

CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE
Minutes of the March 16, 2011 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 11:45 a.m. Also present: Cindy Aronberg for State Controller John Chiang; Pedro Reyes for the Department of Finance Director Ana Matosantos; Elliott Mandell for the Department of Housing and Community Development Acting Director Cathy Creswell; and City Representative Christopher Armenta.

California Housing Finance Agency Executive Director Steven Spears and County Representative David Rutledge were absent.

2. Approval of the minutes of the February 2, 2011 Committee meeting.

MOTION: Ms. Aronberg moved to adopt the minutes of the February 2, 2011 meeting. Mr. Reyes seconded and the motion passed unanimously.

3. Executive Director's Report.

Mr. Pavão reported that TCAC concluded the First Round 2011 application workshops. He announced that the applications were due by March 23rd. He predicted that TCAC would receive a high volume of 9% applications.

Mr. Pavão reminded the Committee that February 16th was the deadline for TCAC to expend at least 75% of the Tax Credit Assistance Program (TCAP) award. He reported that TCAC was able to expend the required amount before the federal deadline. He thanked Lisa Vergolini and Anthony Zeto for encouraging awardees to draw on their TCAP awards to pay down qualified project costs. Mr. Pavão predicted that all of TCAC's ARRA funds would be expended in early 2012.

4. Discussion and Consideration of the 2011 Applications for Reservation of Federal Low Income Housing Tax Credits (LIHTCs) for Tax-Exempt Bond Financed Projects.

Mr. Pavão reported that projects under Agenda Item 4 were reviewed by staff for compliance with state and federal requirements. He recommended them for Committee approval.

Mr. Reyes stated that he would not participate in the vote on Yucaipa Senior Terrace (CA-2011-808), Mission Apartments (CA-2011-812), and Canby Woods Senior Housing (CA-2011-814).

MOTION: Ms. Aronberg moved approval of staff recommendations regarding all of the projects, except Yucaipa Senior Terrace (CA-2011-808), Mission Apartments (CA-2011-812), and Canby Woods Senior Housing (CA-2011-814). Mr. Reyes seconded and the motion passed unanimously.

Mr. Reyes stated that he was concerned about projects CA-2011-808, CA-2011-812, and CA-2011-814 because they would rely upon redevelopment agency (RDA) funding that could be terminated by pending legislation. He explained that the pending legislation would abolish the tax increment used to fund local Low/Mod Housing Funds. RDA's would not be able to provide permanent financing to the projects when the tax increment ceased and Low/Mod funds were no longer available.

Ms. Redway asked if all the RDA funds were committed last fall before discussions about the new law started. She stated that she was under the impression that RDA funds committed in August 2009 and fall of 2010 would be honored even if the law passed.

Mr. Reyes stated that RDA commitments may be honored depending on the level of the enforceable contract. He explained that a commitment would be honored if there were a contract in place and construction had already started. He stated that if a contract was in place, but construction had not begun or land had not been acquired, or there were no infrastructure construction done then the contract would be considered enforceable. Mr. Reyes explained that under case law enforceable contracts by a local agency are those for which resources have been committed in addition to the written contract.

Ms. Redway asked Mr. Reyes if he thought some of the projects approved in 2010 would not be funded.

Mr. Reyes stated that projects would not be funded if they had a contract in place but construction had not started or land had not been acquired by the RDA or the contractor.

Arjun Nagarkatti, from AMCAL, stated that last year his agency acquired land for project CA-2011-812 with housing commission funds. He stated that RDA funds were also committed to the project last year.

Mr. Reyes asked if the permanent funding was based on future tax increment, debt that was issued, or funds currently available in the Low/Mod fund.

Mr. Nagarkatti stated that he did not have that information.

Mr. Pavão reported that officials in Los Angeles and San Diego provided verbal confirmation that construction and permanent financing for CA-2011-812 and CA-2011-814 were funded with existing Low/Mod funds. Low/Mod funds for CA-2011-814 were committed on December 7, 2010. Mr. Pavão reported that staff contacted the city of Yucaipa regarding CA-2011-808. Staff confirmed that

funds were committed to the project on November 8, 2010, but they did not confirm whether the funds were drawn from existing resources.

Mr. Reyes stated that Yucaipa received approval to issue and collect tax increment on \$6.5 million in debt. He stated that 20% or approximately \$1.3 million in tax increment would be set aside for Low/Mod housing.

Mr. Pavão stated that the applicant proposed to lend funds against \$1.6 million.

Mr. Reyes asked Mr. Pavão what would happen to the project if legislation was passed that prevented Yucaipa from issuing the debt as planned.

Ms. Redway suggested that if Yucaipa could not provide permanent financing through the new bond issuance as a result of new legislation, the project would have to secure another funding source or fail to qualify for tax credits.

Mr. Pavão agreed with Ms. Redway's statement.

MOTION: Ms. Aronberg moved approval of staff recommendations regarding only Yucaipa Senior Terrace (CA-2011-808), Mission Apartments (CA-2011-812), and Canby Woods Senior Housing (CA-2011-814). Ms. Redway seconded and the motion passed.

Ms. Redway suggested that over the next month staff should evaluate applications effected by the RDA legislation and determine the date RDA commitments were made and the source of those commitments. She predicted that there would be greater scrutiny of any projects with RDA funding in them.

5. Discussion and Consideration of a Resolution to Adopt Proposed Regulations, Title 4 of the California Code of Regulations, Section 10317(g)(1), Revising Allocation and Other Procedures.

Mr. Pavão reminded the Committee that they discussed a minor regulation change at the last meeting. Council advised the Committee not to adopt the change, but instead to post the change for public comments. Mr. Pavão reported that staff posted the proposed change on the TCAC website and held a public hearing to gather feedback. Mr. Pavão explained that the change would make a minor accommodation within the 4% plus state credit competition. He explained that current regulations require projects applying for 4% plus state credit to be 100% affordable. He stated that some projects had a specific federal funding source such as Section 236 funds, which allowed the incomes of existing residents to increase over time. The proposed change would allow projects to compete for 4% plus state tax credits if they are between 85% and 100% affordable in order to accommodate the existing residents. He noted that under Section 236 projects may not force residents to move out if their income goes up over time.

MOTION: Ms. Aronberg moved to adopt staff recommendations. Mr. Reyes seconded and the motion passed unanimously.

Ms. Aronberg asked Mr. Pavão if he had a plan for addressing public concerns regarding the regulations.

Mr. Pavão explained that Committee members received letters of concern from the public regarding cost efficiency within tax credit projects. He summarized that the public wanted staff to adjust the scoring system so applicants were rewarded for efforts to make their projects cost efficient. Mr. Pavão announced that staff planned to hold stakeholder meetings to discuss ideas for policy changes that could be implemented in 2011.

Jeanne Peterson commented that many 2011 First Round applicants will have funding commitments from RDAs, which would give them an advantage under the current scoring system. She asked how staff planned to evaluate applications that had RDA funds committed to them.

Mr. Pavão stated that TCAC was operating under current law, which required TCAC to honor bonified commitments from RDAs. He stated that if the law changed prior to the application due date or during the reviews, staff would reevaluate applications with RDA funding committed. He predicted that TCAC would disqualify applications that no longer had a valid RDA commitment.

Ms. Redway commented that it did not seem appropriate to exclude projects from competing before knowing the legislature's decision. She noted that some applications may not receive points for having permanent funding as a result of the decision.

Ms. Peterson stated that projects may become infeasible if legislative actions resulted in termination of RDA funding.

Mr. Reyes stated that there was more than \$2 billion in the Low/Mod fund that would be transferred to successor agencies. He stated that some RDAs had been very good at utilizing their funding while others would be happy to transfer funds to a successor. He stated that money available in the Low/Mod fund could still be used for funding projects.

Mr. Nagarkatti commented that if applicants compete in a funding round knowing they can use RDA funds, the resulting gap in funding could be filled by tax credits. He asked if applicants should submit 2 applications: One with redevelopment funds committed and one without the funds committed.

Mr. Pavão suggested developers submit only one application. He warned that developers would be taking a significant risk if they included RDA funding in their application, especially if the funds were committed after January 1st.

Ms. Redway asked Mr. Pavão if applications would be re-scored or pulled from the competition entirely if RDA funding was suddenly not available.

Mr. Pavão explained that under the current scoring system, an applicant's subsidy financing must be committed as part of the threshold requirement.

Ms. Redway explained that applicants would risk being pulled from the competition if their project included RDA funds that were not going to come from the existing \$2 billion Low/Mod Housing fund.

Mr. Nagarkatti asked if staff would allow developers to revise their applications if legislative action resulted in termination of RDA funding.

Ms. Redway stated that applicants would still need a public funding source if the RDA funds were no longer available.

Mr. Pavão stated that he did not have regulatory authority to allow developers to revise their applications after the application due date.

6. Public Comment.

7. Adjournment.

The meeting adjourned at 12:20 p.m.