

**CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE**  
**Minutes of the January 29, 2014 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; Eraina Ortega for the Department of Finance Director Michael Cohen; Tim Hsu for California Housing Finance Agency Executive Director Claudia Cappio; Department of Housing and Community Development Representative Laura Whittall-Scherfee; County Representative Lois Starr; and City Representative Lucas Frerichs.

2. Approval of the minutes of the December 11, 2013 Committee meeting.

MOTION: Mr. Gordon moved to adopt the minutes of the December 11, 2013 meeting. Ms. Ortega seconded and the motion passed unanimously by a roll call vote.

3. Executive Director's Report.

Mr. Pavão reported that he provided the board members with a summary of the 2013 production report. He stated that TCAC funded 84.9% tax credit applicants, 89.4% applicants, and 7.4% plus state credit applicants. In summary TCAC funded 180 projects in 2013 and awarded approximately \$155 million in annual federal credits and \$86.7 million in state credits. Mr. Pavão stated that about 14,500 income and rent restricted units were produced by the awards. He commented that the competition for tax credits was very active in 2013 and he hoped that 2014 would be an equally successful year.

Mr. Gordon asked if TCAC staff knew what the level of demand for housing should be based on the number of affordable units Mr. Pavão reported for 2013.

Mr. Pavão stated that he would research the question and report back at the next meeting. He noted that the Housing and Community Development Department (HCD) produced some information about the need for affordable housing for low and very low income households. He stated that the level of affordable housing available was still very small compared to the need in California. He stated that he would work with HCD to gather information that would help the board put the issue into perspective.

Mr. Frerichs asked Mr. Pavão to provide his findings to the board in electronic form.

Mr. Pavão stated that he would be glad to provide the information electronically. In addition, he would provide a link to a summary of information on the TCAC website.

Mr. Gordon asked Mr. Pavão for an update on the cost study, which had been hung up over the last few months.

Mr. Pavão stated that the cost study report was in the final draft stage. He reported that staff would release the draft form for public review and comment shortly.

4. Discussion and consideration of the 2014 Applications for Reservation of Federal Low Income Housing Tax Credits (LIHTCs) for Tax-Exempt Bond Financed Projects.

Mr. Pavão stated that 10 projects were listed on the Agenda.

TCAC Development Section Chief, Anthony Zeto, brought the Committee's attention to a revised Staff Report on golden paper for Santa Monica RHCP (CA-14-805).

He stated that the staff report reflected inaccurate information, received by the applicant and reported from the local housing authority. Staff corrected the unit mix and other figures affected by the corrections. He confirmed that the project remained feasible.

Mr. Pavão noted that all 10 projects were rehabilitation projects, which continued the pattern TCAC saw developing last year. He explained that TCAC had been receiving a lot of 4% tax-exempt bond applications with rehabilitation projects.

Mr. Pavão stated that the projects on the agenda were reviewed for feasibility and compliance with state and federal regulations. He recommended them for funding.

MOTION: Mr. Gordon moved to adopt staff recommendations. Ms. Ortega seconded and the motion passed unanimously by a roll call vote.

5. Discussion and consideration of a Resolution to Adopt Proposed Regulations, Title 4 of the California Code of Regulations, Sections 10302(dd) through 10337(d), revising allocation and other procedures.

Mr. Pavão reported that on October 25, 2014, staff released a set of proposed regulation changes for public view and comment. In addition, they held public hearings in Sacramento, Oakland, Los Angeles, and San Diego to gather public comments. Mr. Pavão stated that staff accepted written comments for a period of 45 days. He reported that many of the proposed regulation changes were amended in response to comments. He announced that the final set of proposed changes was provided to the Committee for consideration that day.

Mr. Pavão noted that 4 topics generated the most comments during the public comment period. The first topic was in regards to proposed changes to the senior housing type, which would go into effect in 2015. Mr. Pavão explained that staff proposed to change the threshold requirement for competitive senior housing type standard to 62 and above. He stated that if TCAC received a competitive application for a project identified as a senior housing type, the project would have to meet the 62 and above standard. If the applicant proposed a different housing type, such as Special Needs, Single Room Occupancy (SRO), or At-Risk, the project could in fact be a senior housing type using a 55 and above or other standard. Mr. Pavão clarified that only projects identified as a senior housing type for competitive purposes would have to meet the 62 and above standard. He reiterated that the proposed change to the senior housing type would go into effect in 2015 if adopted.

Mr. Pavão explained another proposed change to the senior housing type, which required that applicants provide additional accessibility. He stated that staff initially proposed an aggressive requirement that all units of senior projects adhere to a universal design standard. He stated the revised proposal would require 50% of units in a Senior project, that were on an accessible path, be accessible in accordance with California Building Code (CBC) Chapter 11B. He summarized that half of the units on an accessible path would have to be accessible with a full array of features that made units mobility accessible.

Mr. Pavão explained that if a 2-story building lacked an elevator, TCAC would require 50% of the ground floor units to be accessible. If the property was fully serviced by an elevator, TCAC would require 50% of all the units to be accessible in accordance with CBC Chapter 11B. He stated that the new policy would facilitate aging in place and delay or prevent institutionalization over time if units were outfitted with features that allowed tenants to entertain visitors and to reside in the units as long as possible.

Mr. Pavão stated that the second topic that received substantial comments related to energy efficiency standards. He explained that staff proposed new options for applicants to score points when they rehabilitated properties. He stated that applicants could garner points by adhering to some of the more recognizable standards such as LEED for Homes, GreenPoint Rated, or Green Communities standards. Mr. Pavão stated that an applicant could garner competitive points if they committed to developing their project according to one of the energy efficiency standards.

Mr. Pavão reported that staff received comments regarding the spreads over code as it related to energy efficiency or Title 24, Part 6 of the code. He explained that staff did not propose to change the current spreads available and required for competitive points over the Title 24 standard; however public feedback suggested that the standard was becoming more rigorous. And if TCAC did not change its regulatory language, the spreads over the Title 24 standard would become more difficult to achieve as the underlying standard became more rigorous.

Mr. Pavão stated that the Title 24 standard was envisioned to change to a new more rigorous standard on January 1, 2014. He noted that the standard was referred to as the "2013 Standard" even though it was supposed to go into effect in January 2014. He reported that implementation of the change was delayed by the California Energy Commission (CEC) until July 1<sup>st</sup>. Mr. Pavão stated that staff was in an awkward circumstance and could not calibrate improvements over the standard against a standard that was still being finalized.

Mr. Pavão proposed that staff continue to calibrate the better than energy improvements against the current Title 24 standard also referred to as the "2008 Standard". He stated that under the threshold requirement for new construction projects, applicants must exceed the 2008 standard by at least 15%. Mr. Pavão stated that the rule would be in effect until June 30<sup>th</sup>. On July 1<sup>st</sup> a new rule would go into effect requiring applicants exceed the 2008 standard by at least 30%. He explained that the spread over the current standard would get larger.

Mr. Pavão stated that the standard was getting more rigorous and probably accounted for an estimated 22% improvement over the current standard. He stated that in looking for the 30% improvement, one needed to keep in mind that the standard itself was getting 22% more efficient. He concluded that if one compared the new TCAC requirement against the new standard, there would be a 7%-8% improvement over the new standard effective July 1<sup>st</sup>. Mr. Pavão commented that staff, unfortunately, could not express the improvement against the new standard because the new standard was still being finalized.

Mr. Gordon stated that the energy efficiency standard was going to take in most of the major and moderately achievable goals. He asked Mr. Pavão if an economic analysis was done to determine the benefits of the additional 8%. He asked if staff compared the associated cost to developers to the energy savings from the additional 8%.

Mr. Pavão stated that TCAC had contracted with an energy consultant. He stated that the consultant could address the Committee if they wished. He stated that the CEC was on a glide path to zero net energy (ZNE) residential construction requirements by 2020 and was enhancing the rigor of the Title 24 standards to that end. Mr. Pavão stated that traditionally TCAC tried to accelerate projects beyond the CEC standards by 10%-15% through its competitive scheme and more recently in its threshold requirements. He stated that it has been a public policy to accelerate toward the goal of exceeding the CEC standards in part because TCAC ultimately had a 55 year old portfolio and over time the portfolio would vary in terms of energy efficiency depending on when each project was developed.

Mr. Pavão explained that projects kept getting more efficient over time. He pointed out that TCAC had been allocating a lot of tax credits to rehabilitate projects in part to upgrade their energy efficiency. He stated that staff had asked the contracted energy consultant to provide a sense of the cost associated with accelerating projects beyond the CEC standards. He advised the board that he had a draft analysis available for their review. Mr. Pavão stated that he asked the consultant how much cost per unit would be necessary to exceed the CEC standard.

TCAC consultant, Nehemiah Stone, stated that the cost would be in the range of \$1,500-\$2,000 per unit.

Mr. Pavão estimated that the order of magnitude was \$2,000 per unit or about 1%. He predicted that as the underlying standard became more rigorous, the cost to exceed it would increase. He stated that TCAC relied on larger industry studies to determine the life cycle benefits of the increased cost because staff did not have sufficient first-hand data. Mr. Pavão stated that the incremental improvements did result in life cycle savings that ultimately warranted the cost. He stated that staff would see what they could do gather more data.

Mr. Gordon asked Mr. Pavão if TCAC had any requirement that the projects be individually metered vs. master metered. He stated if the complexes were master metered, TCAC would have removed the incentive for individual units to save energy, which was a continuous problem in the commercial industry.

Mr. Pavão stated that staff had seen both methods utilized, but TCAC had some competitive scoring and other incentives for individual metering, which included sub-meters. He invited Mr. Stone, from The Benningfield Group, to comment.

Mr. Stone stated that the Public Utilities Commission required any new apartments to be individually metered, at least for electricity. He stated that rule did not apply to SRO projects, but did apply to full apartments. He stated that in terms of electricity there was a different agency requiring individual metering. In terms of gas, water, and in some cases hot water, there were credits associated with individual metering, particularly for solar.

Mr. Gordon asked what the guidelines were for rehabilitation projects.

Mr. Pavão stated that TCAC would see both individual and master metering of rehabilitation projects.

Ms. Redway asked Mr. Stone to confirm that a new construction project would have to meet Title 24 standards regardless of the TCAC scoring requirements.

Mr. Stone stated that Ms. Redway was correct.

Ms. Redway asked if rehabilitation projects must meet the same standard.

Mr. Stone stated that projects did not have to meet standards associated with anything that would not be changed; however two new laws went into effect during the last two years that changed this rule. He stated that if any work was done in a residential building, the developer must add smoke detectors and carbon monoxide detectors. He stated that as of January 1, 2014, developers must also install low-flow shower heads and faucets and low-flush toilets. Notwithstanding these requirements, developers must meet the state codes associated with systems they were working with.

Ms. Redway asked if the developer was replacing an air conditioner, they must meet a Title 24 standard on the air conditioner and not another item.

Mr. Stone confirm Ms. Redway's statement by explaining that if the air conditioner was brought up to the standard, the developer did not have to bring the water heater up to the standard.

Ms. Redway stated that the issue was relevant because TCAC provided applicants additional points for going beyond the standards already required of them by law.

Mr. Pavão stated that TCAC had a threshold requirement that required applicants to go beyond the Title 24 standard. He noted TCAC provided scoring opportunities for rehabilitation projects if they exceeded the building's current energy rating. For example, an applicant could garner competitive points by improving their project's current energy rating by 25%.

Mr. Stone referred back to the question of whether developers would get the benefit they were seeking relative to the associated cost. He noted that the California Utility Allowance Calculator (CUAC) had not been mentioned during the discussion. He stated that using the CUAC would help with net monthly costs. Mr. Stone stated that

when one looked at the first cost vs. the value of the energy savings to society, which was how the CEC viewed its standards, Title 24 used the most cost effective measures. He stated that there were other measures that an applicant could add on, which would be cost effective but ultimately not the most effective. Mr. Stone stated that by requiring projects to go 15% beyond the standard (or 6%-8% as of January 1<sup>st</sup>) there was still plenty of room to bring in measures that seemed cost effective and on top of that help the net monthly cost by reducing the utility allowance and increasing rents while keeping within the 30% of household income threshold. He stated that it would be difficult to argue that the measurers were not cost effective.

Mr. Pavão reported that staff received recent communications from the development community on the topic under discussion. He stated that staff wished to facilitate a meeting with the development community and its energy efficiency advisors to get a better understanding of the issues the community was up against and what TCAC had been doing. He noted that if the board adopted the proposed regulations, they would leave in place what staff was currently doing; however processes would change on July 1<sup>st</sup>. Mr. Pavão explained that from staff's prospective things would be less rigorous as a spread over the standard; however the standard would get more rigorous. He predicted that after staff held further conversations with the development community they might recommend additional regulation changes to the Committee prior to July 1<sup>st</sup>.

Mr. Pavão stated that staff built some accessibility requirements into the receiving of tax credits for the first time as part of the proposed regulations. He explained that they invoked some state requirements that most other public funding sources already invoked. He stated that for projects receiving low-income housing tax credits, TCAC would require 5% of the units in any project to be developed according to the CBC Chapter 11B standards, which included mobility accessibility standards. In addition, another 2% of the project units must be developed according to sensory accessibility standards, which typically included doorbell lighting or improvements for the hearing and visually impaired. Mr. Pavão explained the required percentages would increase to 10% and 4% respectively by the year 2015.

Mr. Pavão explained that staff proposed the accessibility requirements because they were contacted that year by the independent living community and became convinced that TCAC could be a helpful facilitator in matching accessible units with tenants who needed them. Mr. Pavão reported that centers for independent living had income qualified clientele who, for example, used wheelchairs and could not find enough accessible units to house that population. He concluded that invoking the 5% and 2% standards, as most public funding sources already did, was reasonable. He commented that it was also reasonable for TCAC to be a bit more aggressive in its efforts. Mr. Pavão stated that staff did not wish to surprise applicants with the new requirements, so they proposed to delay the effective date on the second, more rigorous requirements until 2015.

Mr. Pavão stated that the fourth substantive regulation change proposed was a tribal pilot apportionment. He reported that TCAC had never awarded tax credits to a project on tribal land or in a tribal community in the program's history. In an effort to change TCAC's historical record, staff established an apportionment within the rural set aside with \$1 million in annual federal credits set aside for projects in tribal communities. Mr. Pavão stated that the pilot program would be in effect for 2 years.

He stated that the program would inform staff as to how projects scored under the current scoring system and if they needed adjust the system for future tribal projects.

Mr. Pavão reported that under a fifth regulation change, staff proposed a new initial tie-breaker in single-jurisdiction region competitions only, which include the City of Los Angeles and the City and County of San Francisco. He explained that in the event there were 2 projects in a regional competition that had tied scores, the project that submitted a letter of support from the relevant housing department with their application would prevail over the project that did not. If both projects submitted a letter of support, they would move on to the next two tie-breakers. Mr. Pavão noted that the proposal was different from one he made earlier, which required that the local jurisdiction have funds committed to the project. He reported that staff was persuaded by city representatives and other commenters that there were scenarios where it may be good public policy to competitively weigh projects that had city support even though the city had not committed funds to them. Mr. Pavão explained TCAC would honor the city's support if their project did not have city funds committed but had perhaps a federal or state funding source and the city viewed the project as high priority.

Ms. Redway asked Mr. Pavão if the supporting letter should come from the city housing agency. She noted that TCAC received letters from city council members in the past.

Mr. Pavão stated that staff was very specific about the source of the supporting letter. He stated that the Housing and Community Investment Department (HCID) was the agency specified in the regulations for competitors in Los Angeles. For San Francisco applicants, the specified agency was the San Francisco Mayor's Office of Housing.

Mr. Gordon asked Mr. Pavão to confirm that in the future TCAC would refer to a priority list from HCID. And that individual letters from city council members would be subservient to the priority list.

Mr. Pavão stated that he would characterize its policy a little differently. He explained that TCAC would review projects in city of Los Angeles, most or all of which would have a letter of support from the appropriate housing authority. He predicted that TCAC may review 1 or 2 projects that did not provide the supporting letter. He explained that the projects would be unsuccessful in the first tie-breaker if they tied with projects that were sponsored or supported by the city.

Ms. Redway asked if any of the board members wished to comment.

Mr. Frerichs commented that all the proposed changes were quite good. He noted that the tribal pilot apportionment generated a lot of comments especially in Mendocino County. Mr. Frerichs asked what kind of feedback Mr. Pavão received from the rural set aside stakeholders. He asked if they were okay with the notion of giving part of the rural set aside to the tribal projects.

Mr. Pavão stated that the general consensus was that a carve-out from the rural set aside made sense. He reported that staff received some comments about the size of the apportionment, which was the \$1 million he mentioned earlier. He noted that

TCAC received about \$83-\$86 million in federal credits annually. Mr. Pavão explained that some commenters felt the proposed \$1 million for the pilot program was too little.

Mr. Pavão stated that staff contacted representatives from the rural community about the proposal to carve out from the rural set aside. He reported that staff had the consent and agreement of the rural community provided they did not overdo it.

Mr. Pavão stated that staff also reviewed population to determine if they were in the right order of magnitude. He stated that the \$1 million figure represented about 12% of the rural set aside and about 1.12% of all the TCAC credits. He stated that Native Americans represented about 1.9% of the population in California; however many of them lived in non-rural, non-tribal areas. Mr. Pavão explained that during the first year with the new set aside, staff predicted the \$1 million would engender applications. And if staff determined the set aside was highly oversubscribed, they may propose a different amount for the second year.

Mr. Frerichs stated that he had comments related to the universal design issues for both categories. He stated that he felt it was important to push the envelope with regard to increased accessibility. He stated that the population in general was aging and predicted there would be increased needs from market rate projects as well as TCAC projects. He concluded that the program was moving in the right direction with the universal design. He commented that he appreciated the adjustments of the percentages.

Ms. Redway invited Mitch Slagerman from Palm Communities to comment.

Mr. Slagerman stated that he wished to comment on proposed substantive change #24, which was presented on 10/25/13 and Mr. Pavão indicated as a proposed change. He stated that he understood the change did not make it into the final set draft of proposed regulations. Mr. Slagerman explained that the change related to differentiating rehabilitation versus new construction projects in the 9% program and putting restrictions on the rehabilitation projects. He asked if the state should prioritize new construction projects over rehabilitation projects within the 9% program. He commented that he advocated prioritizing new construction projects. Mr. Slagerman stated that based on Mr. Pavão's comment that the amount of TCAC funding available was relatively small and could not meet the public need.

Mr. Slagerman commented that the 9% program was undoubtedly the state's most effective program in terms of creating new projects. He asked why the state would cut away from the program by also funding rehabilitation projects or counting them in the same bane for competitive purposes. He stated that change #24 was good start in the sense that it would limit rehabilitation projects to having been 20 years old and needing a minimum of \$40,000 per unit for the rehabilitation. Mr. Slagerman stated that the change was a good start. He stated that the 4% program was well used and should be the sole focus for rehabilitation programs for the state. Mr. Slagerman stated that the policy question he had was should the 9% program be set aside specifically for new projects considering that the demand was so great. He stated that the state spent money for rehabilitation projects from the 9% program, but no new units. He stated that he was not sure if it was appropriate to ask why the change #24 was not included in the final proposed changes, but he would certainly like to know.

Mr. Pavão stated that he agreed with all of Mr. Slagerman's comments. He stated that when staff posted the change for public view, they received a lot of intelligent opposition. He explained that TCAC proposed 3 new standards for qualifying as a rehabilitation project for 9% credits. He stated that one of the standards required the project to be at least 20 years old. Another required the proposed hard construction costs to be at least \$40,000 per unit. He commented that the rehabilitation costs should be substantial. He explained that the 3<sup>rd</sup> standard requiring 40% area median income (AMI) would achieve deeper affordability.

Mr. Pavão reported that staff received comments opposing the 20 year requirement. Staff was informed of projects built less than 20 years ago but by their nature, location, and circumstances were in dire need of significant rehabilitation and any delay in accessing 9% would harm the residents and the project as a whole. He stated that staff received enough comments to become concerned about pruning them out as a class; therefore staff withdrew the minimum age requirement from the proposed changes.

Mr. Pavão stated that staff also received comments opposing the 40% AMI requirement. He explained that the chief complaint was that project feasibility would be jeopardized because existing residents with various income levels could be displaced if they were no longer income qualified. Mr. Pavão explained that as rents decreased to the required standards, the ability of the projects to function feasibly would be called into question.

Mr. Pavão reported that the \$40,000 per unit standard was included with the proposed regulation changes. He commented that he would like to put greater priority on new construction projects in the 9% system; however staff had not yet determined how. He reported that staff has proposed ideas and heard reasons to both advocate and oppose them. He concluded that he would like to engage in further conversations with the stakeholder community to see if TCAC may be able to prioritize some of the rehabilitation projects and direct the rest toward the 4% program.

Mr. Slagerman stated that from the development side it appeared the amount of awarded rehabilitation projects in the 9% program increased 35%-40% above all other allocation types during the past couple of years. He explained that the projects were able to be competitive because they re-used their initial allocations from local agencies and predominantly redevelopment agencies. He stated that some of the projects received up to \$8 million dollars in allocation. Mr. Slagerman commented that an unfair competitive field was being established in the sense that new construction projects could not access the same kinds of local funding any more.

Mr. Slagerman suggested that during discussions perhaps a formula could be developed to level the playing field. He stated that an applicant who received \$80 million a residual receipt loan still had \$8 million that they owed and could use that allocation in tie-breaker sense, which made it very difficult for those with small amounts of funding from local agencies who desperately wanted new units.

Ms. Redway invited Dara Schur from Disability Rights California (DRC) to comment.

Ms. Schur explained that DRC was a state wide advocacy organization for people with disabilities. The agency had both state and federal funding and was a nonprofit organization. She stated that DRC was recognized by the federal government as the protection advocacy agency for people with disabilities. Ms. Schur thanked Mr. Pavão and his staff for thoughtfully addressing accessibility issues in the new regulations. She commented that staff came to a very practical and effective way to ensure accessibility for people with mobility disabilities or who were blind or deaf. She stated that the policy would help disabled tenants to be fully integrated into the entire housing stock and expand opportunities for seniors, individuals, families and veterans who really needed the accessibility features. Ms. Schur stated that the policy would allow the entire disabled population to access the housing stock. She commented that various accessibility featured made a huge difference in people's independence. She thanked the staff again for the proposed regulations.

Ms. Redway invited Manuel Bernal to comment.

Mr. Bernal stated that he represented the Los Angeles Housing Department. He expressed his appreciation for the staff's work. He stated that he would like to clarify the direction the city was going in terms of its projects. Mr. Bernal stated that the city had a regional allocation since 2013 and had run into a glitch. He stated that in mid-December he spoke to the Committee who directed him to work with staff to resolve the issue. He expressed his appreciation to the Committee and Mr. Pavão for working with him to resolving the matter. He concluded that his agency supported the qualified allocation plan as a whole.

Mr. Bernal stated that in November he shared with the Committee that the city started a more strategic way to move its projects forward. He reported that in August of last year his office made a huge call for projects. He stated that his office received 41 applications that it would slot for the next 24 months. He stated that 19 applications had since been selected as priority projects and were approved by the city council.

Mr. Bernal stated that all 19 projects could not be moved forward at the same time, so his agency developed a process to evaluate and rank each one. He reported that 2 projects were ready but the others were missing some financial commitments. He stated that when the remaining 17 projects were, they would be ranked according to their readiness timing, amount of outside funding committed to them and being at-risk projects. Mr. Bernal stated that the city's selected projects would be coming to TCAC for the 2014 First and Second Round competitions. In addition, the city had enough projects to slot for the 2015 funding rounds. Mr. Bernal announced that over the next few months the city would select a few more permanent supportive housing projects. He stated that the projects would be approved by the council as priority projects.

Ms. Redway invited Darren Bobrowsky to comment.

Mr. Bobrowsky stated that he represented USA Properties. He thanked Mr. Pavão and Mr. Zeto for reviewing comments he submitted in December and that past Monday regarding the regulation changes. He stated that his firm believed in energy efficiency and tried to put solar attachments wherever it could. Mr. Bobrowsky explained that while the state was on the glide path until 2020, the cost to developers to incorporate certain things was becoming more expensive. He noted that the

systems and technology available were not always as fully developed as they were if one was part of the main stream of implementing them with the rest of the building industry.

Mr. Bobrowsky stated that in order to keep developers from experiencing increases during the Second Round, it would be wise to have a discussion and figure out what the cost benefit was and how much affordable would be reduced to achieve higher efficiency. He stated that the staff should evaluate the percentage of reduced affordable housing and corresponding percentage of increased efficiency.

Mr. Bobrowsky stated that he wished to comment on the proposal to increase the requirements for accessibility from 5% and 2% to 10% and 4% respectively. He stated that developers must meet the 5% and 2% standard anytime a project was built. He explained that the board should review the policy in combination with the other proposed regulation change requiring developers to give preferential treatment to people who fit into the units. Mr. Bobrowsky stated that people with disabilities in new projects were being given a 14% preferential treatment. He clarified that he was not suggesting disabled people should not live in affordable housing; however TCAC had selected a certain group over another group to receive affordable housing.

Mr. Bobrowsky suggested that staff should consider if they wanted to set aside 14% to people who would receive special treatment allowing them to jump the waiting list to get the units before others who had been on the list for many years, were income qualified, and in as much need as those with disabilities. He suggested staff consider the accessibility requirements in context of the other regulation change.

Mr. Bobrowsky stated that he wished to comment on the 62 years or older policy. He reported that in the comments submitted to TCAC, there was an overwhelming majority of people who did not agree with changing to the 62 years of older policy including his firm. He explained that according to state law, there was a big difference between being 55 or older and being 62 or older. Mr. Bobrowsky explained when a person was 62 or older everyone else their household must also be 62 or older regardless of their relationship or disability status. He stated that by changing the policy, TCAC would not lessen the need for affordable housing among those 55 and older. Instead the need would be shifted to family projects. Mr. Bobrowsky concluded that he did not understand the purpose of the policy if housing need was just being shifted and the policy made it difficult for those living at the properties to make life choices to live there.

Ms. Redway asked Mr. Bobrowsky if he was okay with the proposal for January that TCAC maintain the existing energy efficiency standards.

Mr. Bobrowsky confirmed that he agreed with the proposal. He stated that any building permit that his firm pulled after July 1<sup>st</sup> must be in compliance with the 2013 code, which already caused a big increase of about 22% over the 2008 code and about 7% over the required 15% above the 2008 code. Mr. Bobrowsky stated that his firm was fulfilling the increased percentages; however it was costly to be on the leading edge.

Mr. Bobrowsky stated that he participated in a conference call with Mr. Pavão and energy consultants and found that he disagreed with the \$1,500 per unit figure

because his firm's estimate was much higher. He stated that his firm was a contractor and developer and did everything in house; therefore he was able to get real numbers showing how to incorporate the efficiency standards. He concluded that \$1,500 estimate was not correct.

Mr. Pavão reiterated that he would like to gather more information from the development community and facilitate a meeting between those advising TCAC on efficiency and those in development who were putting the advice into action. He stated that the draft regulations did contain a proposal that required property owners to try to prioritize moving in a household in need of accessibility features when an accessible unit becomes available. He reported that staff received comments suggesting there could be a circumstance when a tenant in need of accessibility features was very recently put on the waiting list or was not on the waiting list.

Mr. Pavão stated that a HUD policy mimicked the proposed TCAC policy. He explained that for federally funded projects with accessible units, HUD required a procedure for giving priority to people in need of the units. In addition, HUD provisions required that the lease agreement with the household moving into an accessible unit state that the tenants may be moved to another unit if one becomes available and no one in the household needed the features in the accessible unit. Mr. Pavão concluded that staff did feel they invented the proposed policy, but rather borrowed it from a federal partner.

Mr. Pavão stated that staff had been attempting to consciously facilitate communication between independent living organizations and the development community. He stated that staff would like the development community to notify independent living advocates about accessible units available in order to move in people who were income qualified people and in need of unit features. Mr. Pavão stated that based on the information and reports received, staff believed there was adequate demand to move low-income people into the accessible units.

Mr. Pavão reported that over the past couple of years the senior housing type was oversubscribed. He explained that TCAC usually met its limit for senior housing types early in its process before beginning to turn senior applicants away in favor of other housing types. He stated that some of the rejected senior projects targeted the 62 and older cohort, which staff viewed as the age cohort that began to address people in a stage of life that for many included a fixed income and increased medical and other needs. Mr. Pavão stated that staff viewed this group as a higher need subset of the senior population and it occurred to them that they declined some applicants who proposed the 62 and above standard in favor of applicants who proposed the 55 and above standard, which as Mr. Bobrowski mentioned, accommodated people at age 55 and a majority of people in the household below age 55.

Mr. Pavão stated that as staff prioritized housing and aging cohort, they felt the 62 and above standard was the better standard and also tracked with federal standards. He stated that comments received were carefully considered, but staff continued to think their recommendations would ultimately result in good public policy.

Ms. Ortega stated that she had a question about the tribal pilot project. She asked if the underlying statutes or laws that TCAC relied on in its regulations, such as ADA

and energy efficiency policies, would apply to the tribal lands considered for development.

Mr. Pavão stated that rural tribal communities would compete against rural tribal communities in the TCAC competition. To be successful in the scoring system applicants must commit to the standards that garner them points, such as higher energy efficiency. Mr. Pavão stated that TCAC made some accommodations in the regulations, for example the regulations required appraisals. He stated that staff learned through communication with tribal communities that getting tribal land appraised was not easy if even possible. Another example was the required chain of title report showing who owned and controlled the land. Mr. Pavão stated that applicants would have to consult with the Federal Bureau of Indian Affairs, the agency that held the land in trust, which was unlikely to happen before the TCAC application deadline or thereafter. He concluded that staff built in accommodations for normal business practices. He noted that during their research of tribal communities staff became quite educated and aware of challenges in those areas.

Ms. Ortega asked Mr. Pavão to confirm that for TCAC to comply with laws, the applicants must opt into the required standards outlined in the regulations.

Ms. Redway stated that the applicants would have the choice to comply with the standards and would not be forced to do so.

Mr. Pavão stated the Chapter 11B accessibility standards may not apply in tribal communities; however if they wished to receive TCAC funding resources they must opt into the standards as part of the threshold requirements.

Mr. Gordon asked if the tribal communities would compete exclusively against each other and be excluded from the normal rural competition. He stated that he toured Hupa and Yurok properties in Mendocino County and thought the level of poverty made those areas resemble the Andes rather than California. Mr. Gordon asked Mr. Pavão if the tribal applicants could get any benefit from being significantly lower on the economic scale if they competed against other places like Mendocino or Humboldt County.

Mr. Pavão stated that Mr. Gordon brought up two important issues, one of which was the manner that staff would comparatively score the projects. He stated that at that time staff would use its backbone scoring system to determine how applicable the system was to the presented circumstances. He noted that nature of the pilot program involved educating staff.

Mr. Pavão stated that if tribal communities competed in the apportionment embedded within the rural set aside and were unsuccessful would cascade into the larger rural competition. He noted that he did not know yet how reasonable the expectation was that the applicants would get a score that made them competitive against other rural projects. He reported that tribal communities felt they may not be able to get full points. Mr. Pavão stated that if they were unsuccessful in that apportionment, the odds of them succeeding beyond that stage remained to be seen.

Mr. Gordon stated that it sounded like staff was comparing apples to oranges. He stated that one tribal community reported no tribal communities had ever received tax

credits and although there was a huge need, staff developed a system that was inapplicable to the communities they were dealing with. He stated that he liked the idea of a pilot project, but he needed to review it because he did not know how it would go forward.

Mr. Pavão stated that comments received indicate that no tribal community was able to score full points in the TCAC system. He stated that during the first year staff would test that theory. He stated that one possible result could be that TCAC funded tribal projects, but only suburban tribal projects and not the remote rural poverty stricken areas Mr. Gordon mentioned. Mr. Pavão stated that staff would need to review the results and see if they found a way to discern among applications and make awards and if they missed a big piece.

Mr. Pavão stated that staff would be open to feedback during the project reviews and would share the results with the Committee. He stated that it could be the case that tribal applicants scored full points in all but a couple of categories. If so, perhaps staff could mainstream those projects back into the larger system and adjust the categories for tribal applicants to help make them successful competitors outside their own apportionment. Mr. Pavão stated that staff may also learn that the tribal community projects were so different in nature and location that other challenges that TCAC must establish a permanent set aside for them.

Mr. Pavão recalled that there were 109 federally recognized tribes in California, most of which were located in rural areas. He stated that tribal communities in non-rural locations could compete for credits through one of the geographic apportionments. He noted that if a project was not in a remote area it may be close to amenities and could score just fine. Mr. Pavão suggested that TCAC may not be well publicized in tribal communities resulting in tribes not knowing about tax credit availability. Or perhaps there were circumstances in the TCAC scoring system that were at odds with the tribal communities.

Mr. Pavão brought the Committee's attention to one their copy of the proposed regulations printed on golden rod paper. He stated that staff proposed to pull the single occupancy projects out of a current set aside called Special Needs/SRO. He stated that staff deleted "SRO" throughout the document and were later convinced by commenters to add it back in. Mr. Pavão requested that the Committee make a motion to adopt the regulations as amended by the golden rod version.

MOTION: Mr. Gordon moved to adopt the regulations as amended by the golden rod version of the document. Ms. Ortega seconded and the motion passed unanimously by a roll call vote.

6. Public Comments.

There were no public comments.

7. Adjournment

The meeting adjourned at 12:06 p.m.