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December 22, 2010

William J. Pavao
Executive Director
California Tax Credit Allocation Committee
915 Capitol Mall, Room 303
Sacramento, CA 95814

RE: Comments on Proposed Changes to the LIHTC Qualified Allocation Plan

Dear Director Pavao,

Thank you for the opportunity to comment on the proposed amendments to the Low Income Housing Tax Credit Qualified Allocation Plan. Having reviewed TCAC's Proposal of November 22, 2010 with our own Tax Credit Allocation Subcommittee, the Non-Profit Housing Association of Northern California (NPH) submits the following comments on behalf of our members for your consideration.

Small Development Set Aside

Section 10315(e)

We support the elimination of the Small Development Set Aside. These projects can compete fairly in the larger system, so there is no policy rationale for continuing to offer a separate set aside for small developments.

Special Needs and SRO Set Aside

Section 10315(g)

We strongly support an increase in the Special Needs and SRO Set Aside. These projects serve an important public purpose and should be prioritized in the funding system.

Qualifications for Certified Public Accountants and Attorneys

Section 10322(h)(16)

NPH members agreed with your proposal that an attorney who serves pro bono on an organization's Board of Directors is distinctly different than an attorney who acts as an organization's in-house counsel, and should not be disqualified from eligibility to certify a project's eligible basis.

Convert HCD Bridge Loans Made Using ARRA Funds to Permanent Loans

Section 10323(d)(2)(D)

We agree with your proposal to leave in the existing projects the estimated \$125 million of Tax Credit Assistance Program (TCAP) funds that was used to "backstop" HCD funds during the state bond crisis. We encourage TCAC to give further thought to other terms and requirements that may be appropriate, given that these projects have already closed under the assumption that the ARRA funds would



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be taken out by the HCD loans. We understand that this transition could be staff intensive for TCAC, and recommend that TCAC consider engaging outside consultants to manage the regulatory modifications necessary to the transition between the HCD and TCAC programs. Further discussion on this issue will be forthcoming in comment letters from Community Economics and some of our developer members.

Social Services Scoring, Accounting for Different Resident Populations
Section 10325(c)(5)(B)

We appreciate the recognition of two types of housing with regard to appropriate services scoring. This is a valuable and needed change, however, we seek two minor clarifications.

First, for after school programs in family housing, we ask that the requirement of six hours of programming allow flexibility regarding the days per week offered, with a minimum of three days per week.

Second, regarding projects that combine family and senior or special needs populations, we request that TCAC clarify the requirement that any services must be available to all tenants in the project. This might not make sense given the need for different services by different populations.

Public Fund Credit for Infrastructure Improvements
Section 10325(c)(1)(C)

NPH commends your current proposal, but recognizes that it addresses only part of the problem. We understand that it is very difficult to draw a bright line between necessary and extraneous infrastructure, but point out that infrastructure improvements that are absolutely required as a condition of approval for the affordable housing development are reasonably a part of project costs.

Donation of Public Land
Section 10325(c)(1)(C)

In addition, we appreciate the need for fresh appraisals for donated land, but suggest that appraisals within 12 months should be considered “current,” even if not accomplished within the same calendar year.

Scoring System for Sustainable Building Methods
Section 10325(c)(6)

We understand that state policy requires increases in energy and resource efficiency standards. NPH members identified a few distinct problems however with the proposed regulations.

First, it is easier to build energy efficient high-rise buildings than the “garden style” ground level multi-building architecture required in suburban areas for family



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housing. Similarly, older buildings that are being rehabilitated for single room occupancy are not able to provide many of the efficiency measures possible in new development. We request additional flexibility recognizing these distinctions.

Second, that Bay Area Air Quality Management District is requiring mechanical ventilation systems that are energy demanding. NPH requests that properties be allowed to exclude the energy demands of technology required by local air districts from the calculations of energy savings necessary for tax credit purposes.

Finally, we ask that TCAC consider phasing in the new scoring requirements for rehabilitation projects, since at present we are unsure of how successfully those requirements can be met. We are concerned that the new requirements could impose potentially impossible standards on projects that were already designed and ready to start construction, as of the last round of tax credit allocations. We suggest, therefore, that TCAC make the scoring matrix a bit more generous for the first year that the new scoring system is being implemented. Based on monitoring results from this first year using the system and possible changes in the measures due to industry advancements, TCAC could then tighten the requirements more accurately.

Tax-exempt Bond Financing

Section 10317(g)(1)

We suggest that TCAC change the language in this section from "...the project is comprised of 100% tax credit eligible units" to "...the project is comprised of not less than 80% tax credit eligible units."

Score Land and Improvement Contributions by Charitable Organizations

Section (c)(10)(A)

We agree it is reasonable to require that land donated for affordable housing by a non-profit group be held as an asset for at least ten years.

Regarding Rural New Construction

Section 10322(h)(9)

We ask that this section allow discretion for TCAC to consider an additional project within one market area if the project developer can demonstrate it is not competing to meet the demand for housing in that area. For example, if the additional building is intended to replace a dilapidated property from which all tenants are to be relocated.



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Regarding the Recommendation of the CA Campaign for Affordable Housing (CCAH)

NPH recognizes that a variety of factors may have created the appearance of increased costs for affordable housing in recent years. Possible factors may include higher reserve requirements and increased commodity prices. However, funding for affordable housing is so hard to come by these days, we know for certain that all NPH members do everything possible to build as cost efficiently as possible.

It is neither fair nor prudent to consider any recommendations for “reform” of the QAP or making any major changes to the public funding and other metrics at this time. NPH strongly recommends that these issues be deferred to 2011 to allow ample time to review the historical record and carefully consider the consequences of any “reform” proposal. NPH stands ready to work with TCAC and all affected parties on this matter throughout the course of the coming year.

We appreciate the opportunity to present our comments on the Proposed Regulations, and thank you for your consideration of our recommendations.

Sincerely,

Dianne J. Spaulding
Executive Director
The Non-Profit Housing Association of Northern California