SAN DIEGO HOUSING FEDERATION

MEMORANDUM

To: SDHF Policy Committee
From: Laura Nunn, Policy Director
Date: 10/11/2016
Re: 2016 TCAC Proposed Regulation Changes

Background: Each year, the California Tax Credit Allocation Committee (TCAC) prepares proposed changes for the regulations that govern the state's administration of the four percent (4%) and nine percent (9%) low income housing tax credit programs. The recommendations are intended to encourage continual review of the program and identify changes that can help to improve, strengthen, and streamline the program while also working toward achieving programmatic priorities. For 2016, TCAC staff have recommended 109 regulation changes, ranging from minor fixes to improve efficiency to major changes aimed at meeting certain goals.

This year, one of the priorities that has emerged is to shift investment to ensure affordable housing is built in high-opportunity areas. While not explicitly mentioned in the statement of reasons for the proposed changes, it appears that this prioritization could be part of an effort to align with HUD's Affirmatively Furthering Fair Housing (AFFH) rule as well as address any potential for 'disparate impact' findings similar to those that emerged from the Supreme Court ruling in *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.* Both AFFH and the disparate impact ruling have to do with where low-income housing is located and how it helps to alleviate or, to the contrary, exacerbate segregation.

Proposed Change: Of the 109 proposed changes for this year, one is of particular concern. That change is:

73. Prohibit new construction, large-family, competitive tax credit projects in areas of low-opportunity unless the project is part of a concerted community revitalization program involving the local government and significant investment outside of the project. Section 10325(g)(1)(J). Page 49.

A full statement of reason can be found on page 49 of the TCAC proposed regulations changes memo linked above. The statement of reasons suggests that the definition of low-opportunity area be defined and identified by the UC Davis Regional Opportunity Index for Place (not People).

While the Housing Federation supports increasing affordable housing production in high-opportunity areas, we have several concerns about the proposed regulation change and oppose the proposal as currently drafted.

Issues/Concerns: The Housing Federation recognizes the reasoning behind the recommendation, yet we have concerns that the proposed change would have substantial and possibly contradictory implications toward the intent and purpose of AFFH as well as meeting the goals of other statewide housing programs. Our concerns are outlined below:

> **The proposed regulation change would have the effect of redlining low-income neighborhoods.** While every effort should be made to increase production of affordable homes in high opportunity areas, as currently proposed, the regulation change does not necessarily achieve that goal. Instead, the change represents a drastic and sweeping elimination of entire communities to have the opportunity for investments that are well-known to have transformative effects of *improving* communities and local quality of life. Investments from the LIHTC help areas of low opportunity to become areas of high opportunity. We should not eliminate the possibility of this program to help achieve such goals.
>
> **The change would eliminate the use of 9 percent credit to help prevent displacement as gentrification occurs.** A recent study from the University of California, Berkeley Institute of Governmental Studies found that subsidized housing reduces displacement pressures at double the rate of market-rate housing. As more of California's neighborhoods experience the effects of gentrification, placing affordable housing in those communities can help to ensure that families currently living in those neighborhoods are displaced as the community transforms. As both a displacement prevention and cost reduction strategy, the best time for affordable housing to be built in gentrifying communities is *before* gentrification occurs. The proposed regulation change would have the effect of removing the LIHTC as a tool to help keep families in their neighborhoods as they shift from low-opportunity to high-opportunity communities.
>
> **While it is difficult to find a perfect mapping tool for identifying where state resources should be directed to achieve specific goals, we would like to have a better understanding of why UC Davis Regional Opportunity Index (ROI) has been selected for this particular policy change.** The data sets utilized in developing the ROI appear to make a very good attempt at measuring a variety of factors from several data sources to identify an area's opportunity index; however, once utilized, the maps show some anomalies that are difficult to understand. For example, the Regional Opportunity Index

for Place in San Diego County shows an area in coastal La Jolla as low-opportunity while showing the Chollas Creek neighborhood as a high-opportunity area. La Jolla is one of San Diego's most expensive neighborhoods, while Chollas Creek is an area still undergoing revitalization. It is difficult to understand why the ROI map seem to find the opposite.

At a time when limited resources for housing are available, it is important for state programs to work together; this change is in direct conflict with state programs that must invest in low-income communities. One of the state's new major programs for affordable housing and investment in developing transit and other community enhancements, the cap-and-trade funded Affordable Housing and Sustainable Communities (AHSC) program, is mandated by SB 535 to spend at least 10 percent of its funding for projects located in disadvantaged communities. In addition, other state programs, such as the Housing-Related Parks Program, provide incentives for projects that serve disadvantaged communities.

The requirements needed in order for a project to receive an exemption are ambiguous and need further clarification. In a post-Redevelopment world, a "concerted community revitalization plan" needs to be more clearly defined.

Recommendations/Feedback:

Instead of prohibiting investment in low-income neighborhoods, find ways to ensure affordable housing is built in high opportunity areas. The proposed incentives in the regulation changes for projects located in high-opportunity areas are steps in the right direction to encourage more tax credit production in these communities. To further advance this goal, other implementation strategies such as stronger Housing Element law and RHNA production enforcement, especially for areas of high opportunity should be explored as a matter of broader policy discussion.

Work with local communities to identify where gentrification is occurring to identify ways to prevent displacement before gentrification occurs and allow families to stay in their communities as they transition to high opportunity areas. Gentrification, especially as it is in the process of occurring, can be difficult to map out and, unfortunately, once it takes place the opportunity to prevent displacement is lost. Local governments and community groups can be an excellent resource in helping to identify where such significant neighborhood change is occurring and how best to help keep families in their communities. Local input could also help to shape a mapping tool that could be helpful for such purposes. A statewide version of UC Los Angeles and UC Berkeley's Urban Displacement resource could be a very useful asset.

Utilize HUD's AFFH mapping tool in addition to other mapping tools. While the UC Davis Regional Opportunity Index may be a convenient resource, it appears to fall short on accurately identifying the appropriate opportunity index of specific communities. While perhaps less convenient, a more holistic approach to scoring opportunity index might be useful. The U.S. Department of Housing and Urban Development's Affirmatively Furthering Fair Housing tool includes data that is not included in the ROI map. Similarly, a gentrification mapping tool such as the Urban Displacement resource mentioned above, provides an additional layer of information in examining the impacts of a proposed project at a specific location as it pertains to communities undergoing change.

Summary and Conclusion: While the Housing Federation applauds TCAC's efforts to create more inclusive communities in high opportunity areas and combat segregation, the regulation change that has been proposed to achieve those goals is not the right solution as currently drafted. The Housing Federation believes that this change merits further discussion and input toward developing a more nuanced approach to achieve these policy objectives. We recommend TCAC either drastically scale back the regulation change in a manner that would not eliminate the use of 9 percent credits in any community or postpone the regulation change entirely until a better solution can be presented for discussion.