

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: January 22, 2015

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst

Assignment No: 14-12-0874

SUBJECT: Housing and Community Investment Department Recommendations for the 2015-2016 Federal and State Legislative Programs.

CLA RECOMMENDATIONS:

1. Adopt the attached Resolution to include in the City's 2015-2016 Federal Legislative Program SUPPORT for legislation or administrative action to amend the Internal Revenue Code of 1986 to make permanent and expand the minimum tax credit rate for the low-income housing tax credit program.
2. Adopt the attached Resolutions to include in the City's 2015-2016 State Legislative Program SUPPORT for legislation or administrative action that would:
 - a. Create a permanent source of funding for affordable housing; and
 - b. Provide legislative clarification that would allow the mandate of rent restrictions on inclusionary units.

SUMMARY

The Housing and Community Investment Department (HCID) has provided several proposals for inclusion in the 2015-2016 Federal and State legislative programs. For the Federal Legislative Program, HCID recommends support for legislation to amend the Internal Revenue Code of 1986 to make permanent and expand the minimum tax credit rate for the low-income housing tax credit program. For the State Legislative program, HCID recommends support for a permanent source of funding for affordable housing and inclusionary housing. We have attached Resolutions supporting these proposals.

HCID further requests that the City support amendments to SB 628, which authorizes Enhanced Infrastructure Financing Districts (EIFD). Based on protecting local control and the law's existing provisions, we recommend that these proposals not be included in the City's State Legislative Program.

BACKGROUND

Federal

Low Income Housing Tax Credits

Established under the Tax Reform Act of 1986, the Low-Income Housing Tax Credit (LIHTC) is used as a tool for the development of affordable rental housing for low-income households. The LIHTC provides investors with a reduction in tax liability in exchange for providing capital to develop affordable rental housing. The tax credit is designed to subsidize either 30 percent or 70 percent of the low-income unit costs. Congress originally set the tax credit rate at four percent (for the 30 percent subsidy) and nine percent (for the 70 percent subsidy) in the first year of the law, with the out-year credit rates determined by a floating rate based on federal borrowing costs. To ensure a stable tax credit, in 2008 Congress set the annual rate on the 70 percent subsidy at a flat nine percent for properties placed in service by the end of 2013. Congress further extended the nine percent credit to apply to credit allocations made before January 1, 2015.

As part of the 2013-2014 Federal Legislative Program, the City supported S. 1442, which would have ended the option of the floating LIHTC tax credit and made permanent the nine percent minimum tax credit and created a new four percent minimum tax credit for the 30 percent subsidy. This bill failed to become law. Similar legislation would potentially serve as a significant financing source for constructing additional affordable housing in the City. An attached Resolution supports introduction of this type of legislation.

State

State Permanent Source for Affordable Housing

The State of California has a variety of affordable housing programs, notably the Multifamily Housing Program, Emergency Housing Assistance Program, CalHome Program, and California Homebuyer Down Payment Assistance program. The main funding source for these programs has been general obligation bonds, notably Proposition 46 and Proposition 1C. These funds have financed the construction, rehabilitation, and preservation of affordable housing. The California Department of Housing and Community Development (HCD) has awarded a majority of the funds made available under these funding sources, leaving limited resources available for affordable housing. Until 2011, the Community Redevelopment Law required redevelopment agencies to set aside 20 percent of all tax increment revenue for affordable housing. Due to the elimination of redevelopment agencies, this source of funding is no longer available, further limiting state resources for affordable housing.

In 2013, the City took a SUPPORT with SEEK AMENDMENTS position for SB 391 (C.F. 13-0002-S40), which would have created a statewide permanent source for affordable housing through the imposition of a \$75 fee for the recording of every real estate-related document, excluding documents related to the sale of property. It was estimated that the bill would have created between \$300 million to \$750 million in affordable housing funds. SB 391 passed the Senate but failed to pass the Assembly. In the new legislative session, HCID requests that the

City advocate for a bill similar to SB 391, which will provide much-needed resources for affordable housing in the City.

Inclusionary Housing/Palmer Fix

Inclusionary zoning is a land use provision that requires developers to designate a portion of units in new housing developments as affordable to lower income households. In the case *Palmer v. City of Los Angeles* (2009), the Second District California Court of Appeal held that the Costa-Hawkins Rental Housing Act prohibits local governments from mandating rent restrictions on inclusionary units in new rental housing developments, as the act gives landowners the right to set the initial rent level at the start of a tenancy. In June 2013 the City took a SUPPORT position for AB 1229 (C.F. 13-0002-S97), which would state the Legislature's intent to supersede *Palmer v. City of Los Angeles* and reaffirm the authority of local jurisdictions to enact and enforce inclusionary housing ordinances. AB 1229 was vetoed by the Governor. In his veto message, the Governor wrote that requiring developers to include affordable housing in their developments can make it harder to attract development in low and middle income communities. The Governor also stated that he would like to hear from the California Supreme Court, which is reviewing the matter. According to HCID, the City's limited resources, cuts to federal Community Development Block Grant and HOME program, the dissolution of the CRA, and limited state housing bond resources requires that the City look for alternative solutions to address the need for affordable rental housing. We have attached a Resolution which supports legislation or administrative action that would carry out the policy described in AB 1229.

SB 628 Amendments

SB 628 (Beall), which was signed into law and became effective January 1, 2015, authorizes the creation of an Enhanced Infrastructure Financing District (EIFD). These districts can use tax increment to finance the construction or rehabilitation of such infrastructure projects as low/moderate income housing, childcare facilities, highways, streets, parking facilities, and flood control facilities. The EIFD program provides the City with a means of funding targeted improvements to a specific district either on its own or in partnership with the County. When an EIFD is created by the City, according to the law it will be governed by a Public Financing Authority (PFA), composed of representatives of the City and the public. Should the City form an EIFD with the County in order to combine tax increment and provide more funding for the district, County representatives will also sit on the PFA. The PFA is responsible for creating the Infrastructure Financing Plan that describes the type of public facilities and development that will be financed by the EIFD.

HCID recommends that the City support three amendments to this law as follows:

1. Include a mandatory affordable housing set-aside. The law does not include this provision. HCID supports requiring every EIFD formed statewide to include an unspecified percentage of district funding for affordable housing.

We recommend not supporting this amendment in the City's Legislative Program for several reasons. The nature of these districts are that they are customizable, and can be created to build

specific infrastructure projects. Seeking legislative action to require *all* EIFD's statewide to include an affordable housing set-aside is not in the City's best interest because it does not provide the City and future PFA's with the discretion on preparing individualized Infrastructure Financing Plans that meet the specific infrastructure goals of the EIFD. Under SB 628, the City is not precluded from funding affordable housing using an EIFD, in fact the EIFD could be formed solely for the express purpose of building affordable housing. In addition, the Council routinely opposes State legislation that relinquishes local control.

2. Include Anti-Displacement Provisions/Protections. HCID reports that SB 628 can potentially increase the potential for gentrification and therefore requests protections against tenant displacement.

We do not recommend supporting this amendment because SB 628 contains several provisions to protect affordable housing which provide adequate tenant protection. If affordable housing within an EIFD is proposed be removed or destroyed because of EIFD development activities, the Infrastructure Financing Plan must include a plan to replace the units on a one for one basis. Relocation benefits must also be paid to displaced tenants. In addition, the City may include additional protections in EIFD's on a case by case basis if necessary.

3. Lower the definition for allowable restricted affordable housing from 120 percent AMI to 60 percent AMI. SB 628 allows for housing persons or families earning up to 120 percent of area median income (AMI). HCID reports that in Los Angeles, allowing up to 120 percent AMI is too broad, and does not protect the population in most need. Therefore, HCID recommends lowering the income limit to 60 percent AMI.

We do not recommend this amendment as the most likely source of funding for affordable housing in the City's EIFD's will be from the Affordable Housing Trust Fund, Proposition 41, and Cap and Trade programs, which all have 60 percent AMI restrictions. The City can further restrict the type of affordable housing funded through the EIFD during the development of the Infrastructure Financing Plan.


Clay McCarter
Analyst

- Attachments:
1. Resolution supporting the low-income housing tax credit program.
 2. Resolution supporting creating a permanent source of funding for affordable housing.
 3. Resolution supporting inclusionary housing.
 4. HCID Bill Response Report.

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the Tax Reform Act of 1986 created the Low-Income Housing Tax Credit (LIHTC), which is used to incentivize the development of affordable rental housing for low-income households; and

WHEREAS, the tax credit is designed to subsidize either 30 percent or 70 percent of the low-income unit costs; and

WHEREAS, Congress originally set the tax credit rate at four percent (for the 30 percent subsidy) and nine percent (for the 70 percent subsidy) in the first year of the law, with the out-year credit rates determined by a floating rate based on federal borrowing costs; and

WHEREAS, to ensure a stable tax credit, in 2008 Congress set the annual rate on the 70 percent subsidy at a flat nine percent for properties placed in service by the end of 2013 and further extended the nine percent credit to apply to credit allocations made before January 1, 2015; and

WHEREAS, legislation that would end the option of the floating LIHTC tax credit and make permanent the temporary nine percent minimum tax credit and create a new four percent minimum tax credit for the 30 percent subsidy would eliminate the financial risk of the floating rate system and create stability and predictability in the affordable housing community; and

WHEREAS, this action will serve as a significant financing source for constructing additional affordable housing in the City;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this resolution, the City of Los Angeles hereby includes in its 2015-2016 Federal Legislative Program SUPPORT for legislation or administrative action that would eliminate the floating rate used by the Low-Income Housing Tax Credit (LIHTC) program and make permanent a nine percent and four percent minimum rate.

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, of the 3.7 million people living in Los Angeles' housing units, 2.2 million (or 60 percent) are living in rental units, with the majority of the renters (59 percent) classified as rent burdened as they are paying more than 30 percent of their income on rent; and

WHEREAS, the City needs an adequate supply of affordable housing that does not burden families and erode their capability to pay for medical costs, transportation, groceries and other necessities; and

WHEREAS, with the elimination of redevelopment agencies and the depletion of Prop 1C and the Neighborhood Stabilization Program, and cuts to the federal Community Development Block Grant and the HOME program, the City has lost significant sources of affordable housing funding; and

WHEREAS, SB 391 (DeSaulnier), which would have yielded an average of \$500 million per year for affordable housing by imposing a \$75 recordation fee on most real-estate documents, failed to pass the Legislature; and

WHEREAS, funds would have been used for the purpose of supporting the development, acquisition, rehabilitation, and preservation of housing affordable to low- and moderate-income households, including, but not limited to, emergency shelters; transitional and permanent rental housing, including necessary service and operating subsidies; foreclosure mitigation; and homeownership opportunities; and

WHEREAS, due to the lack of affordable housing resources, the City of Los Angeles should support similar legislation that would create a State permanent source for affordable housing;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-2016 State Legislative Program SUPPORT of legislation or administrative action which would establish a recordation fee on real-estate documents, excluding documents related to the sale of property, as a permanent source of funding for affordable housing, and to include cities in the development of the funding allocation formula to ensure equitable distribution of funds.

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, inclusionary housing ordinances require developers to retain a certain percentage of housing units in a new development as affordable to lower income households; and

WHEREAS, the case *Palmer v. City of Los Angeles* (2009) prevented local governments from mandating rent restrictions on inclusionary units in new rental housing developments, as such restrictions were preempted by the Costa-Hawkins Rental Housing Act, which gives landowners the right to set the initial rent level at the start of a tenancy; and

WHEREAS, with limited land and financial resources, the option to create an inclusionary housing program is critical for developing and distributing affordable housing throughout the City; and

WHEREAS, based on the acute need for affordable housing, the City should support legislation that would supersede *Palmer v. City of Los Angeles* and reaffirm the authority of local jurisdictions to enact and enforce inclusionary housing ordinances;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-2016 State Legislative Program SUPPORT for legislation or administrative action that would authorize the legislative body of any city or county to establish, as a condition of development, inclusionary housing requirements which may require the provision of residential units affordable to, and occupied by, owners or tenants whose household incomes do not exceed the limits for lower income, very low income, or extremely low income households.

CITY OF LOS ANGELES

BILL RESPONSE REPORT

DEPARTMENT/BUREAU/OFFICE		BILL NO.	AUTHOR
Housing + Community Investment Dept.		N/A	Unknown
PREPARED BY	EXT.	DATE	AMENDED DATE
Claudia Monterrosa	88650	11/17/14	N/A

BILL SUBJECT/TITLE:	State Permanent Source of Funding: Affordable Housing
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I. Describe the impact this bill will have on your department or the City, its program(s), and/or its constituency (state existing law or practice, a summary of the effect the bill will have on existing department operations, etc.).

EXISTING LAW

The City of Los Angeles does not have a permanent source of funding for affordable housing. The severe budget cuts to the City of Los Angeles include:

- *CRALA* dissolution translates to a loss of \$50 M annual tax increment for affordable housing in Los Angeles
- CA Prop 1C Housing & Emergency Shelter Trust Fund Grant have been nearly depleted
- The Neighborhood Stabilization Program (NSP) Funds grant has been fully committed
- The Affordable Housing Trust Fund relies entirely on **federal funding** since it does not have alternate sources of funds such as the General Fund.
- Over the course of four years, the City of Los Angeles has lost 42% of its CDBG funds and 57% of its HOME funds due to unrelenting Congressional budget cuts. Additional federal budget cuts are expected for the 2015-2016 fiscal year.

In 2014 the City supported SB 391(California Homes and Jobs Act) a 2 year bill that would create a permanent source of funding for affordable housing. SB 391 had tremendous support statewide, however, the bill did not pass in the 2014 legislative session. Renewed efforts to introduce a new Perm Source bill is expected for the new legislative session in 2015.

IMPACT

The proposed State Permanent Source of funding was expected to generate approximately \$500M per year (from a low of \$300M to a high of \$750M) from a \$75 document recording fee imposed on existing real estate documents, excluding home sales on a permanent basis. These funds would allow California to leverage \$2.78 billion in federal, local and private investment for affordable housing development. In the past, the City of Los Angeles has received a significantly larger amount (per capita) of the affordable housing bond dollars than the County of Los Angeles. The City is certainly well poised and in much need to replicate this success with a Permanent Source of Funding.

II. Give estimate of cost or savings to your department (include SB 90 reimbursements, if applicable).

Unknown at this time.

III. Arguments both ~~For~~ and ~~Against~~ this bill.

For: The joint center for housing studies of Harvard University recently released their State of the Nation's Housing, 2014 report and ranked the Los Angeles Metro Area the most unaffordable in the Nation where 50% of all households spend at least 30% of their income on housing costs. In the City of Los Angeles alone, the share of rent burden is higher, with 62% of its renters experiencing rent burden (US Census, 2012 ACS). A State Permanent Source of funding can help to change this situation by creating a source of funding that can be leveraged with other sources of funding as well as increase the production of affordable housing in the City of LA to address the severe affordable housing crisis. Additionally,

Against: Opponents are concerned that recordings involve multiple documents that may significantly increase costs. Also, there is concern about the additional costs imposed on those that are refinancing their home loans or looking to modify their home loans.

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Position Noted _____ Committee _____
Analyst _____ Council _____
Program No. _____ Position _____

IV. Recommended position and justification:

- No Position Support Oppose Amend

Describe reasons for recommended position (include relevant existing City legislative policy, and any proposed amendments in underline and ~~strike-out~~ format).

The City of Los Angeles issued a SUPPORT resolution for SB391 in May 2013; the resolution was effective for 2-year legislative session (2013-2014). HCIDLA recommends continuing the SUPPORT position for a State Permanent Source of funding (bill number to be determined) for the following reasons:

- 1) This proposed legislation will enhance the City's (HCIDLA's) Affordable Housing Trust Fund and the Permanent Supportive Housing Programs.
- 2) A steady funding stream will create predictability for affordable housing developers that would align with the AHTF managed pipeline; allowing for long-range planning for affordable housing within the City.
- 3) The City will not incur debt

V. Interested Parties:

Indicate any interest other departments or organizations may have on the bill. Also, list any contacts you made in preparing this information.

The Housing Authority of the City of Los Angeles as well as local non-profit affordable housing developers may be interested in drawing from a State Permanent Source fund.

CITY OF LOS ANGELES

BILL RESPONSE REPORT

DEPARTMENT/BUREAU/OFFICE Housing + Community Investment Dept.		BILL NO. N/A	AUTHOR Unknown
PREPARED BY Claudia Monterrosa	EXT. 88650	DATE 11/17/14	AMENDED DATE N/A
BILL SUBJECT/TITLE:		Inclusionary Housing / Palmer Fix	

I. Describe the impact this bill will have on your department or the City, its program(s), and/or its constituency (state existing law or practice, a summary of the effect the bill will have on existing department operations, etc.).

EXISTING LAW

The *Palmer/Sixth Street Properties L.P. v. City of Los Angeles*, 175 Cal. App. 4th 1396 (2009) (*Palmer*) created uncertainty and confusion for local government officials regarding the future viability of inclusionary zoning. In *Palmer*, the interpretation of the Costa-Hawkins Rental Housing Act changed the authority to enact inclusionary zoning programs.

Under Costa Hawkins, an owner or developer of rent controlled/stabilized housing is entitled to set the initial rental rate at the beginning of a tenancy, and raise the rent as permitted by the locality (subject to notice requirements). Under rent control/stabilization, rents can be set freely by the landlord when a new tenancy begins, but are subsequently stabilized throughout the tenancy, until the tenant voluntarily vacates or is evicted.

The *Palmer* court decision found that Costa Hawkins, which allows landlords to set the initial rental rate at the beginning of a tenancy, conflicts with the limit on rent levels for units required to be made affordable under a local inclusionary zoning program. Thus, since the inclusionary program at issue in *Palmer* required the developer to restrict the initial rents on a portion of the units in the development, that requirement was prohibited by Costa Hawkins. While there is ample support in Costa Hawkins' legislative history that it was never intended to apply to inclusionary units, the court refused to consider the legislative history. As a result, until clarified by the Legislature, local governments cannot mandate rent restrictions on inclusionary units in new rental housing developments.

IMPACT

The proposed legislative fix would from the previous legislative session (AB 1229) would have overturned the *Palmer* decision restoring a city's power to enforce inclusionary zoning ordinances. Governor Brown vetoed AB 1229.

If pursued, a similar future similar policy proposal will impact new multi-family developments; the inclusionary zoning authority would exclusively apply to new rental properties. New affordable housing options may be available in select areas of the City possibly helping to create mixed-income communities.

II. Give estimate of cost or savings to your department (include SB 90 reimbursements, if applicable).

A cost estimate is unknown at this time. However, savings may come in the form of increased staff efficiency and more timely permit clearances when inclusionary zoning rules are made clear for both developers and staff.

III. Arguments both For and Against this bill.

For:

It is necessary to continue to pursue a *Palmer* fix proposal that would supersede the *Palmer* ruling thereby clarifying any ambiguity created by the ruling. Up until recently, in the City of Los Angeles, only specified area (s) of the City have had inclusionary-type programs in place (e.g., Central City West Specific Plan Area, the Redevelopment Project Areas) but the *Palmer* case hampers the City's ability to implement the existing programs.

Against:

Opponents argue that inclusionary zoning allows local governments to enact and enforce rent control on newly constructed rental housing.

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Position Noted _____

Committee _____

Analyst _____

Council _____

Program No. _____

Position _____

IV. Recommended position and justification:

No Position Support Oppose Amend

Describe reasons for recommended position (include relevant existing City legislative policy, and any proposed amendments in underline and ~~strike-out~~ format).

The City of Los Angeles issued a SUPPORT resolution for AB 1229 in June 2013. HCID recommends continuing a SUPPORT position for the following reasons:

1) With limited land and dwindling financial resources, the option to create/implement an inclusionary housing program is critical for developing and distributing affordable housing throughout the City as well as housing lower income groups that may not otherwise afford market-rate rentals in higher income neighborhoods.

2) Allowing localities to pursue and implement inclusionary housing programs is critical to address the increasing need of affordable housing. Annually the City permits approximately 7,500 new residential units. Yes, regardless of this significant activity, there are fewer affordable housing options for working families. In the City of Los Angeles, 62% of the residents are rent-burdened paying more than 30% of their income for rent

3) Local inclusionary zoning ordinances are vital tools for localities as cities plan and works to meet the need for rental housing at all affordability levels as stated in the City's current Housing Element.

4) Restoring a city's power to enforce inclusionary housing laws makes housing development standards clear and predictable thereby putting all housing development in a city on equal footing.

V. Interested Parties:

Indicate any interest other departments or organizations may have on the bill. Also, list any contacts you made in preparing this information.

The Department of City Planning and local housing developers as well as non-profit affordable housing advocates may be interested in this legislation.

CITY OF LOS ANGELES

BILL RESPONSE REPORT

DEPARTMENT/BUREAU/OFFICE		BILL NO.	AUTHOR
Housing + Community Investment Dept.		N/A	Unknown
PREPARED BY	EXT.	DATE	AMENDED DATE
Claudia Monterrosa	88650	11/17/14	N/A

BILL SUBJECT/TITLE:	Redevelopment 2.0 - Amendments to SB 628
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I. Describe the impact this bill will have on your department or the City, its program(s), and/or its constituency (state existing law or practice, a summary of the effect the bill will have on existing department operations, etc.).

EXISTING LAW

SB 628 General Summary of Key Provisions

This new law (effective January 1, 2015) allows the use of tax-increment financing for establishing an enhanced infrastructure financing district that is designed to protect existing infrastructure and core local services. Schools may not participate.

The new law reduces the vote requirement from 66% to 55% of the voters in the impacted area.

An Enhanced Infrastructure Finance District (EIFD) may exist for up to 45 years and audits are required every 2 years.

EIFDs may only finance public capital projects (not maintenance/repair work). For example, highways, parks, child care facilities and transit projects, among others. Projects outside the EIFD must demonstrate a connection to the work of the EIFD.

Summary of SB 628 Housing Provisions

Affordable housing removed within an EIFD must be replaced within 2 years.

- an equal number of affordable units must be replaced if the units removed housed low or moderate income people
- 25% of the affordable housing units must be replaced if the units removed did not house low or moderate income people.

Affordability restrictions are; 55 years to rentals, 45 years to owner-occupied units.

Allows affordable housing financing related to a Transit Priority Project.

IMPACT

A locally generated source of affordable housing financing is critically needed. The impact of the economic crisis has decimated financing for affordable housing in the City of Los Angeles. The multiple funding losses threaten to extremely limit affordable housing production and preservation in the City. Equally important is the impact from re-establishing tax increment funding in long neglected communities. The inclusion of a set-aside requirement for affordable housing, would at minimum generate much needed financing funding to both protect and create affordable housing units within the new EIFD.

II. Give estimate of cost or savings to your department (include SB 90 reimbursements, if applicable).

Unknown at this time.

III. Arguments both For and Against this bill.

For: SB 628 was hastily written, not properly vetted with local governments, and contains drafting errors and policy decisions opposed by many housing industry groups. All parties agreed at the end of session that amendments would be required in the new legislative session. Work is now underway to remedy these issues, and the City of Los Angeles will need a support position to ensure the city's interests are properly represented throughout the legislative process.

Against: Opponents are concerned about the eminent domain authority, taxing and bond issuance powers in new EIFD's as well as concerns that EIFD's may result in higher sales taxes to finance future projects and meet EIFD's obligations.

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Position Noted _____	Committee _____
Analyst _____	Council _____
Program No. _____	Position _____

IV. Recommended position and justification:

No Position Support Oppose Amend

Describe reasons for recommended position (include relevant existing City legislative policy, and any proposed amendments in

underline and ~~strike-out~~ format).

HCIDLA recommends a SUPPORT position with the option to recommend amendments to proposed amendments to SB 628 bills such that the concerns outlined below are addressed and the City's interests are protected.

- 1) **Include a mandatory affordable housing set-aside.** SB 628 does not include this provision. The bill is focused on infrastructure projects and changing electoral requirements. It does not contain any requirements to fund or build affordable housing (aside from the above requirements).
- 2) **Include Anti-Displacement Provisions/Protections:** SB 628 potentially increase the potential for gentrification. SB 628 allows localities to finance infrastructure developments that will raise property values within the EIFD boundary. The bill has no regard or consideration for long-term existing tenants/residents whose rental rates may rise as a result of transformative changes improvements that may cause property values to rise in a given neighborhood. Protections or retention of existing tenants is not addressed/included in SB 628. This new law does not contain adequate protections against displacement that may result
- 4) **Fix the definition for Low or Moderate Income.** The current SB 628 definition for low income does not serve individuals in need of protection against displacement. The section referenced in the bill (Health and Safety Code Sec. 50093) allows for housing persons or families earning up to 120 percent of area median income. In a City like Los Angeles, this includes much of the market rate rentals and would not protect families/persons at risk of displacement due to increasing rental rates/property values. To illustrate this point, the City of Los Angeles median income is \$46,803 (2012 ACS). This places Los Angeles as the city with the lowest median income among the high cost cities (New York, Boston, Chicago, and San Francisco). Include an income limit of up to 60% of AMI to address the population in most need. A 60% of AMI also compliments the income limit requirements of the Affordable Housing Trust Fund (AHFT).

V. Interested Parties:

Indicate any interest other departments or organizations may have on the bill. Also, list any contacts you made in preparing this information.

The Department of City Planning and other potential city departments may have an interest in amending SB 628 to address help address the severe affordable housing crisis.

CITY OF LOS ANGELES

BILL RESPONSE REPORT

DEPARTMENT/BUREAU/OFFICE HOUSING + COMMUNITY INVESTMENT		BILL NO. H.R. 4717	AUTHOR Rep. Pat Tiberi (R-OH)
PREPARED BY Claudia Monterrosa	EXT. (213) 808-8646	DATE 11/17/14	AMENDED DATE N/A
BILL SUBJECT/TITLE:		To amend the Internal Revenue Code of 1986 to make permanent and expand the temporary minimum tax credit rate for the low-income housing tax credit program/provide a minimum 4 percent credit rate for existing buildings.	
<p>I. Describe the impact this bill will have on your department or the City, its program(s), and/or its constituency (state existing law or practice, a summary of the effect the bill will have on existing department operations, etc.).</p> <p>Low-Income Housing Tax Credits (LIHTC):</p> <p>SUPPORT legislation to amend the Internal Revenue Code of 1986 to make permanent and expand the temporary minimum tax credit rate for the low-income housing tax credit program/provide a minimum 4 percent credit rate for existing buildings. Current legislation: H.R. 4717 (113th Congress, 2013–2015).</p> <p>The Low-Income Housing Tax Credit (Housing Credit) is America’s main tool for creating and preserving affordable housing for the households that need it most, including working families, veterans, people with special needs, seniors, teachers, nurses, firefighters and police. Virtually all affordable apartments built each year are financed through the Housing Credit.</p> <p>The bills will allow a 9 percent minimum rate to be applicable for all new construction and substantial rehabilitation Housing Credit allocations. This provision expired at the end of 2013. Currently the temporary Housing and Economic Recovery Act of 2008 (HERA) provision can only be applied to projects placed in service through 2013.</p> <p>If the temporary 9 percent minimum rate is made permanent and the 4 percent minimum rate for acquiring Housing Credits is enacted, many affordable housing developments will be able to receive the private equity capital needed for financial feasibility.</p> <p>The Low Income Housing Tax Credit (LIHTC) fixed rate remains expired pending the passage of either a temporary reauthorization through a tax extenders package or the passage of the “Improving the Low Income Housing Tax Credit Rate Act” (HR 4717 and S 1442) that would make the credits permanent. The Senate included the LIHTC in a larger tax extenders package that failed to pass the Senate earlier this year, and the House did not include it in a series of smaller bills making expired tax credits permanent. An issue as complicated as tax reform is unlikely to be resolved in September, but there remains an outside possibility that tax extenders could come up during the lame duck session.</p>			
<p>II. Give estimate of cost or savings to your department (include SB 90 reimbursements, if applicable).</p> <p>NONE</p>			

III. Arguments both For and Against this bill.

For:

- Since its creation in 1986, the Housing Credit has leveraged nearly \$100 billion in private capital to finance 2.7 million quality affordable apartments, producing or preserving 90,000 to 95,000 apartments each year.
- Developing and preserving affordable housing through the Housing Credit supports 96,000 jobs annually.
- Each year Housing Credit-financed development helps generate about \$9.1 billion in local income and \$3.5 billion in federal, state and local tax revenues.
- The City needs to support this very critical at-risk financing tool to enable the construction and preservation of affordable housing.

Against:

FOR CLA USE ONLY

Position Noted _____

Committee _____

Analyst _____

Council _____

Program No. _____

Position _____

IV. Recommended position and justification:

■ No Position ■ Support ■ Oppose ■ Amend

Describe reasons for recommended position (include relevant existing City legislative policy, and any proposed amendments in underline and ~~strike-out~~ format).

HCIDLA recommends supporting H.R. 4717 as it this bill will expand and/or permanently make the low-income housing tax credit available to enable affordable housing production.

Demand for affordable housing is at an all-time high. In 2012 for example, there were only 3.3 million rental units affordable and available to 11.5 million extremely low-income households – leaving an Affordable housing supply gap of over 8 million apartments.

V. Interested Parties:

Indicate any interest other departments or organizations may have on the bill. Also, list any contacts you made in preparing this information.

Housing Industry organizations, governments and advocates.