

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
Minutes of the September 23, 2015 Meeting

1. Roll Call.

Alan Gordon for State Treasurer John Chiang chaired the meeting of the Tax Credit Allocation Committee (TCAC). Mr. Gordon called the meeting to order at 11:00 a.m. Also present: Alan LoFaso for State Controller Betty Yee; Eraina Ortega for Department of Finance Director Michael Cohen; California Housing Finance Agency (CalHFA) Executive Director Tia Boatman-Patterson; Russ Schmunk for Department of Housing and Community Development (HCD) Acting Director Susan Lea Riggs; and County Representative Santos Kreimann.

City Representative Lucas Frerichs was absent.

2. Approval of the minutes of the August 19, 2015 Committee meeting.

Mr. LoFaso pointed out an error on page 2 of the August 19th minutes. He explained that the word “ominously” should be replaced with “unanimously”.

Mr. Stivers stated that staff has corrected the minutes since they were first distributed to the Committee members.

MOTION: Mr. LoFaso moved to adopt the minutes of the August 19, 2015 meeting. Ms. Ortega seconded and the motion passed unanimously by a roll call vote.

3. Executive Director’s Report.

Executive Director, Mark Stivers reminded the Committee that staff published an initial set of regulation changes in July. The public comment period for those changes ended on August 31st. On September 8th, staff requested additional public comments on a subset of proposed changes. Mr. Stivers stated that TCAC would accept comments for the subset of changes until the end of September.

Mr. Stivers estimated that staff would publish their final statement of recommendations by October 9th. The recommendations will combine the initial and revised changes to the proposed regulations. In addition, staff will include their responses to public comments. Staff will publish the final recommendations by October 9th so the Committee may consider them for adoption at the October 21st TCAC meeting.

Mr. Stivers reported that the General Accounting Office (GAO), a federal government agency, has reviewed the implementation of the tax credit program in a number of states. TCAC staff had the opportunity to work with GAO staff during their audit process. Mr. Stivers predicted the final audit report would be released in early 2016.

Mr. Stivers announced that TCAC would be included in the third and final segment of the GAO audit process. During this segment, GAO will consider housing credit development cost data and trends, State efforts to contain development costs, and the role of syndicators in the program. California is one of ten states involved in the study.

4. Discussion and consideration of the 2015 Second Round Applications for Reservation of Federal Nine Percent (9%) and State Low Income Housing Tax Credits (LIHTCs) and pending appeals, if any, filed to staff recommendations.

Development Section Chief, Anthony Zeto, reported that staff originally posted a list of 41 projects recommended for 9% tax credits. He explained that project CA-15-124 was withdrawn earlier that week causing a change in the amount of credit available in the project's region. He stated that staff would recommend another project in that region for funding at the October meeting.

Mr. Zeto reported that an appeal related to a project in the at-risk set aside was pending at the time the recommended list was published. He stated that the appeal has since been resolved. He stated that there was sufficient credit in the at-risk set aside to recommend an additional at-risk project at the October meeting.

Mr. Zeto stated that one recommended project was a new construction/rehabilitation project. In addition, 31 projects were new construction and 8 were rehabilitation. If approved, the recommendations will result in 1,854 new construction units and 439 existing units for rehabilitation. Mr. Zeto stated that the recommended projects were reviewed for compliance with federal and state regulations.

Ms. Boatman-Patterson asked for details about the high cost of project CA-15-086.

Mr. Zeto invited a representative for the project to comment.

Mr. Stivers thanked his staff for their time and efforts in reviewing the Second Round applications.

Mr. Gordon thanked the staff for doing remarkable work under tight conditions.

Daniela Greville, from McCormack Baron & Salazar, stated that her firm was the developer of Alice Griffith Phase 3B (CA-15-086). She explained that the project is the third of six construction phases. It is a multi-phase development that received a Choice Neighborhood Initiative Grant. Ms. Greville stated that her firm was tasked with rebuilding 256 public housing replacement units plus an additional 248 affordable units. One reason for the high cost is because the developer is required to rebuild the public housing replacement units. The project includes a large number of 3-, 4- and 5-bedroom units and the developer is required to replace each bedroom.

Ms. Greville state that the third phase of the project includes 65% of the units, which are 3-bedroom units. The remaining units are 1- and 2-bedroom units. She explained that the number of 3-bedroom units has skewed the per-unit cost making it significantly higher than it was in prior phases of the development.

Ms. Greville stated that the construction type was another other cost driver. She stated that the project would double the number of units in the Alice Griffith neighborhood. In order to meet the higher density and build the required number of parking units, the developer planned to build a podium structure with the ground floor made of concrete and the top four stories built in a wood frame construction. The podium structure contributes to cost due to the use of concrete. Ms. Greville stated that soil conditions require additional piles, which also contributes to construction costs.

Ms. Greville stated that there was currently no infrastructure for anticipated units. Her firm would have to build the infrastructure for the 504 units across all six phases of the project. The cost of land has also contributed to the high cost of the project. Land in San Francisco is extremely expensive. Consistently, the market rate value of the project land is also very expensive.

Mr. Gordon asked Ms. Greville where the project was located in San Francisco.

Ms. Greville stated that the project was in the Bayview Candlestick neighborhood. She stated that 10,000 units of new housing would be built over the next 10 years. A portion of the new units will include affordable housing. Ms. Greville stated that her firm was one of the affordable housing developers.

Ms. Boatman-Patterson commended the development staff for all their efforts in revitalizing public housing stock. She explained that resources available to revitalize public housing stock are very limited. She stated that it is important to recognize these types of projects because they impact people at the lowest spectrum of the income limits.

Ms. Boatman-Patterson stated that public housing is basically last resort housing. She stated that the federal government has not invested in this type of publically owned housing in over 30 years. She commended the developer for bringing state and federal resources together and being able to double the number of units in the project.

Mr. Zeto brought the Committee's attention to a revised staff report for CA-15-148. He explained that staff corrected errors on pages 1, 3 and 4.

Mr. Gordon invited Tara Barauskas to comment.

Ms. Barauskas stated that she was the director of housing for A Community of Friends, a non-profit affordable housing developer located in Los Angeles. She stated that her firm has existed since 1988 and has built more than 44 properties in Los Angeles and Orange County. Ms. Barauskas stated that she was accompanied by a city councilman and former mayor of the city of Fullerton who has also

developed affordable housing in the past. She stated that her firm submitted the project Fullerton Heights for the Second Round 9% competition and though the project received the full point score and the highest tie-breaker, it was not placed on the recommendation list.

Ms. Barauskas stated that the project was not recommended because the 15% goal for Special Needs housing types was met by other projects earlier in sort. She explained that Fullerton Heights is an integrated Special Needs and non-Special Needs development of 36 units focused on people who are homeless and living with mental illness. She stated that it has taken several years of working with the community, elected officials and city staff to make everyone comfortable with the concept of the project. She stated that the developer appreciated the city of Fullerton's leadership in demonstrating that permanent supportive housing is needed and should be approved.

Ms. Barauskas stated that Fullerton Heights was a highly leveraged project with \$3 million committed by the city and \$3.6 million committed by the county. In addition, the project has a commitment of \$700,000 in Citibank Private Settlement funds.

Ms. Barauskas stated the TCAC regulations do not describe the housing type goal as a hard cap; though she understood projects such as Fullerton Heights may be skipped once the housing goal was fulfilled. She explained that an applicant further down the list received an allocation as a Special Needs project and she did not fully understand how that could happen. Ms. Barauskas commented that TCAC's sorting process is not fully transparent, which can be detrimental as developers put together tax credit applications. She asked that the Committee consider another means to fund Fullerton Heights such as exercising executive director discretion or funding through a supplemental set aside.

Mr. Stivers commented that this was an unfortunate situation. He stated that he met with Ms. Barauskas and the city council member just before the meeting to explain the sorting process. He stated that the current regulations include a housing type goal of 15% for Special Needs projects; however TCAC staff will propose to increase that percentage to 25% for next year.

Mr. Stivers explained that when staff reviews a geographic region during the sort they first check the point score of each project in the region. For Orange County there were 3 projects which all had the same point score. Staff then reviews the first tie-breaker, which indicates whether TCAC has met the housing type goals for projects that received the maximum score. Staff then checks to see if there are other projects in the region with maximum scores that can be funded without exceeding the credit limits for that region.

Mr. Stivers stated that the housing type goal for Special Needs was met during the sort, but staff determined that they could fund two projects in the region of Orange County. Staff skipped the Fullerton Heights projects and recommended the two Orange County projects in accordance with regulations.

Mr. Stivers stated that one other Special Needs applicant was recommended for funding later in sorting process. This was a function of the fact that no other projects in the applicant's region could be funded if staff had skipped the Special Needs applicant. Mr. Stivers commented that Fullerton Heights was a very meritorious project. He stated that he would be happy to review other options for the project again, though he did not think the Committee could take any action that day.

Ms. Boatman-Patterson asked if the Fullerton Heights applicant would have an opportunity to apply for funding in the next round.

Mr. Stivers stated that he presumed the applicant would apply again in the next round. He noted that the housing type goal would be higher in the next round if the regulations were adopted as proposed. In addition, there could be regulatory changes that reduce the applicant's tie-breaker. Mr. Stivers concluded that TCAC would not be able to guarantee the applicant an award in the next funding round.

Mr. Gordon asked if the applicant filed an appeal to TCAC.

Mr. Stivers stated that the decision was not appealable. He explained that applicants may appeal a reduction of their point score or tie-breaker. He suggested Ms. Barauskas was asking for special consideration of the project rather than an appeal.

Ms. Barauskas stated that her firm would apply for funding in the next round. She stated that land for the project was already purchased so the firm would incur almost a year of land holding costs of about \$10,000 per month. She noted that some regulation changes could disadvantage the project because it is a smaller infill project.

Mr. Gordon invited Doug Chaffee to comment.

Mr. Chaffee stated that he was a former mayor of the city of Fullerton and a current city councilman. He stated that the city cared deeply about the Fullerton Heights project. The city has committed substantial and increasingly scarce affordable housing funds to the project. In addition, the project has been warmly received by the community, which is not always the case when dealing with homeless populations.

Mr. Chaffee explained that homelessness is a critical issue in Orange County and the Fullerton Heights project will contribute to the reduction of the homeless population. He estimated there were over 4,200 homeless individuals or families in the county with a significant portion in the city of Fullerton.

Mr. Chaffee stated that Fullerton was becoming a leader in addressing homelessness. Years ago the city created a task force charged with assessing the state of homelessness in Fullerton and developing strategies for providing services to end homelessness including needed housing and mental health services. One of the task force initiatives is to provide permanent supportive housing by

acquiring land in the city for a supportive housing development which serves the mentally ill and homeless. Mr. Chaffee noted that some individuals are homeless and have mental illness and drug issues. Mr. Chaffee stated that the Fullerton Heights project would accomplish the task force goal for supportive housing.

Mr. Chaffee stated that as an affordable housing developer he has successfully completed 4 9% tax credit projects before the year 2000. The first project was funded under the 1993 regulations. At that time the total point score was 100 points and when projects were tied, the project requesting the least amount of credit would be awarded first. In addition, there were no housing goals and most developers wanted to build senior housing projects.

Mr. Chaffee explained that TCAC now has goals which are somewhat complex. He commented that he was concerned that Fullerton Heights was the highest scoring project in Orange County yet it was not being recommended for funding. He stated that the real critical score for the project is in the tie-breaker. The regulations do not state that projects have the same score based on points. He stated that the tie-breaker score should be included because it makes a difference.

Mr. Chaffee stated that he reviewed the geographic area selection criteria. He explained that the regulations state that the first funding order shall be followed by funding the highest scoring application in each of the ten regions. He noted that there are actually 11 regions, not 10. Mr. Chaffee reiterated that Fullerton Heights was the highest scoring project in the region and asked that the Committee exercise its discretion to fund the project. He suggested there may be an opportunity through the supplemental set aside or tax credits being returned.

Mr. LoFaso thanked Mr. Chaffee for attending the meeting. He stated that the project was clearly meritorious, but there were some issues with the scoring system as Mr. Stivers addressed. He asked Mr. Chaffee if the project would reapply for credits next year if it was not successful this year.

Mr. Chaffee stated that the applicant would decide whether or not apply for credits next year. He explained that the city would be ready to fund the project next year though he would prefer to move the project forward immediately.

Mr. LoFaso thanked Mr. Chaffee for his comments and Mr. Stivers for helping him prepare for his first meeting with TCAC. He stated that the Committee's job was to apply a complex set of regulations, which prescribe a series of orders and processes. He asked Mr. Stivers if the Committee had any discretion in overriding the regulations.

Mr. Stivers stated that the Committee does not have the ability to ignore the regulations nor does TCAC staff. He suggested staff review the regulations to see if they provide the Committee with authority to do a special dispensation. He asked TCAC's general counsel, Robert Hedrick, to comment further.

Mr. Hedrick stated that Mr. Stivers' summary was correct in that the award process is bound by the regulations. He explained that the Committee may review

staff recommendations and accept or reject those recommendations with instructions to return to the Committee with a different proposal consistent with the regulations or with a comment that the Committee believes something about the proposal is not consistent with the regulations. Mr. Hedrick stated that the Committee would proceed at its peril if it chose to disregard the regulations to make allocations on a case by case basis.

Mr. Gordon asked Mr. Hedrick to explain the Committee's options with regard to the applicant's request.

Mr. Hedrick stated that he could not provide the information at that time because he was not previously aware of the issues. He stated that no action could be taken at that time because the request was not on that day's agenda and there has been no notice of a potential award being made to the project. Mr. Hedrick explained that staff must first review the regulations and determine if any options exist. After giving proper notice, staff must then bring an action item to a future Committee meeting.

Mr. Gordon asked Mr. Zeto if there would be credits available in the current funding round should the Committee wish to fund Fullerton Heights at a properly noticed future meeting. He asked if the only future option was to award the project in 2016.

Mr. Zeto stated that staff would likely recommend two other projects for funding at the October meeting. He predicted there would be insufficient credit available for both so staff would use a portion of 2016 credits to fund the last project.

Mr. Gordon confirmed that TCAC would likely have no remaining credits available for 2015 so a future award would have to be made by a forward commitment of 2016 credits.

Ms. Boatman-Patterson cautioned the Committee as they considered taking action or directing TCAC staff in a manner that interferes with the effective administration of the program. She commented that the applicant's request puts staff in a difficult position because the request is not on the agenda and is not appealable.

Ms. Boatman-Patterson suggested that the project developer and the city of Fullerton work closely with the county of Orange during the next funding round to make Fullerton Heights a priority project for the county and city.

Mr. Chaffee stated that the project was a county and city priority. He stated that the county committed several million dollars toward construction costs and rental subsidy.

Ms. Boatman-Patterson stated that three other projects came forward at the same time. She assumed all three had been reviewed at the local level. She strongly encouraged participants at the local level to effectively manage projects and bring to the Committee those projects which are truly a priority for the city and county.

She stated that TCAC staff needs to be informed of other projects, which the local government does not view as a priority.

Mr. Chaffee stated that the applicant acquired a site in the city. He noted that the city was enthusiastic about the site and has set aside money for it. The project fits into the city and county objective to help the homelessness situation.

Mr. Chaffee stated that after reading the regulations he noticed a lot of ambiguity regarding the housing type goal. He stated that the decision before the Committee is whether they approve the allocations. If they found a project that was passed over, then they have the right to adjust the regional allocation. Mr. Chaffee noted the Committee probably could not fund the Fullerton Heights project that day.

Mr. LoFaso stated that the purpose of his earlier question was to establish the orderly process of the Committee addressing the issue. He agreed with Ms. Boatman-Patterson's comment about allowing staff to administer the program. He stated that the regulations were very technical, but must be followed by the Committee.

Mr. Gordon stated that the Committee could not take up the applicant's request for a waiver that day; however a Committee member may make a motion to have staff review the request and bring it back as an agenda item for the next TCAC meeting. He asked the members of the Committee if anyone wished to make a motion to have staff review the request to fund Fullerton Heights.

Mr. LoFaso stated that staff has already researched the applicant's request. He asked Mr. Stivers if any further research could be done.

Mr. Stivers stated that he has committed to finding out if the Committee has the ability to do anything different; however the applicant has been advised that there will likely be no 2015 credits available. In addition, staff is unlikely to make a special recommendation of 2016 credits to the applicant. Mr. Stivers stated that he would verify whether or not the regulations provide any further authority and then report back to the Committee. Depending on the level of authority provided by the regulations the Committee may decide to agendaize the applicant's request for discussion at the next meeting.

Mr. Gordon advised Mr. Chaffee that he did not believe the Committee would vote in favor of an agendaized item and for staff to review applicant's request for funding. He stated that Mr. Stivers has committed to reviewing all available options for funding and then presenting them to the Committee at the next meeting. He asked Mr. Chaffee if he would like the Committee to make a motion though it was not likely to be approved.

Mr. Chaffee asked that the Committee make the motion. He commented that in requesting the motion he was showing support for the project.

MOTION: Mr. Gordon moved for a formal review of the failure to award credits to Fullerton Heights and for staff to report back to the Committee at the next TCAC meeting in October. Mr. LoFaso seconded the motion.

Ms. Ortega voted against the motion. Mr. LoFaso voted in favor of the motion. Mr. Gordon voted against the motion. The motion was defeated by a roll call vote.

Mr. Chaffee stated that the potential approval of the Orange County apportionment was before the Committee. He explained that if Fullerton Heights was approved as the top scoring project in the county, the order of awards would be changed making credits available to the project.

Mr. Gordon asked Mr. Chaffee if he was asking the Committee to withdraw all of the Orange County projects and bring them back for consideration in October. He asked TCAC staff if the Committee could approve the request.

Mr. Hedrick stated that the Committee was legally able to carry out the request if they chose to accept staff recommendations, except for the Orange County projects. He stated that the Committee may consider the Orange County projects at a subsequent meeting.

Mr. Gordon invited Todd Cottle to comment.

Mr. Cottle stated that he represented C&C Development, an applicant within the Orange County region. His firm's project, The Depot at Santiago Apartments, was the lowest ranked of the two projects considered. He stated that if the vote on Orange County projects was delayed or if Fullerton Heights was approved outside of staff recommendations, his firm's project would be jeopardized in its ability to move forward.

Mr. Cottle stated that The Depot at Santiago Apartments was a family housing type. Like Fullerton Heights, the project includes a mental health services component funded by the county. Mr. Cottle stated that the project received an allocation of Affordable Housing and Sustainable Communities funds. The project is also transit oriented in that it is located across the street from the Santa Ana Train Station.

Mr. Cottle reiterated that the project's ability to move forward would be jeopardized by a delay in the vote or being passed over as a result the special request made to the Committee.

Mr. Gordon stated there was another potential motion to withdraw all the Orange County projects and hold them over until a future meeting so staff can re-score them.

Mr. Cottle commented that such action would be unfair to the other applicants.

Mr. Gordon asked the Committee members if they wished to make the motion.

No motion was made.

Mr. Gordon asked the Committee members if they wished to make a motion regarding the 40 projects recommended by staff for 9% credits.

MOTION: Ms. Ortega moved approval of staff recommendations. Mr. LoFaso seconded and the motion passed unanimously by a roll call vote.

Mr. Stivers stated that he would continue to work with the city and sponsor of the Fullerton Heights project. He noted the project was unlikely to be added to the October agenda, but he committed to explore any opportunities with the applicant.

5. Discussion and Consideration of the 2015 Second Round Applications for reservation of Federal Four Percent (4%) and State Low Income Housing Tax Credits (LIHTCs) or State Farmworker Credits for Tax-Exempt Bond Financed Projects and pending appeals, if any, filed to staff recommendations.

Mr. Zeto stated that there were 2 projects recommended under this agenda item. One project applied for 4% plus State credits and the other applied for 4% credits and State Farmworker credits. Mr. Zeto noted that TCAC currently had an excess of \$5 million State Farmworker credits and had not made an award of this type in some years.

MOTION: Mr. LoFaso moved approval of staff recommendations. Ms. Ortega seconded and the motion passed unanimously by a roll call vote.

6. Discussion and consideration of a Resolution authorizing the Executive Director of the California Tax Credit Allocation Committee to sign contracts and interagency agreements.

Mr. Stivers explained that the Resolution is an annual exercise, which provides the Executive Director of TCAC authority to sign contracts for an aggregate amount of up to \$1,322,763 per fiscal year. He stated that if any single contract is greater than \$50,000 he would report back to the Committee regarding the contract at the next meeting. Any larger contracts would be brought to the Committee separately for their approval.

MOTION: Ms. Ortega moved approval the resolution. Mr. LoFaso seconded and the motion passed unanimously by a roll call vote.

7. Public comments

No public comments

8. Adjournment.

This meeting adjourned at 11:44 a.m.