

**CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE**  
**Minutes of the January 20, 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; Anthony Sertich for California Housing Finance Agency (CalHFA) Executive Director Tia Boatman-Patterson; 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 December 16, 2015 Committee meeting.

Ms. Riggs reported that she did not attend the December TCAC meeting even though the minutes indicate she did.

Mr. Gordon stated that the minutes should be amended to state that Ms. Riggs was absent from the December meeting.

MOTION: Mr. LoFaso moved to adopt the minutes of the December 16, 2015 meeting as amended. Ms. Ortega seconded the motion passed unanimously by a roll call vote.

3. Executive Director's Report.

Executive Director Mark Stivers reported that staff recently posted the 2016 applications for competitive 9% and 4% plus State tax credits to the TCAC website. Staff also posted an updated version of the application for 4% tax credits for tax-exempt bond financed projects.

Mr. Stivers announced that he and staff would conduct 5 application and regulation training workshops around the state beginning next week. He noted that CDLAC staff would be joining TCAC for the trainings.

Mr. Stivers announced that Deputy Director Lisa Vergolini and Compliance Manager Shannon Nardinelli would conduct 15 compliance trainings around the state for TCAC property managers and other compliance personnel.

Mr. Stivers reported that the governor's recent budget would allow TCAC to hire 3 additional staff in the development section. He stated that 2 of the staff would likely assist in processing the back log of Form 8609 requests. Mr. Stivers reported that TCAC would also be able to hire 4 new staff in the compliance section. He explained that the compliance staff would continue to grow over time due to the increasing number of TCAC properties that must be inspected each year.

Mr. Stivers reported that Senator Jim Beall introduced Senate Bill (SB) 873, which was similar in nature to SB 377 of the previous year. He stated that SB 873 would allow the State low-income housing tax credits (LIHTCs) to be certificated. He explained that changing the credit structure will help investors avoid the impact of federal taxation, which will allow credit pricing to increase. Mr. Stivers noted that Treasurer Chiang sponsored the bill. He stated that he looked forward to the legislature taking up the bill later this year.

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 the Agenda was amended after the Committee meeting binders were distributed. He explained that project CA-16-803 was removed from the Agenda Item 4. Mr. Zeto confirmed that the remaining 6 projects on the Agenda were reviewed for feasibility and compliance with federal and state regulations. 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 increase the existing reservation of Federal Four Percent (4%) Low Income Housing Tax Credit (LIHTC) for a Tax-Exempt Bond Financed project at Placed-in Service (PIS) as allowed under TCAC Regulation Section 10322(j).

Mr. Zeto stated that the project CA-11-917 was an existing project, which had received an allocation of credits in 2011.

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

6. Discussion and consideration of establishing a minimum point requirement for the competitive 2016 applications.

Mr. Zeto explained that the TCAC regulations allowed the Committee to establish a minimum point threshold. He stated that the Committee may reject a given project if it does not meet the established minimum. Mr. Zeto explained that staff proposed to adjust the minimum point requirement since the maximum amount of points was adjusted in accordance with the regulation changes.

Mr. Zeto reported that the maximum point score for 9% applications was reduced from 148 points to 138 points. In addition, the maximum score for competitive 4% applications was reduced from 126 to 116 points. Mr. Zeto proposed to establish minimum scores of 117 points for 9% applicants and 98 points for competitive 4% applicants. The proposed minimums would reflect approximately 85% of the maximum points available.

Mr. LoFaso ~~stated that Mr. Zeto's comments regarding the Committee's authority implied the Committee could approve a given project that did not meet the minimum score. He~~ asked Mr. Zeto to describe circumstances in which the Committee could approve a given project that did not meet the ~~such an event could occur.~~ minimum score.

Mr. Zeto stated that TCAC approved projects that scored slightly below the minimum point threshold in past years when the competitive 4% tax credits were undersubscribed. He noted that 9% projects routinely scored the full number of points available. Mr. Zeto predicted TCAC would not encounter frequent situations in which staff recommended projects that scored below the minimum points.

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

7. Discussion and consideration of a resolution authorizing the Executive Director of the California Tax Credit Allocation Committee to enter into a contract, pending finalization of the procurement process, with Spectrum Enterprises, Inc. for a period of up to two years, not to exceed \$200,000, to provide professional tenant demographic data collection services related to compliance with the Housing and Urban Development (HUD) program requirements as required under the Housing and Economic Recovery Act of 2008.

Ms. Vergolini explained that TCAC had to begin reporting tenant demographic data to HUD due to the passage of the Housing and Economic Recovery Act of 2008. She stated that the collection and reporting process was solidified in 2011 and 2012 when TCAC first reported data to HUD. Ms. Vergolini stated that TCAC did not have the staffing or infrastructure to report the required data to HUD. She explained that TCAC's portfolio includes more than 3,500 projects.

Ms. Vergolini stated that TCAC has been contracting out for tenant data collection services for two-year terms. She reported that the latest contract has expired. Accordingly, staff initiated the State procurement process to award a new contract. Ms. Vergolini reported that TCAC issued a Notice of Intent to Award a contract to Spectrum Enterprises, Inc. She explained that the proposed Resolution would allow the Executive Director of TCAC to enter into the contract with Spectrum.

Ms. Vergolini stated that approval of the Resolution would be based on the contract being approved by the Department of General Services (DGS) at the conclusion of the procurement process. She noted that the actual contract amount would be \$188,000.

Ms. Vergolini explained that the Spectrum contract was brought to the Committee under a separate Resolution so as not to usurp the Executive Director's blanket authority to sign contracts up to \$250,000. She noted that staff would continue to

research whether the data collection process could be performed by the State. She concluded that TCAC did not currently have the information technology capabilities or staffing necessary to carry out the required amount of work.

Ms. Vergolini stated that the Spectrum contract would be for a 2-year term. The vendor would collect and report tenant data to HUD on behalf of TCAC for the years 2015 and 2016.

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

8. Request for guidance from the Executive Director on Disability Access Waiver Requests.

Mr. Stivers reminded the Committee that at the previous meeting a project proponent commented that TCAC denied a portion of their request to waive the disabled accessibility requirements. He explained that the Agenda item was included to facilitate additional discussion. He noted that the denial of a waiver was not appealable to the Committee.

Mr. Stivers stated that in October the Committee voted to maintain the accessibility requirements in the regulations. He explained that in order to grant a waiver he must find the required improvements to be unnecessary or excessively expensive. He asked the Committee for direction in how flexible or strict he should be in determining if the standard for waivers has been met.

Mr. Stivers stated that the Committee binders included examples of how improvements may be either unnecessary or excessively expensive. He stated that at the previous meeting proponents from ROEM Development reported livability issues as a result of accessibility requirements. He explained that that in order to make a kitchen accessible, the developer had to extend out one of the kitchen walls into the living space, resulting in half the living area measuring about 7 feet wide. In the developers view the reduced living space made the accessible units unusable and therefore unmarketable.

Mr. Stivers stated that in an example of a waiver he granted, the developer encountered a practicality issue. He explained that parking was located three quarters of a floor underground and the building entrances were located about one quarter of a floor above ground. Due to the tight constraints of the site there was no way to make parking and entry ways accessible without scraping the building and starting over. Mr. Stivers concluded that the improvements were excessively expensive. He asked TCAC's legal counsel, Robert Hedrick, to comment on the standards associated with accessibility waivers.

Mr. Hedrick stated that he was questioned by TCAC staff regarding the livability issue and if imposing accessibility requirements on units which caused them to become unmarketable was within the scope of excessively expensive. He stated that to the extent that the project became unmarketable by virtue of the requirements it was within the Committee's purview to decide that the required

improvements were excessively expensive and that TCAC imposed requirements that caused the project to become effectively impractical. Mr. Hedrick stated that it may be helpful in the future if the regulations articulated that this information was within the scope of what was contemplated. He stated that it was a defensible position to assert that a project upon being rendered unmarketable was subjected to improvements that were excessively expensive because they eliminated the profitability or the viability of the project from an economic standpoint.

Mr. Stivers asked the Committee if they subscribed to the analysis presented by Mr. Hedrick or a more strict interpretation of the regulations. He stated that the Committee's feedback would inform him as he evaluated the project currently under consideration and future projects as well.

Ms. Ortega stated that she supported maintaining the existing regulations when the Committee discussed them at the October meeting. She explained that she felt more comfortable with the existing regulations with respect to the default consideration of accessibility issues. Ms. Ortega stated that she recalled asking questions about the waiver process. She explained that the waiver process seemed to provide applicants the ability to appeal to the Executive Director, which seemed to provide enough relief of the burden on applicants.

Ms. Ortega stated that she supported a broader interpretation and giving the Executive Director authority to review the reasonableness of applicant requests while maintaining the default position that the Committee supports a high standard of accessibility whenever it is feasible.

Mr. Gordon stated that supported Ms. Ortega's remarks. He invited the public to comment on the agenda item.

Teo Speranza from ROEM Development offered to provide clarification on the item. He explained that his firm did not request a complete waiver of the accessibility requirements. He stated that his firm provided accessibility as required by the California building code Chapter 11.A, which was slightly less restrictive than Chapter 11.B.

Mr. LoFaso stated that he was primarily interested in the larger issue articulated by Ms. Ortega. He suggested that if the language in the regulations could not be clearly interpreted then perhaps it should be fixed. He stated that the term "livability" was imprecise~~like a red herring~~ because the analysis focused on architectural design and not financing. ~~He stated that Mr. Stivers has essentially reported that some architectural design analysis quickly lends itself to excessively expensive and some does not. This raised the question of how one could prove or disprove the analysis findings.~~ Mr. LoFaso stated that Mr. Stivers' reports led him to think that when architectural design analyses were clear enough one would not have to prove that improvement were excessively expensive, which would allow staff to avoid a lot of extra work.

Mr. LoFaso stated that question of whether the width of the living room Mr. Stivers described made the unit unmarketable was a much different economic

question that was not obvious. ~~He stated that the units were subsidized housing, which people want for its' own sake.~~ He suggested ~~explained that~~ there were big trade-offs depending on the nature of the disability and accessibility concerns of the residents. He stated that there were no trade-offs in Mr. Stivers' other example of the partially raised garage. It was abundantly clear from a design perspective that the improvement would be enormously expensive.

Mr. LoFaso stated that he would support Mr. Stivers in applying the waiver standards consistently while steering clear of trade-offs, which could lead to accusations of arbitrary decision making. He stated that if Mr. Stivers was going to approach waivers using architectural design analysis without leveraging it to conform to the economic language in the regulations, then he should ~~he should be broader and more forgiving in what he entertained.~~ He ~~suggested~~ either changing the regulations to be architectural or make applicants prove the marketability issue exists.

~~Mr. LoFaso stated that he was still trying to understand how Mr. Stivers evaluated these issues consistently and transparently. He commented that livability was a rather imprecise way of evaluating the issues. He stated that architectural design versus financial analysis seemed to be the bottom line touchstone.~~

Mr. Stivers stated that Mr. LoFaso was encouraging him to be flexible with respect to how he interpreted the language defining excessively expensive; however in context that related to marketability TCAC should have backup documentation of how the marketability of project was being affected.

Ms. Riggs noted that the issue under discussion was only applicable to acquisition and rehabilitation projects therefore a limited pool of applicants would be subjected to the waiver evaluation process.

Mr. Stivers stated that he would continue to discuss the issues with board members who wished to pursue them further. He thanked the Committee for their helpful feedback.

9. Public comments

No public comments

10. Adjournment.

This meeting adjourned at 12:06 p.m.