

**CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE**  
**Minutes of the March 16, 2016 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 11:40 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; Department of Housing and Community Development (HCD) Director Ben Metcalf; and County Representative Santos Kreimann.

City Representative Lucas Frerichs was absent.

2. Approval of the minutes of the January 20, 2016 Committee meeting.

Mr. LoFaso requested the minutes be revised to include some minor changes he presented to Executive Director Mark Stivers earlier that morning.

MOTION: Mr. LoFaso moved to adopt the minutes of the January 20, 2016 meeting as amended. Ms. Ortega seconded the motion passed unanimously by a roll call vote.

3. Executive Director's Report.

Executive Director Mark Stivers welcomed Mr. Metcalf as the newest member of the Committee.

Mr. Stivers announced that members of the high cost task force planned to start meeting in April.

Mr. Stivers advised the Committee that they would review the first appeal of the high-cost limits established for 9% tax credit projects at that day's meeting. He stated that staff has been working through cost issues associated with both 9% and 4% tax credit projects.

Mr. Stivers announced that staff would immediately begin to include the effective project cost per unit in addition to total project costs in their staff reports. He noted that some stated costs such as the seller carry back and deferred developer fee were actually deferred costs. He explained that deferred costs were not paid in advance. Rather, they were paid with cash flow from the project at a later time.

Mr. Stivers predicted that TCAC will continue receiving high-cost projects, which could create risk for the tax credit program on a national scale. He stated that he would like to hold discussions with the community about this issue.

Mr. Stivers reported that TCAC received 73 applications for the 2016 First Round 9% competition. He estimated staff would recommend 40 applicants for funding at the June meeting.

4. Discussion and consideration of the 2016 Applications for Reservation of Federal Four Percent (4%) Low Income Housing Tax Credits (LIHTCs) for Tax-Exempt Bond Financed Projects.

Development Section Chief, Anthony Zeto, reported that 24 applicants were recommended for 4% funding. 14 of those applicants were rehabilitation projects which accounted for 1,352 units. The remaining 10 applicants were new construction projects, which accounted for 866 units. Mr. Zeto confirmed the projects were reviewed for feasibility and compliance with federal and state regulations and he recommended them for approval.

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

5. Discussion and consideration to authorize a “High Cost” project, as defined in CTCAC Regulations Section 10325(d), to be considered for a reservation of Federal Nine Percent (9%) and State Low Income Housing Tax Credits (LIHTCs) in the 2016 First Round.

Mr. Stivers invited the project sponsor for Newport Veterans Housing (CA-16-023) to speak. He noted that this was the first time the Committee was presented with such an Agenda item. Historically TCAC has employed a high cost test for 9% projects. Projects are considered high cost when the actual basis exceeds 130% of the threshold basis limit. Although the regulations allow applicants to appeal to TCAC based on the specific nature of their projects, the Newport Veterans sponsor was the first to present such an appeal.

Mr. Stivers reported that staff clarified in last year’s regulations that appeals must be submitted to TCAC early in the application process. He explained that TCAC could not entertain appeals on the date of the award meeting because doing so would disrupt the entire sort process.

Kyle Paine from Community Development Partners stated that his company was an affordable housing developer based in Newport Beach about a mile from the Newport Veterans project site. He explained that the project was presented to the city in response to its Request for Proposal (RFP) for an affordable housing development. The city had affordable housing funds that were previous “in lieu” fees of about \$4.2 million, which it needed to spend on affordable housing development.

Mr. Paine stated that the project was a 12-unit market rate building that his firm would acquire, rehabilitate and convert into 6 units of special needs housing for chronically homeless veterans and 6 units for seniors. The area median incomes (AMIs) for the project would range from 30% to 60% AMI.

Mr. Paine reported that the city received 6 proposals in response to its RFP. Newport Veterans was among 3 proposals the city chose for funding. He noted that Newport Veterans was the only selected project that would produce new affordable housing units.

Mr. Paine stated that the city provided an award of \$1.975 million for the acquisition and rehabilitation of Newport Veterans. The city council vetted the project in much detail and voted unanimously to move it forward. The project also received 6 project-based Veterans Affairs Supportive Housing (VASH) vouchers, which were awarded unanimously by the county board of supervisors. The vouchers will provide VA services and rental assistance to 6 chronically homeless veterans.

Mr. Paine stated that his firm has partnered with Mercy House, a local non-profit based in Santa Ana that has provided services to homeless populations in Orange County for 25 years. He noted that Mercy House also has extensive experience providing services to seniors and homeless veterans.

Mr. Paine reported that Newport Veterans requested the least amount of credits among the applicants. In addition, the project had the highest self-score and tie breaker. Mr. Paine stated that his firm leveraged its resources for the project and limited its request to the least amount of credits possible. He concluded that the project was a good example of when a waiver of the high cost test made sense.

Mr. Paine explained that acquisition of the property accounted for over 55% of the project cost. For this reason, the project was considered by TCAC to be high cost. He explained that Newport Beach has not had an affordable housing project developed since 2004 primarily due to the high cost of acquiring a property there. He stated that the city has assisted with the acquisition cost for Newport Veterans by awarding funds to the project.

Mr. Paine stated that awarding 9% funds to Newport Veterans should not result in a loss for another project based on his firms' analysis of the applications submitted. He explained that the total project cost seemed to be high on a per unit level compared to other projects submitted last year.

Mr. Paine stated that a 2015 project in Santa Ana reported costs of \$420,000 per unit. Another project in Irvine reported costs of \$470,000 per unit. He stated that median homes prices in Santa Ana and Irvine were about half that of those in Newport Beach.

Mr. Paine urged the Committee to grant a waiver of the high cost restriction for Newport Veterans due the project receiving support from the local government and VA even though acquisition cost for the project was high. He stated that the project would provide affordable housing for a vulnerable population of homeless veterans and seniors.

Mr. Stivers stated that the regulations required him to provide the Committee with information about comparable projects in the area although TCAC has not funded

a project in Newport Beach since 2004 as Mr. Paine mentioned. The last project funded in Newport Beach was a new construction development. Mr. Stivers reported that TCAC funded two rehabilitation projects more recently in Costa Mesa and Irvine. These projects were not far from Newport Veterans.

Mr. Stivers stated that a 36-unit project in Costa Mesa funded by TCAC in 2013 was probably the most comparable to Newport Veterans. The cost of the project was \$186,000 per unit.

Mr. Stivers stated that the regulations also request that he provide the Committee with a recommendation. He noted that there were many sympathetic aspects about Newport Veterans. And it would be commendable for TCAC to fund a project in Newport Beach given the program has not had much success there. Mr. Stivers stated that even though the project offered a small number of units, it would help serve seniors and chronically homeless veterans. He commented that if not for the high cost, he would be proud to recommend the project for an award.

Mr. Stivers explained that there was national concern about how the increasing cost of California projects would affect the tax credit program. He stated that the high cost test was the only tool the State had to limit high cost projects. He cautioned that if the Committee approved Mr. Paine's request, the number of high cost applicants could increase substantially.

Mr. Stivers stated that he did not know what kind of rationale TCAC would use for the next high cost test regardless of the project's sympathetic aspects. He recommended that TCAC not review high cost projects on a case-by-case basis without having clear parameters in place. For these reasons, Mr. Stivers recommended the Committee not approve Mr. Paine's request.

Mr. Stivers reported that his staff explored the idea of awarding 4% credits to Newport Veterans; however they determined the project was not currently feasible as a 4% applicant. He stated that the sponsor applied for Veterans Housing and Homelessness Prevention (VHHP) funds through HCD but was deemed ineligible because the project did not meet the threshold requirement for services.

Mr. Stivers stated that he was not sure if the service issues could be remedied, but he supported efforts to restructure the project into a 4% applicant. He predicted that the project, even with VHHP funding, may still have a funding gap.

Mr. Stivers explained that there were no other Orange County applicants in the 2016 First Round competition, therefore funds not awarded to Newport Veterans would carry over to the Orange County region for the Second Round.

Mr. Gordon stated that he would like to associate the State Treasurer with the comments made by Mr. Stivers. He stated that he would not vote in favor of the sponsor's request that day. He suggested the developer work with CalHFA and HCD in an attempt to restructure the project as a 4% application. If the project

could not be restructured, the developer could apply for 9% credits in the next round.

Ms. Ortega asked Mr. Paine to comment on the likelihood of carrying out the project as a 4% applicant.

Mr. Paine stated that prior to having any discussions with CalHFA or HCD, his firm did not know of any way to carry out the project as a 4% applicant. For this reason, the firm only sought 9% credits. He noted that if the project had received VHHP funding, it would have experienced a funding gap resulting from the change from 9% credits to 4% credits.

Mr. Metcalf commended Mr. Paine for the work his firm has done in the city of Newport Beach. He offered to provide assistance if the firm chose to pursue another VHHP application. He commented that the issue regarding services was a surmountable problem that could be worked through.

Ms. Boatman-Patterson stated that she did not know what types of restrictions were currently imposed on the project at the local level. She encouraged Mr. Paine to review CalHFA's existing acquisition and rehabilitation programs and any gap financing the agency might offer in its first position. She suggested the developer stay engaged with both CalHFA and HCD.

Mr. Gordon asked Mr. Paine if he would like the Committee to vote that day or if he preferred to withdraw the project in order to seek another funding method.

Mr. Paine stated that his firm would have to reapply for 4% credit in the next funding round if it withdrew the project. He explained that the firm was also restricted by time lines associated the city commitment and the VASH vouchers. For this reason, the firm applied for credits in the First Round and not a later round.

Mr. Gordon stated that he believed CalHFA and HCD would be willing to start working with his firm immediately.

Steve Strain from the Law Offices of Patrick Sabelhaus commented that it made sense to withdraw the project without asking the Committee to vote. He stated that he was very sensitive to discussions about high cost issues, but he felt Newport Veterans was a distinguishable project when compared to other high cost projects TCAC may have reviewed. Mr. Strain stated that the project was in a community that has not had an affordable housing project in over a decade. He noted that the acquisition cost was an issue beyond the control of the developer and its funding partners.

Mr. Strain stated that it took great effort to create a financing package that leverages multiple sources in order to make efficient use of tax credits. He noted that Newport Veterans requested the least amount of credits of any applicant in the 2016 First Round. On a per unit basis the project was almost at the middle point among Orange County projects funded last year.

Mr. LoFaso commended staff for revising the regulations so that appeals of this nature would be presented early in the funding process. He asked Mr. Stivers to clarify the time lines involved if the project was withdrawn from the First Round competition so that it could seek 4% credits.

Mr. Stivers clarified that the project sponsor was not requesting an award, but rather seeking to be considered as part of 9% First Round competition. He confirmed that the deadline to apply for the First Round had passed. Though TCAC received an application for Newport Veterans, the sponsor was now requesting to be considered in the competition.

Mr. Stivers explained that the project would not be funded if the Committee voted against allowing the project to be considered in the 9% competition. The end result would be the same if the project was withdrawn. Mr. Stivers predicted that if the sponsor reapplied for funding in the Second Round the project would still be considered high cost, which would prompt another appeal to the high cost test.

Mr. LoFaso asked Mr. Stivers to confirm the deadline to apply for the Second Round.

Mr. Stivers confirmed the deadline was June 29, 2016. He stated that the meeting for Second Round awards was scheduled for September; however if Newport Veterans requested another high cost appeal, staff would prepare it for the July meeting.

Mr. Gordon asked Mr. Stivers how difficult it would be for the sponsor to revise their application for the Second Round.

Mr. Stivers stated that sometimes applicants must update market studies and other forms when reapplying for credits. There could be some additional costs involved such as the cost to the owner for holding the property. He invited the project sponsor to comment further.

Mr. Strain stated that he may have misunderstood the options available. He clarified that the sponsors preferred to postpone the Committee vote until the next TCAC meeting so they could work through the cost issues with HCD and CalHFA.

Mr. Stivers stated that he preferred not to postpone the Committee vote on project as a potential 9% First Round applicant because doing so would create a tight time line for TCAC staff.

Mr. LoFaso asked Mr. Stivers if he could comment regarding the VHHP application submitted by the sponsor.

Mr. Stivers stated that the project was very small with just 6 units reserved for veterans. Due to the small number of units reserved for veterans the VHHP loan was unlikely to fill the gap caused by switching the sponsor from 9% to 4% tax

credits. Mr. Stivers stated that other funding might be available to close the gap, but it was also possible the project might never be feasible as a 4% applicant.

Mr. LoFaso asked Mr. Stivers to explain how postponing the Committee vote would impact TCAC processes.

Mr. Stivers explained that staff has 90 days to review and prepare 73 applications for the First Round awards. The staff performs an initial sort based on the applicants' self-scores. After verifying that self-scores and tie-breaker scores are correct staff then verifies that all other threshold requirements have been met.

Mr. Stivers explained that applicants have the opportunity to appeal discrepancies reported by staff. He noted that one project was left out of the 2015 Second Round meeting agenda because it was in the process of an appeal. The project was on hold for an additional month while the appeal was resolved. Mr. Stivers concluded that staff uses all of the time allotted for project reviews and appeals processing. He stated that the entire sort could be disrupted if this appeal were decided too far into the process.

Mr. Stivers stated that he did not know if the sponsor could prepare a 4% application in just one month. He noted that VHHP would not hold another funding round during the next month. He asked that the Committee bring closure to this issue before the next TCAC meeting.

Mr. LoFaso stated that he was inclined to give the project every opportunity to move forward; however there was no reason to postpone the Committee's decision for a month if doing so would not make a difference.

Mr. Gordon asked Mr. Paine if he would like the Committee to vote on the project that day or if he preferred to withdraw the project and work with CalHFA and HCD.

Pat Sabelhaus from the Law Offices of Patrick Sabelhaus stated that he represented the project sponsor. He explained that he has been a vocal advocate of cost containment and efficiency over the last few years. And he was sorry the cost issues were not addressed earlier in the 30-year tax credit program.

Mr. Sabelhaus stated that it was in his client's best interest to withdraw the project subject to the understanding that the sponsor will work with HCD and CalHFA to determine if there is a way to fill the anticipated funding gap, which was estimated to be \$1,400,000. He stated that he would work with HCD in the coming months to determine if there were any veterans' funds left over from the First Round to assist the project.

Mr. Sabelhaus requested that the sponsor be given an opportunity to reapply for credits in the Second Round if they elected to withdraw their application. He explained that costs associated with the First Round application could not be recovered. In addition, the sponsor would be subject to carrying costs. For these reasons, Mr. Sabelhaus asked that the sponsor be allowed to reapply for credits in

the Second Round and appeal to the Committee again if the project did not meet the cost containment guidelines.

Mr. Gordon stated that he was committed to allowing the project to be brought back without prejudice in the Second Round if the sponsor could not find a way to make it feasible with the help of HCD and CalHFA.

Mr. Metcalf stated that he did not believe TCAC would have certainty as to the award of VHHP funds by the time the sponsor applied for the Second Round competition. He explained that HCD was currently making awards for the Second Round and had not yet finalized its NOFA time line. He confirmed that it was unlikely HCD would have gone through the NOFA process and made selections for its Third Round. Mr. Metcalf offered to help the sponsor work through issues like the services threshold barrier so the project might score well in the application process.

Mr. Gordon stated that the promise was to work together but not on an end result. Mr. Gordon confirmed that the sponsor preferred to withdraw their project therefore the Committee would not vote that day.

Mr. Kreimann asked Mr. Stivers if the appeal for the high cost threshold was a relatively new provision of the TCAC process.

Mr. Stivers stated that the high cost test has been in place for 2 or 3 years. To date TCAC has not reviewed any projects that exceeded the 130% threshold, though staff reviewed quite a few projects at 129.9%. Mr. Stivers reported that he had 1 or 2 conversations during the last year with sponsors who asked about the likelihood of receiving an award for a high cost project. He advised the sponsors that they were unlikely to receive support. He noted that one of the sponsors received a 4% tax credit reservation as part of that day's agenda.

Mr. Kreimann asked Mr. Stivers to confirm that the sponsor was making an appeal for a waiver of the high cost test.

Mr. Stivers confirmed Mr. Kreimann's statement.

Mr. Kreimann asked if the waiver process was in place 2 years ago.

Mr. Stivers stated that the waiver provision has been available for as long as the high cost test has been in place. He noted that last year TCAC stipulated the time frame in which waivers should be sought so they could be considered early in the application process rather than at the end of it.

Mr. Kreimann asked if there was a scenario in which TCAC would recommend a waiver for a high cost project. He explained that it would benefit high cost applicants to know the parameters associated with the granting of a waiver.

Mr. Stivers stated that he could not think of a scenario in which he would support a waiver; however staff would review each request on a case-by-case basis. He



noted that Newport Veterans far exceeded the 130% threshold limit at 220%. He stated that he might support a project if it was much closer to meeting the current standard.

Mr. Kreimann asked Mr. Stivers to confirm that the benefits of the project did not factor into his recommendation.

Mr. Stivers stated that he considered the benefits of the project in his recommendation. He reiterated that he would have been proud to recommend Newport Veterans for funding if not for the high cost issue.

Ms. Ortega asked that the Committee receive an update on this issue at the First Round meeting or prior to the Second Round deadline.

Mr. Stivers confirmed that he would stay in contact with the project sponsor and provide updates at future meetings.

6. Public comment.

No public comments.

7. Adjournment.

This meeting adjourned at 12:15 p.m.