Summary of Tate 2015 QAP Public Hearing Testimony
November 14, 2014

Before reiterating at pages 4-8 his specific page by page recommendations concerning the 2015 draft QAP's language presented at the recent QAP Public Hearing, the author wishes to summarize at pages 1-4 the precepts he laid out there at the request of Treasurer John Kennedy in the presence of the Treasurer, LHC Chairman Mayson Foster, and LHC Multifamily Committee Chair Guy Williams in the hope they might aid the Corporation in its efforts to optimally allocate the limited resources entrusted to it in addressing Louisiana's far greater housing needs:

1. **Allocations of competitive 9% Tax Credits should target New Construction -- and only New Construction where there is not enough housing available to be rehabilitated and preserved --** such as where future mega-project workforce demand is confirmed, not speculative, and in communities where existing housing stock is established to be well beyond its useful life.

2. **9% Credits should never be awarded to projects, including even Substantial Rehab Preservation projects, where 4% Credits pencil out without 9% Credits, so that 9% Credits can be reserved for projects truly requiring 9% Credit reservations.**

   Precious 9% Low Income Housing Tax Credits and HOME/CDBG should only be used when needed. From experience with HUD preservation projects, most HUD and USDA Rehab Preservation Projects with Section 8 or similar Project Based Rental Assistance pencil out without these precious resources, at least where the initial loan has been paid off and Hard Costs per unit are $50,000 per unit or less. If a project is also eligible for Historic Tax Credit equity, this too should be taken into account by the Corporation when it sets per unit cost limits in the QAP, or awards 9% Credits.

3. **This is not to say that Rehab Preservation projects should be discouraged, only that better incentives are available to incentivize Developers to agree to commit the far greater time and effort to do such work in comparison to New Constructions or Market Rate work.** If the Corporation wants to encourage Developers to pursue Rehab projects due to their lower per unit costs, it must be unequivocal and go beyond words of encouragement. Dollars talk. Anything else walks.

   And make no mistake of it. Given the mounting needs and lower per unit costs of Preservation Rehab projects, the Corporation should unequivocally incentivize Rehab Preservation projects and reduce barriers to those willing to redevelop them.

   Incentives should include proportionately higher developer fees for substantial rehabs of existing housing stock where per unit rehab costs are predictably lower, maybe 25% Developer Fees for the first $50,000 per unit of Multi-Family Hard Costs, $85,000 for single family housing rehabs.

Second, LHC should remove barriers and disincentives to substantial rehabs using 4% Credits. Many jurisdictions do not require applicants to request 4% credits until such projects are completed. This author cannot imagine why the Corporation does not embrace that approach, and so recommends that Staff look into how other states process 4% Tax Credits.

If not, the LHC Board should welcome developers to seek additional 4% Credits for projects that run into issues during rehab notwithstanding third party PCNAs, etc. **Staff should be empowered to grant additional credits (beyond 10%; plenty of other safeguards in place),** with developers retaining the right to a prompt appeal to the Board in controversial cases. (**A challenged Sub Rehab project cannot wait 2 months for the next LHC Board meeting**; for different reasons, Developers, Owners, Syndicators and residents cannot wait that long.)

Third, do no harm. The 2014 Interim QAP works beautifully for 4% Rehabs. Place no language in the 2015 QAP (really focusing on 9% Credits) that will inadvertently discourage 4% Rehabs. Maybe keep the 2014 Interim QAP in effect for 4% Rehabs, **except to maybe overlay the extra incentives and relief noted above.**

4. **Nevertheless, 9% Credits sometimes are required for Substantial Rehabs that do not pencil out without them, so such 9% preservation projects should not be thwarted in their efforts to obtain same regardless of type of housing.** In fact, LHC through its 2015 QAP should specifically encourage Preservation Rehabs including but not limited to: **existing HUD, PHA**, and USDA developments with Project Based Section 8 housing assistance (**not only RD or LIHTC**); **and other rehab/preservation candidates lacking project-based rental assistance** (and hence similar loan capacity), including both multi-family and single family infill developments.

   The key is **do not favor one development type (e.g., RD or LIHTV) over another (e.g., Scattered Site, Infill, HUD, PHA, previously "Market Rate") unless there is an articulable reason for doing so, and to be sure that projects are unable to pencil out with noncompetitive 4% Credits before awarding them 9% credits.**

5. **Single Family Infill Development**. There is abundant single family housing stock in every community with existing infrastructure**. Why not unabashedly direct Developers to focus on it?**

   Target resources toward their preservation, and **offer unequivocal incentives to Developers for Scattered Site Infill Development** given that such projects require from developers far more work and time (e.g., site control, environmental clearances; PCNAs in cases of rehab) than newly constructed or substantial rehab multi-family developments. **There is a reason why absent such incentive the Board asks for lower per unit costs and Developers continue to produce housing at higher unit costs. It is because Developers are paid the same percentage of development costs regardless of whether it is a high cost per unit project or a low cost per unit project.** Were you a developer, would you look for projects calling for far more work, far greater hurdles and far more uncertainty, in exchange for much smaller compensation with which to support your family?

Better yet, if the Corporation really wants to see some experimentation with single family Infill projects, it should **carve out two 9% Single Family Infill Pools, one Urban (e.g. transit points), one rural (no need for transit; shorter walks to destination than city folks have to transit stops),** possibly with different threshold and comparative scoring criteria.

6. **Pools = Incentives. The More Narrower the Pool, the more certain Developers are to effectuate the Corporation's will.**

   The Corporation might like to use a small percentage of its resources to create very narrow stand-alone pools, whether it is workforce housing in Cameron Parish or another Mega-Project venue, or **Preservation Rehab projects that require 9% Credits to be feasible.** If the latter, impose **$65,000 per unit Rehab Cost caps to ensure the Corporation gets what it wants, lower per unit costs in exchange for the valuable 9% credits it administers. (Would also propose floors to be sure 9% Credits are only awarded to projects that do not pencil out with 4% Credits, but there is too much variability – current debt, etc. -- among those projects for the author to propose a figure.)**

7. **Spend time on defining Target Populations whose needs are not being met. Have the Corporation focus on figuring out who it wishes to target, be they disabled citizens, megaproject workforce members, kids aging out of foster care, etc. and devise solutions from their vantage point**. Being referred to a 2 year waiting list at the local Section 8 office (if it is taking applications at all) usually does not solve the problem unless the State of housing such folks unless they are made eligible for State rental assistance, be it via Shelter + Care, PSH (Permanent Supportive Housing) or targeted Rental Assistance using, for example, HOME funds.

8. **Words have meaning when it comes to the 2015 QAP. If you mean Federal housing programs, say Federal housing programs. If you specify, for example, preservation of older USDA or RD or Low Income Housing Tax Credit developments, you discourage developers from considering similar work associated with HUD**

nonprofit or PHA sponsored developments that serve identical populations by income populations. Points If you universally offer (or deny) points for transit, you inadvertently punish rural communities even where residents' destinations are closer than the urban bus stop you award transit points for. There are other point denials for rural infill projects that will be brought to your attention below.

The author believes the likely cause of this divergence between intent and practice might have been copy and paste adoption of HUD urban-oriented definitions, with an overlay perhaps of advocacy by profit-oriented USDA RD 515 developers. Fair enough, but this Memo wishes to make these inadvertent biases known, in behalf of potential rural infill single family developments, and nonprofit sponsored HUD and PHA developments with project based rental assistance.

Specific 2015 QAP Comments

Now, the comments at the QAP Public Hearing from someone who might be interested in doing one or more rural infill developments, a HUD Preservation Rehab or other housing not involving USDA RD or an aging LIHTC project, but serving the same income range.

Page 6/42. Qualified Nonprofit or CHDO . . . 25% of the Developer Fee. (Rationale: too high of a figure will result in such parties not being invited to join development teams and thus no increase in local capacity.)

QNP/CHDO Pool should be collapsed, or QNP/CHDO Applications should also be scored for General Pool ranking if they do not receive a QNP/CHDO Pool Award. (Rationale: why force a conundrum when either way projects scoring the most points will be awarded precious resources.)

Page 8/42

30% Basis Bump. Add single family infill housing developments and 4% Rehab projects requiring 30% Basis Bump to pencil out, whether for 4% or 9% LIHTCs.

Page 13/42.

Tax-Exempt Bond Financing and (noncompetitive, abundant) 4% Housing Credits. (Many states are believed to only require submission after the work is done, thus eliminating concerns about exceeding line items by 10%. Why not us, or at least give Staff permission to make such calls since the Board now meets only every other month.)

Page 20/42

RD Waivers. Should not be only USDA RD, but should include HUD for HUD and PHA projects. Also, your technical staff should be consulted to determine whether a 50 year old rural (or urban) single family infill house can be expected to meet or exceed these requirements, given the relative cost to current tenants of substandard housing and high utility bills.

Page 21/42

B.1.c. Remain responsible for 2 years. Strike this 2 year requirement, at least for nonprofit sponsored applications. Here is the real-world scenario I have in mind: A local church sponsored a 100 unit HUD development that is now 40 years old and in need of rehab. The church sponsor does not have the capacity and so wishes to shed this development and use any proceeds to build a community center. The quickest path available to improve this development is for the nonprofit to submit a (probably 4%) application with a prior take out commitment by a more sophisticated for profit Owner Manager. The nonprofit would own the General Partner, which would be sold at closing to the for-profit. The nonprofit would benefit from this arms-length transaction with a willing for-profit and use its proceeds to build a church hall. This transaction would not be possible if it has to oversee the project and management for 2 years. The solution is to strike the 2 year requirement or to impose the 2 year requirement on the purchasing entity post-closing or Placed in Service.

B.2. Property Manager experience. Strike this. If the Syndicator or Investor is okay with the Manager, why would the LHC wish to meddle when we need more Tax Credit Preservation Rehabs, not fewer? (More LIHTC management capacity is needed if we are going to encourage 4% Preservation Rehabs. Otherwise experienced management companies should be encouraged to get schooled on Tax Credit management. Consider this: I have seen preservation rehab projects thwarted by entrenched managers in fear of their losing their management contracts. (Good luck getting between an unsophisticated nonprofit owner and its long-time management company.) No need for LHC to erect another barrier to accomplish the goal repeatedly articulated over the year: providing affordable housing at reduced per unit costs.

The Investor/Syndicator/Lender will not approve a competent management firm's involvement, so there is no need for government micromanagement.

On-Site Manager. This requirement might make sense for large multi-family developments, but not for smaller or scattered site infill developments that would effectively be disqualified by this language. The provision can be struck (Investor or Syndicator will require if it makes sense), but otherwise suggest it be restricted to "Multi-Family developments containing [50?] units or more" or exclude "scattered site projects and multi-family projects containing less than [50?] units."

Page 24/42

2 (i). Waiver of Minimum Bathroom and Bedroom Size. The waiver should also include single family rehab projects. Easiest way to do so would be to copy and paste the language contained in the following paragraph . . . local government "certifies that such units will comply with all applicable zoning and building codes."

"federal agency administering the program" – this is the sort of language that should be used throughout the QAP and future HOME NOFA's containing language seeming to favor LIHTC and USDA RD projects over other Federal affordable housing programs (e.g. HUD 202/811, PHA's) targeting identical income populations.

Page 28 of 42:

4. Developer Fees. See comments above concerning unambiguously rewarding Developers who agree to tackle the most labor intensive, low cost per unit preservation rehab projects – consistent with what Corporation members have long said they would like to see. Very confusing language about developer fees paid to CHDOs and nonprofits needs to be clarified. See below, page 34 of 42.

Page 29 of 42:

H. (a) Don't understand why it makes sense to require actual legal descriptions from anyone with the application, but can live with it.

(b) Scattered Site Projects in Urban Areas. Strike reference to Urban. It discourages such work in Rural incorporated areas that also have street addresses.

Page 34 of 42:

Fees to CHDO or Non-Profit General Partner. Language makes more sense than what is stated at page 28 of 42 and noted above.

Appendix A

Page A-5. Community Facilities. Makes no sense to require for scattered site or infill projects, or to deny points for same. Community Facilities create a sense of community for those living in large multi-family developments that are a bit isolated from their larger communities. At a minimum maybe an equivalent Public Benefit Agreement with local government or nonprofit (if permissible by Tax Code), although I think it would be unwise to impose another burden or expense on scattered site and infill developments that are already almost too challenging to pursue.

Page A-8. Distressed Property. Strike RD bias. Make it more general or strike this definition and any reference to it in the QAP.

Page A-14. Infill Project. Strike "Urban." Rural communities too should be encouraged to do "Infill" projects. Add at the end of the definition: "Property that has been adjudicated or donated by a government entity may also qualify" so smaller communities like I know is interested can be encouraged to get involved.

Page A-16. Material Change. All of this language would become irrelevant if 4% Applications were not required to be submitted until project completion as noted above. Also, as noted elsewhere, Staff should be given discretion to increase noncompetitive 4% Credits in excess of 10%, with Developers able to appeal contrary findings.

Page A-19. Preservation Property. Good broad language e.g., HUD (but add HUD 236 BMIR), RD, Tax Credits etc. But note that if this language is used, it excludes current "market rate" developments that could utilize Tax Credits to be rehabbed and preserved for affordable housing. I would think the Corporation would welcome all comers equally.

Page A-23. Special Needs Household. Add "Children aging out of foster care . . . ." and any other overlooked target populations. Note further that LIHTC's in fact can be used for certain populations wishing to attend 2 year community colleges, and LDED has expressed an interest in pursuing housing options for workforce training purposes.

Appendix B

Page B-3

B. Urban Redevelopment Property. Strike "Urban."

D. New Construction Scattered Site. Makes no sense to disqualify New Construction Scattered Site Project points for such projects where there is another LIHTC property within 5 miles as Tax Credits will be awarded only **if the Market Study shows there is demand**. Who does this rule seek to protect? At a minimum, maybe restrict this 5 mile radius rule to situations where there a Tax Credit project that has been awarded within 2 years – but the rule really does not seem to make sense.

Page B-5

H. Preservation Priority Project. (i, iii, iv). Need broad language that includes HUD, RD, PHA developments and any developments with project-based Federal rental assistance. See Page A-20 definition of "Project Based Subsidy."

Page B-8

Neighborhood Features.

Additions:

Public Transportation. **Rural municipalities are the picture of Smart Growth. Proximity of all municipal residences to schools, jobs, grocery store mean there is no need public transit. For that reason, absence of need, rural municipalities do not have public transit**. Developers of urban sites within a mile of a transit stop achieve credit under the QAP. Developers of rural sites within a mile of every relevant destination do not get a site, although their residents do not have to wait for a ride to get to their destination. Why penalize rural communities of less than 50,000 (ask Mayor Foster for relevant population size?) for failing to solve an issue that does not exist, or developers for failing to locate a site near a transit stop that does not exist.

Deductions: Rural municipalities are the picture of Smart Growth: availability of modern life's amenities in the absence of suburbia and overextended infrastructure. It is unrealistic to expect rural municipalities of less than 10,000 to have wastewater treatment facilities, distribution facilities and electrical utility substations 0.5 mile away from residents, and the Corporation should bear in mind that such facilities are nowhere near as large as those found in larger cities, where Developer site selection can actually make a difference. Consequently, the QAP should deduct such points only in cities exceeding such penalties should not apply to projects (especially scattered site projects) proposed in rural municipalities of maybe 10,000 that can document the need for housing.

Viability Point Deductions.

Strike -5 points for Developer Fee in excess of 25% of Rehab Hard Costs. Not sure when the situation might arise, but Rehabs are hard.

Thank you for permitting me to reiterate in writing the comments heard at the recent QAP Public Hearing before LHC Chair Mayson Foster, Multifamily Chair Guy Williams, and Ex Officio Director, Treasuer John Kennedy.