda said the timing was unusual this year because the Annual Action Plan is normally due by May 15, but HUD did not announce allocations this year until sometime in May. Therefore, they extended the submission deadline to July 3, 2022. North Housing PSH I was authorized to use grant funds from HUD in advance of the City Council meeting, which should be considered since it may not have been true of other projects.

Mr. Sertich asked Ms. Martinez if she knows of any other Annual Action Plans being returned to the City of Alameda. Ms. Martinez said no, not in her memory. Ms. Fitts said the City has never had an Annual Action Plan rejected but they have been asked questions. They have not received any subsequent requests this year, so the plan has been deemed approved.

Ms. Miller said it is difficult for the Committee and staff to look at projects on a case-by-case basis. The Committee must think about how staff can do their jobs in a fair way that creates predictability in the system for all applicants. Not everyone can come to Sacramento to have this type of interaction with the Committee, and the Committee has been trying for four years to create a level of consistency. She expressed sympathy for the project's situation but said the Committee cannot make decisions based on new information presented at the meeting. The State must have a way to analyze projects and cannot rely on additional information presented after the application deadline. She cannot support appeals for one-off situations. Every time the Committee supports an appeal, they disempower staff to do the necessary analysis for each project. Locals need to partner with the State to get things done on time to ensure housing is built. When locals come to the State of California and request billions of dollars in funding, it is their responsibility to get it done. She expressed that this situation is not Ms. Martinez's fault, and she hopes they can work together to ensure local governments are accountable for getting projects built in their communities.

Chairperson Ma asked if HUD causes a delay which causes applicants to apply late, can staff take that into consideration? Ms. Stevenson said only with revisions to the regulations in terms of how federal funding is reviewed due to the various timelines.



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Mr. Sertich said he supports this appeal because the delay was due to a ministerial issue with HUD, which was not the fault of the local government nor the State. It is difficult to hold projects accountable when the timing changes on a yearly basis, and it is not fair if projects are unable to apply in a particular year because they cannot get HUD approval in time. City of Alameda could not have made an unconditional commitment to the project until August, after HUD accepted the Annual Action Plan. He agreed with Ms. Stevenson that changes need to be made to the regulations to account for this issue.

**MOTION:** Mr. Sertich motioned to grant the appeal to North Housing PSH I (CA-22-085). There was no second, and the motion failed.

Ms. Stevenson said if the Committee grants the appeal to North Housing PSH I, it will take the allocation from Alvarado Gardens (CA-22-082), a Large Family 50-unit property in San Pablo serving 30-60% AMI, which has met all State requirements.

Mr. Olmstead said the crux of the issue is whether the funds have been committed by the City, and due to the HUD delay in approving the Annual Action Plan, staff's interpretation was the City was unable to commit those funds. He believes the City has publicly committed those funds but clarification in the regulations is needed going forward. Ms. Stevenson said staff could only decide based on the letters provided by the City of Alameda, which specifically stated the commitment was conditional on HUD approval. Staff cannot make assumptions, in fairness to the other applicants who submitted complete applications on time, with all financing in place. Staff received 69 applications for what amounted to 29 awards.

Ms. Miller said the regulations should address city funding and the HUD approval process; if HUD cannot affirmatively give approval, the regulations should take that into consideration. She understands the complications of approving this project, but the Committee and staff can learn from this situation for the future, both in terms of city funding and the HUD approval process, so future applications are not disadvantaged. The Committee is not supporting the appeal due to the need for a consistent system, but it is a tough situation.

Chairperson Ma reiterated there was a motion lacking a second.

Ms. Stevenson provided background information on the appeal for The Hunter House (CA-22-093), a 100% special needs project serving half homeless and half disabled populations. Per the Committee's direction, staff reached out to the applicant between rounds to offer technical assistance. The project made a few changes to the market study, which was one of their biggest concerns. They added some 15% AMI units and said tenants could use Supplemental Social Security Income (SSI) to alleviate rent overburden. They only have tenant-based subsidies, which staff cannot verify because CTCAC only acknowledges project-based subsidies. The organization providing the tenant-based subsidies, Central Valley Housing Corporation, was not mentioned in the market study or the application. Staff determined the project failed to demonstrate how tenants would not be overburdened with rent.

Vernell Hill, CEO of Service First of Northern California, spoke on behalf of The Hunter House. The project has appealed six times and his understanding, based on discussions with staff, is that their main issue is rent overburden, which he believes is a new regulation. He thinks the market study guidelines do not provide a clear methodology for demonstrating the issue of rent overburden, and for that reason, they are not able to prove tenants will not be rent overburdened. They added 15% AMI units, which CTCAC accepted as not rent overburdened. Additionally, they have a commitment from Central Valley Low Income Housing for vouchers for the 30%, 40%, and 50% AMI units. There is a homeless population with

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incomes sufficient to pay the rent without being overburdened. Mr. Hill presented a letter from Central Valley Low Income Housing to the Committee.

Ms. Stevenson said page 71 of the market study references SSI income, which they are assuming tenants would have. Staff cannot normally operate under that assumption but if the tenants did receive SSI income, the monthly amount would be \$841 for singles and \$1261 for couples. Proposed rent for a 1-bedroom unit at 15% AMI would be \$233 but rent for a 2-bedroom unit at 30% AMI would be \$559. That exceeds 30% of the tenant's income, which is the maximum allowed per the CTCAC regulations.

Chairperson Ma asked how other applicants prove tenants will not experience rent overburden. Ms. Stevenson said they demonstrate income pools for the region; the types of data vary, but they pull county and state pools. One applicant provided data for a disability pool showing how many disabled residents were in the county, how many of those potential tenants had jobs, and their average income. Applicants are required to specifically show the pools of potential tenants. The market study provided for this project does not illustrate that the rent will not be more than 30% of a potential tenant's income.

Mr. Hill said CTCAC's regulations do not provide a method for meeting those requirements. The rent for a 15% AMI unit meets the requirement, but the regulations do not provide directions for satisfying the requirement for higher AMI units. The 30% test is somewhat impractical and will hurt the creation of more affordable housing. He asked if a homeless mother with two children would be denied housing because the rent was 31% of her income.

Ms. Stevenson said the project does not have subsidies or letters from local service providers, as required per page 11 of the market study guidelines. Nothing in the market study guidelines supersedes the 30% requirement in the regulations, and CTCAC cannot assume tenants will pay more than 30% of their income for rent. The study used a family general occupancy model, which CTCAC does not accept for special needs projects, but this project is 100% special needs. CTCAC's Compliance team monitors income for 55 years, so it is important to ensure projects meet income requirements from the beginning.

Mr. Sertich said he agrees with the idea of building permanent supportive housing as creatively as possible, and it is problematic to assume no one can pay more than 30% of their income for rent. Someone making 58% AMI would need to be in a 60% AMI unit, so there is some offset. He asked if the project assumes tenants will generally receive SSI. Mr. Hill said he expects some tenants to have SSI income, and some will have vouchers. According to the letter Mr. Hill provided to the Committee, Central Valley Low Income Housing did a survey showing 257 homeless adults in the area have income at the 40% and 50% AMI levels. These individuals could move into the facility right now if it were open, and they will still be there when the facility is built.

Ms. Stevenson said the letter from Central Valley Low Income Housing was not included with the application by the June 30, 2022 deadline, nor was it mentioned in the market study, aside from a comment stating residents would have some form of subsidy. The letter from Central Valley Low Income Housing was provided during the appeal process. Mr. Hill said the letter was accepted during the appeal process, and Central Valley Low Income Housing was always part of the application because it referenced another project with a similar model to Hunter House for which Central Valley Low Income Housing provided vouchers. Project-based vouchers are unavailable or very difficult to obtain, both in their county and statewide. The developer had to be creative with financing and how the project was put together. Rent overburden should not keep a 120-unit project from being built.



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Mr. Sertich asked if there is a contract between the project and Central Valley Low Income Housing. Mr. Hill said they will probably have a memorandum of understanding. They have worked together in the past and their purpose is to house the homeless.

Ms. Ferguson said it appears this project was denied fundamentally due to deficiencies in the application. While Mr. Hill's explanation of the project and the creativity put into it is compelling, the integrity of the application process relies on consistency. Mr. Hill disagreed that the application had deficiencies. The project is being held to an issue with the market study and the CTAC regulations do not adequately address the issue of rent overburden. As a result, the project was unable to provide the market study information requested by CTCAC. The CTAC regulations are not in line with what he believes is a new policy regarding rent overburden which has never been enforced before and requires additional vetting. The market study analyst followed the guidelines that were available. The project is being hurt by the misalignment between this policy and the CTAC regulations.

Ms. Ferguson asked if this was the only deficiency in the application. Mr. Hill said yes, this is the main issue that is keeping the project from moving forward. Ms. Stevenson said the deficiencies included a combination of rent overburden, lack of subsidies, and discrepancies in the rent listed in the application versus the market study. There was also an issue with the state credits that did not allow the feasibility to zero out. However, the market study and rent overburden are considered the priorities. Mr. Hill said the issue regarding state credits was not mentioned in any letters sent to the project. Ms. Stevenson said it is a threshold issue, so the applicant would have been contacted about it if they were on the preliminary reservation list before the list was published.

Jon Mendelson from Central Valley Low Income Housing confirmed his company partnered with Service First of Northern California to provide tenant-based vouchers to residents of previous projects, and vouchers will be available for future projects, including Hunter House. They previously signed an MOU regarding this project. Central Valley Low Income Housing is the lead agency in the local continuum of care. They gathered data from their most recent point-in-time counts, reports regarding people in shelters contacted by outreach teams, and the Coordinated Entry System, supporting that there is a significant number of homeless individuals who have an income sufficient that they would not be rent overburdened in 40% or 50% AMI units. Central Valley Low Income Housing routinely receives calls from households requesting assistance who meet the federal definition of homeless or at risk of homelessness and would qualify for 40% or 50% AMI units.

Ms. Stevenson said CTCAC staff sent a letter to Hunter House on July 19, 2022 regarding the credit reduction from \$12,000,000 to \$10,800,000 due to the operating deficit reserve. Mr. Hill said those credits were put back in place after the project appealed the reduction. Ms. Stevenson indicated part of the credits were reinstated. Mr. Hill responded this was never an issue but the rent overburden policy needs to be vetted and the market study guidelines were not adjusted for this policy. Central Valley Low Income Housing made a commitment to provide vouchers, and there are homeless individuals who can afford the 40% and 50% AMI units.

Chairperson Ma asked about a letter from the project's architect stating they would submit documents to the City of Stockton on October 12, 2022. Mr. Hill said the documents being submitted are for the building permits. They are ready to apply for building permits next month if the CTCAC appeal is granted; the project is ready to begin construction, except for the tax credits, and they have received two awards from HCD in the amount of \$27,000,000 and over \$2,500,000, respectively.





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Chairperson Ma asked if “shovel ready” means all permits have been obtained. Mr. Hill replied no, the building permits are usually obtained last, after funding is secured. He does not anticipate any problems obtaining the building permits.

Ms. Ferguson asked staff if there is a disconnect between the market study requirements and the CTCAC regulations. Ms. Stevenson said she does not believe there is a difference. The market study guidelines were published in 2019, and they specifically state they do not supersede the regulations. The regulations state that a tenant’s rent cannot be more than 30% of their monthly income. Mr. Hill said the project will let their referral agencies know about the 30% limit and market the property accordingly. It would be heartbreaking for a family to be denied housing because the proposed rent was 31% or 32% of their income, but they will follow the regulations.

Ms. Ferguson said the market study issue for the Hunter House project was discussed by the Committee previously, and she requested clarification that circumstances have not changed since then. Mr. Hill said the Committee directed CTCAC staff to work with the project to determine the problems with the market study and discuss a path forward. After working with staff, they adjusted the market study based on staff’s requests. He is frustrated because after receiving direction from staff and being told they would help determine a path forward, this issue has come up again, which he believes is unfair.

Mr. Sertich said the market study concerns are a result of the project being for homeless and special needs populations with units up to 60% AMI. The disconnect seems to stem from the housing type category; there are approximately 50 units that are 50-60% AMI, and it will be hard to prove there are homeless individuals who can pay that much rent. The market study may be able to prove that, but he is not sure how. However, he appreciates the leverage and the project’s work with Central Valley Low Income Housing to use tenant-based vouchers to house homeless individuals. Mr. Hill said only 60 of the 119 units must meet the threshold, and 37 of those units at 15% AMI have been accepted in accordance with the 30% test. He is certain they can fill the remaining 23 units with homeless individuals who have sufficient incomes.

Mr. Sertich said he appreciates the letter from Central Valley Low Income Housing stating there is a homeless population who could afford the 40% and 50% AMI units, but the project also has 55% and 60% AMI units. The project is valuable, and he would like to find a way to make it work. Mr. Hill said they do not need to find 119 homeless individuals, since there are other populations, such as those with developmental disabilities, who will have the income to afford the 60% AMI units. They are trying to prove there is a population who will be able to afford the 40% and 50% AMI units. They believe they have met that threshold. Homeless individuals do not need to be able to afford the 60% AMI units.

Mary Ellen Shay, market analyst for the Hunter House Project, said the regulation cited pertaining to rent overburden has been in the guidelines for a long time, but it has never been used before. By acquiring project-based vouchers, the project has proven there will not be a rent overburden for special needs tenants, and they will not need to pay more than 30% of their income for rent. That issue was resolved in the first round of appeals. The project was then given instructions to provide a revised market study and correct some other deficiencies in the application, which have since been corrected. The project came back in June for another round of appeals, and through a discussion with staff, they were able to resolve the 30% rent issue with the 15% AMI units. Staff then informed the project they had not proven the rent overburden issue for the higher AMI units. After five months of analytical, statistical, and demographic analysis, they have determined there is no demographic or statistical way to prove sufficient demand at those levels for the special needs population. This requirement was put into the regulations as a safeguard



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to ensure projects without subsidies would not inadvertently overburden the special needs population, but the test was never tested.

Ms. Shay said there is no method acceptable to CTCAC that will demonstrate, demographically and statistically, sufficient demand. This requirement only applies to the special needs population and the proof is impossible to obtain. They instead identified 257 qualified potential tenants in the primary market area who can afford to live in this project at the various AMI levels. If this project is denied because they are not able to sufficiently prove there is a demand without rent overburden, every other special needs project without subsidies will face the same difficulties and will not be able to move forward. Project-based subsidies are extremely limited but there are new forms of subsidies becoming available all the time; HUD recently released multiple tenant-based vouchers that are being given to residents of shelters to help them move into permanent supportive housing. This project should not be turned down because the Committee did not have knowledge of that program, or because the program did not exist. Other new programs may come along to provide funding for projects without project-based subsidies.

Ms. Shay said she does not know why the rent overburden criteria was imposed on this project when it has never been used before. She has never heard of any other projects struggling with this issue. There are many other projects in service with non-subsidized permanent supportive housing for special needs populations. It is tragic for potential residents in the Stockton area to be denied an opportunity to improve their living circumstances because the project is unable to meet a test that has never been tested. This applies not only to this project, but to other projects that will be in similar situations. The problem will get bigger if this appeal is denied.

Chairperson Ma asked CTCAC staff to clarify the definition of "special needs." Ms. Stevenson said it is spelled out in the regulations. This project is 100% special needs but based on the data provided in the application and market study, only 37 of the 119 units do not have rent overburden; 82 units are rent overburdened.

Chairperson Ma asked if rent overburden has been used before as a reason for denial. Ms. Stevenson said yes, it has been used before for special needs projects. Carmen Doonan, CTAC Development Program Manager, said there have been other projects that demonstrated they were not rent overburdened, including another project in this round. Chairperson Ma asked if they used different types of data. Ms. Doonan indicated they used a larger population to describe more incomes. It also depends on the type of special needs and it would be difficult to demonstrate that there is not rent overburden for a homeless special needs population for 60% AMI units, particularly for 2-bedroom units, where both homeless individuals have to qualify. Many special needs projects have 1-bedroom and SRO units, which specifically target a homeless population. This project has 1-bedroom and 2-bedroom units.

Chairperson Ma asked if the market studies provided for other projects satisfied staff. Ms. Doonan said projects have been disqualified for this issue before and those projects were able to come back with more information and demonstrate there was no rent overburden. Staff has tried to explain the regulations and give feedback to the Hunter House team. Chairperson Ma asked what the Hunter House team needs to do to fix the project to prove there is no rent overburden because they have appealed six times. The Committee is sympathetic and wants projects to be built but there seems to be a disconnect between the regulations and what the project has submitted.

Mr. Olmstead asked if the regulations should be updated to accommodate the new tenant-based vouchers. Ms. Stevenson said the regulations allow subsidies from qualified federal, state, and local agencies. Central



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Valley Low Income Housing is a 501(c)(3), which does not qualify as a project-based voucher, and they are providing tenant-based vouchers.

Ms. Miller said staff cannot assume a homeless person would want to spend 40% of their income on housing rather than being homeless. The applicant has asserted that the Committee can decide what percentage of their income a homeless person is willing to spend on housing, but the Committee cannot make that decision. Mr. Hill said 50% of the units must be for the homeless population but they have been told they have to prove 100% of the units are not rent overburdened.

Ms. Miller said 60% AMI is a lot of income for a formerly homeless person and The Hunter House team is creating a higher income project, so their rents are higher.

Mr. Hill disagreed, saying the threshold they originally had to meet was 50% homeless units but now the threshold has been changed to 119 units. Mr. Olmstead asked if the project is 100% special needs. Mr. Hill said the issue is the number of units required to qualify for the homeless set-aside, which is 50% of the total units. Mr. Olmstead said rent overburden applies to anyone with special needs, not just homeless individuals. Mr. Hill said they proved 50% of the units are not rent overburdened, which was the requirement to earn the points that were deducted. Now they are being asked to prove there is no rent overburden for all 119 units, but 50% is only 60 units.

Ms. Miller said Mr. Hill asserted that homeless individuals would rather pay 40% of their income than be homeless, but there is no way staff could have come to that conclusion. Mr. Hill said Central Valley Low Income Housing analyzed the data and identified 257 individuals who have sufficient income to afford the units at any AMI level without being rent overburdened.

Ms. Miller said this is not consistent with the regulations and there was a two-year process during which anyone could have provided feedback on the rent overburden issue. If this were a case-by-case basis, she would be sympathetic but the Committee cannot create a statewide program on a case-by-case basis. The rules must be consistent across the board, and Mr. Hill's definition of what potential tenants are willing to pay for rent is different from anything the Committee has previously used. They cannot decide based on 257 people for whom this is important; they must decide based on regulations.

Ms. Ferguson said the application did not meet all the requirements. The rent overburden requirements are applied on an ongoing basis as part of the application review process. Even though the project has now identified 257 potential tenants, the application timeline exists for consistency and to meet the needs of the whole state. She will not support the appeal.

Ms. Shay said she would like to review other market studies that met the rent overburden requirements. Chairperson Ma asked if those were public documents. Ms. Stevenson said the attachments to the application are not typically published unless there is a Public Records Act request. A path forward for the project would be to provide letters from local service providers, as described on page 11 of the market study guidelines. Those were not provided but they are part of the demonstration process when a project has no subsidies. Other special needs projects have provided those letters.

Chairperson Ma called for public comments:  
None.



## California Tax Credit Allocation Committee

Ms. Stevenson said there is one additional appeal for Baden Station (CA-22-080) – Exhibit A, Item 6. This project meets federal and state requirements and the appeal was granted at the staff level. Because the project is not listed on the preliminary recommendation list, staff recommends a 9% allocation at this time.

**MOTION:** Ms. Miller motioned to approve the appeal for Baden Station (CA-22-080) and award a 9% allocation per staff's recommendation, and Mr. Sertich seconded the motion.

Chairperson Ma called for public comments:  
None.

Motion passed unanimously via roll call vote.

Chairperson Ma said no other appeals are granted at this time.

5. *Agenda Item: Recommendation for Reservation of 2022 Second Round Federal 9% and State LIHTCs – (Action Item)*  
*Presented by: Gabrielle Stevenson*

Ms. Stevenson said all projects on the preliminary recommendation list, except for CA-22-058, which was withdrawn on Friday, and CA-22-047, which had to be removed because the cap was reached for the Large Family High Resource Area housing type, were extensively analyzed and meet federal and state requirements. Staff recommends 9% awards for these projects.

**MOTION:** Mr. Sertich motioned to approve staff's recommendation, and Ms. Miller seconded.

Chairperson Ma called for public comments:  
None.

Motion passed unanimously via roll call vote.

6. *Agenda Item: Public Comment*

Alexis Lang from Lang Companies said some applicants applied for both 4% and 9% tax credit allocations for projects that are meant to be built simultaneously. She requested a waiver of negative points for projects awarded 9% allocations under Agenda Item 5 but do not yet know if they will be awarded 4% allocations. She said 9% preliminary reservations will be due before the 4% allocations are awarded at the next Committee meeting on November 30, 2022. A timing issue was created when the second round for 4% allocations was moved.

Laurie Doyle from Affordable Housing Development Corporation expressed concern about the current scoring and tiebreaker parameters for the 9% CTCAC funding competition. The tiebreaker formula adds costs to projects that are otherwise 100% financially feasible and shovel ready but are being pushed to pursue additional public funds to get a higher tiebreaker to compete with other projects. For example, a \$36,000,000 project with multiple public funding sources committed to the development totaling almost \$5,000,000 does not trigger any type of prevailing wage and has a total development cost of approximately \$500,000 per unit, but only has a 31% tiebreaker, so it is not competitive in its set-aside. Another example is a \$33,000,000 project with multiple public funding sources committed to the development totaling almost \$4,000,000, which does not trigger any type of prevailing wage but has a total development cost of approximately \$400,000 per unit and only a 26% tiebreaker, so it is not competitive in its set-aside.

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Ms. Doyle said these projects are both located in a rural jurisdiction and the local resources committed are already robust and tapped out. These projects are essentially pushed into submitting a funding application for another type of qualified public funds, such as HUD financing, which triggers prevailing wage and increases costs on each project by over \$100,000 per unit, because in that model, the project has a tiebreaker over 60% and is now competitive in the set-aside. This additional funding is not needed for projects' feasibility and adding it to the projects increases costs and adds to the persistent argument that affordable housing unit costs are extraordinarily high, thus creating concern with our legislators. In review of the preliminary recommendations that were just approved today, almost all the projects awarded had some type of HCD funding source that created a boost to their tiebreaker, ultimately getting them funded. These projects on average cost more than the two noted above and are requesting more credits per unit. Even with the stack of sources they have put together to create financial feasibility, the 9% program tiebreaker demands they apply to the State for additional funding to trigger State prevailing wage and add additional requirements to those funding sources, including supportive services, special needs, and homeless housing for developments that were never intended to serve those populations. As an affordable housing developer with over three decades of experience, along with their local partners, they do not possess experience with homeless and special needs housing. It is a recipe for disaster for CTCAC, HCD, and the State in general, to push developers to create housing to serve a population that they do not have the capacity or resources to serve. Not all affordable housing developments are designed or equipped for supportive services, nor should they be forced to be, just to get a boost in the tiebreaker, when the ownership, management and service providers are not fully equipped.

Ms. Doyle said they have financially feasible projects with committed soft sources, current and accurate construction budgets, permits ready, and local support, both politically and financially, to begin construction and serve the desperate need that exists in these communities. These projects do not need any additional funding – they can be built now without any more gap financing but based on the competitiveness of the tiebreaker, they are being pushed to apply to HCD and increase costs, both upfront and operationally, just to get a higher tiebreaker. The State has been pushing for more shovel ready projects that can address the affordable housing crisis. If this is the State's desire, more weight needs to be put into this, including having permits in hand with costs resolved and finalized.

Ms. Doyle asked the Committee to consider additional points or boosts for building permits or stamped approved construction drawings and a signed current construction contract guaranteeing costs are valid and construction can begin in 90-120 days. Having permits alleviates the unknown changes that could possibly come out of the plan check process, which is another way that a project can be stalled or delayed. Committed developers who are willing to make the investment to finish plans and go through the plan check process show their commitment to getting shovel ready and alleviate cost changes over time. Having a binding, signed construction contract with a valid schedule of values demonstrates a contract has gone to bid, the contractor and developer are both confident the project can be delivered within budget, and the bid process is completed, which is another way projects can fall behind. She expressed a desire to be involved in future conversations around regulation changes.

Chairperson Ma asked Ms. Doyle to submit her letter to the Committee. She said it is not the Committee's intention to add additional time and costs. The cost per unit is already high, so if applicants do not need certain funding, they should be moved forward. She has talked to staff before about not adding additional layers.



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Mr. Olmstead said only five or six projects had HCD funding, so it is not the vast majority. Ms. Doyle said she was referring to the rural set-aside that her two projects competed in; all projects except one had HCD funding. She did other research, but not throughout the entire state.

### 7. *Agenda Item:* **Adjournment**

The meeting was adjourned at 11:58 a.m.