

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
Minutes of the February 1, 2012 Meeting

1. Roll Call.

Bettina Redway for State Treasurer Bill Lockyer chaired the meeting of the Tax Credit Allocation Committee (TCAC). Ms. Redway called the meeting to order at 11:00 a.m. Also present: Alan Gordon for State Controller John Chiang; Pedro Reyes for the Department of Finance Director Ana Matosantos; California Housing Finance Agency Executive Director Claudia Cappio; and Russ Schmunk for the Department of Housing and Community Development Acting Director Cathy Creswell.

2. Approval of the minutes of the December 14, 2012 Committee meeting.

MOTION: Mr. Gordon moved to adopt the minutes of the December 14, 2011 meeting. Mr. Reyes seconded and the motion passed unanimously.

3. Executive Director's Report.

Mr. Pavão announced that staff brought the proposed regulation changes to the Committee for consideration and action.

Mr. Pavão also announced that staff would hold application workshops in Sacramento, Oakland, Los Angeles, and San Diego beginning in February.

Mr. Pavão reported that staff was in the process of determining the effects of the court decision regarding redevelopment agencies (RDAs). He stated that 72 projects awarded during the 2011 competitive rounds had RDA funding commitments. He reminded the Committee that they approved a regulation amendment that gave TCAC authority to grant RDA projects a 90-day extension to their readiness deadline. Mr. Pavão explained that the deadline for 10 of the First Round 2011 projects was changed to March 19, 2012 as a result of the extension. To date, 2 of the projects reported that they expect to close by the March deadline and 3 reported that they likely would not.

Mr. Pavão reported that 33 projects from the Second Round 2011 had RDA funding. The readiness deadline for the projects is March 26, 2012. Mr. Pavão stated that 23 of the projects indicated they would meet the deadline and 10 sought an extension that would change their deadline to June 25, 2012. Mr. Pavão stated that TCAC may need to convene a special meeting for the Committee to consider another extension to the readiness deadline.

Ms. Redway asked legal counsel, Robert Hedrick, if the Committee was allowed to receive public comments regarding Mr. Pavão's proposal to extend the readiness deadline.

Mr. Hedrick stated that the Committee was allowed to receive comments; however, the only Committee action or discussion must be limited to a decision on whether to put the proposal on a future meeting agenda.

William Leach, from Palm Communities, stated that his project was seeking an extension on the readiness deadline. He stated that the project was located in Moreno Valley and had 77 units. He stated that the project had permanent support of special needs in the community. He commented that RDA projects would go forward due the Committee's flexibility and sympathy toward RDA projects affected by legislative proceedings. Mr.

Leach stated that the RDA of Moreno Valley entered into an enforceable agreement with the project long before the readiness deadlines. He stated that the pay in schedule was designed so the RDA shared the risk but did not pay all their funds up front. He explained that a portion of the RDA funding would be paid when the project was completed. He stated that \$6 million would be paid after the construction loan was fully drawn down. Mr. Leach stated that the construction lender and tax credit investor for the project were concerned because the oversight board may terminate contracts in order to reduce liabilities even though guidance from the Department of Finance stated that RDA should continue to meet their obligations. Mr. Leach reported that the construction and tax credit lenders have learned from their attorneys that the oversight board could terminate future payments needed to complete the project. He stated that the oversight board was not legally required to hold its first meeting until May 1, 2012. He commented that the forming the oversight board would not likely be an expeditious process. Mr. Leach stated that oversight boards within the project owner's jurisdiction predict they would hold their first meeting in the second half of April. Mr. Leach stated that he would not have the ability to get the oversight board to take a position on the RDA agreement and then make the lender and investor comfortable that the oversight would not default on the agreement. He concluded that the project needed additional forbearance by the Committee through a regulation change prior to March 19th.

Mr. Gordon asked Mr. Pavão when the next TCAC meeting was.

Mr. Pavão stated that the next meeting was scheduled for March 21st.

Mr. Reyes stated that the Committee would need to meet again soon to discuss adoption of a regulation change. He suggested staff consult the regulations to determine how much time was needed to post the meeting notice and gather public comments.

Ms. Redway predicted that TCAC's emergency regulations authority would allow the Committee to adopt the necessary changes before March 19th. She asked Mr. Pavão for his opinion.

Mr. Pavão stated that staff could draft and post an agenda within the next 2 weeks. He stated that TCAC normally provides a 21-day comment period, however, under urgent circumstances the regulations allowed TCAC to adopt emergency regulations.

4. Discussion and Consideration of setting a minimum point requirement for the competitive 2012 applications.

Mr. Pavão reported that staff recommended setting the same minimum point score as year, 123 points, for the 2012 9% credit applications. In addition, staff recommended setting the same minimum score as last year, 112 points, for 2012 4% plus state credit applications. Mr. Pavão noted that even though the Committee has the ability to set minimum scores, they still had the authority to fund projects that score below the established minimums.

Mr. Reyes asked Mr. Pavão if the Committee was required to adopt the minimum point score annually.

Mr. Pavão stated that regulations to required Committee to adopt minimum point scores annually. He also stated that the Committee may also choose to establish no minimum point score.

MOTION: Mr. Gordon moved approval of staff recommendations. Mr. Reyes seconded and the motion passed unanimously.

5. Discussion and consideration of the 2012 Applications for Reservation of Federal Low Income Housing Tax Credits (LIHTCs) for Tax-Exempt Bond Financed Projects.

Mr. Pavão stated that the 8 projects on the agenda met all state and federal requirements and all feasibility requirements

MOTION: Mr. Reyes moved approval of staff recommendations. Gordon seconded and the motion passed unanimously.

6. Discussion and consideration of a resolution to adopt proposed regulations, Title 4 of the California Code of Regulations, Sections 10302(v) through 10328(g), revising allocation and other procedures.

Mr. Pavão explained the under the proposed regulations, TCAC would have the ability to grant additional state credits to 4% applicants that were seeking state credits beyond the 15% originally set aside if there is a lagging demand for state credits by the First Round 9% applicants.

Mr. Pavão stated that the proposed regulations also required some additional auditing of projects at final cost certification when the developer and general contractor are related parties.

Mr. Pavão stated that the proposed regulations also extend distances to public schools for scoring purposes. He explained that the change would enlarge the pool of sites that would garner full points. He commented that a large number of sites would help suppress costs of land and making additional sites available for competitive development.

Mr. Pavão stated that under the proposed regulations, staff amended the requirements to receive points for clinics. He explained that in order for a clinic to score the same number of points as a hospital, the clinic must have a physician, physician's assistant, or a nurse practitioner on site at least 40 per week.

Mr. Pavão stated that the most substantive change in the proposed regulations would require additional Committee review of projects that exceeded the cost threshold established in the regulations. He stated that during a prior TCAC meeting staff proposed that they would not recommend a high cost project for credits unless the Committee heard the facts associated with the high costs and directed staff to consider the project in the funding competition.

Mr. Gordon asked Mr. Pavão if "high cost" was defined by the cost per unit.

Mr. Pavão stated that staff was reviewing the basis cost per unit. He stated that if the basis costs exceeded a certain adjusted threshold by 30%, staff would categorize the project as "high cost".

Mr. Pavão commented that the original draft of the proposed regulations included a second provision that would have triggered additional Committee reviews. The provision stated that costs exceeding a state-wide minimum of \$400,000 per unit would trigger additional Committee reviews. Mr. Pavão concluded that staff decided to withdraw the second provision from the proposed regulations.

MOTION: Mr. Gordon moved approval of staff recommendations. Mr. Reyes seconded and the motion passed unanimously.

7. Public Comment.

Stephen Daues commented in favor of the proposed regulations that would allow high rise projects to elect to exchange in their credits for the new current year credits to allow for an additional year to complete the project.

8. Adjournment.

The meeting adjourned at 11:45 a.m.