



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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Mark Stivers

MEMO

TO: Interested parties

FROM: Mark Stivers, Executive Director
California Tax Credit Allocation Committee (TCAC)

DATE: August 2, 2018

RE: Guidance relating to placed in service packages and limited partnership agreement language relating to reserves

Since 1997, TCAC's regulations have generally required that "all unexpended funds in project reserve accounts shall remain with the project to be used for the benefit of the property and/or its residents." The one exception is that the operating reserve may be released following achievement of a minimum annual debt service ratio of 1.15 for three consecutive years following stabilized occupancy only to pay deferred developer fees.

It has recently come to TCAC's attention that many limited partnership agreements (LPAs) do not reflect this requirement but rather allow distribution of reserves as cash flow or use of the reserves for other purposes. Whereas regulations have the force of law, TCAC reminds owners of all projects that received reservations of tax credits in or after 1997 that they are subject to the requirement for reserves to remain with the project regardless of any LPA language to the contrary. TCAC may issue program sanctions for violations of this requirement.

In addition, for all placed in service packages submitted after September 1, 2018, TCAC will review the LPA language on reserves for compliance with this requirement. TCAC will require an amendment of any LPA language that does not conform to the regulatory requirement and will not issue tax forms 8609 until the amendment is executed and provided to TCAC. In order to expedite reviews and the issuance of tax forms, TCAC strongly encourages owners to ensure the LPA's conformance with this requirement prior to submitting the placed in service package.