



December 15, 2012

Tina Rodriguez, Administrative Services Officer
City of Santa Monica
1685 Main Street
Santa Monica, CA 90401

Dear Ms. Rodriguez:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated November 9, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Santa Monica Successor Agency (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) to the California Department of Finance (Finance) on October 11, 2012. Finance issued a LMIHF DDR determination letter on November 9, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more items adjusted by Finance. The Meet and Confer Session was held on December 5, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance continues to believe the adjustments made to the DDR's stated balance of LMIHF available for distribution to the taxing entities is appropriate. HSC section 34179.6 (d) authorizes Finance to make these adjustments. We maintain the adjustments continue to be necessary for the following reasons:

- Cash transfers to the City of Santa Monica in the amount of \$55 million. Finance denied the transfer as no evidence was submitted the funds were to be used for an enforceable obligation. The Agency contends the transferred cash was used to pay enforceable obligations as the former RDA transferred certain powers to the City via a Cooperation Agreement entered into on September 1, 2010, to carry out the affordable housing projects. However, HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city that created the RDA and the former RDA are not enforceable; therefore, the Cooperation Agreement is no longer valid.

The Agency also contends \$19.3 million of the transferred funds is restricted proceeds from a bank loan. However, per the DDR, the amount transferred is for the payment on the loaned funds. The proceeds from the line of credit have historically been used to fund projects. The DDR did not identify any restricted assets. Further, per the Agency's Recognized Obligation Schedules, the bank loan is approved to be paid with RPTTF funds, not LMIHF.

- Property transfers to the City of Santa Monica with a book value totaling \$18 million per the Option Agreement dated March 4, 2011 between the City and the RDA is not allowed. Finance denied the transfers because the agreement which entitled the City to receive the assets is no longer valid. The Agency contends there were existing agreements between the redevelopment agency and third parties prior to January 1, 2011, thus, the properties are eligible for transfer to the City. However, the City, as the government agency that received the assets, was not contractually committed to a third party for the expenditure or encumbrance of those assets, thus, the assets are to be returned to the successor agency and disposed of in a manner consistent to the Agency's Long Range Property Management Plan pursuant to HSC section 34191.5. As these are non-liquid assets, the LMIHF balance available for distribution to the taxing entities will not be adjusted.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be \$54,515,252 million (see table below).

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Disallowed transfers:	\$ 54,515,252
Total LMIHF available to be distributed:	\$ 54,515,252

This is Finance's final determination of the LMIHF balances available for distribution to the taxing entities. HSC section 34179.6 (f) requires successor agencies to transmit to the county auditor-controller the amount of funds identified in the above table within five working days, plus any interest those sums accumulated while in the possession of the recipient.

If funds identified for transmission are in the possession of the successor agency, and if the successor agency is operated by the city or county that created the former redevelopment agency, then failure to transmit the identified funds may result in offsets to the city's or the county's sales and use tax allocation, as well as its property tax allocation. If funds identified for transmission are in the possession of another taxing entity, the successor agency is required to take diligent efforts to recover such funds. A failure to recover and remit those funds may result in offsets to the other taxing entity's sales and use tax allocation or to its property tax allocation. If funds identified for transmission are in the possession of a private entity, HSC 34179.6 (h) (1) (B) states that any remittance related to unallowable transfers to a private party may also be subject to a 10 percent penalty if not remitted within 60 days.

Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain loan agreements between the former redevelopment agency (RDA) and the city, county, or city and county that created the RDA to be considered enforceable obligations. These provisions also allow certain bond proceeds to be used for the purposes in which they were sold and allows for the transfer of real property and interests into the Community Redevelopment Property Trust Fund once Finance approves the Agency's long-range property management plan.

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In addition to the consequences above, willful failure to return assets that were deemed an unallowable transfer or failure to remit the funds identified above could expose certain individuals to criminal penalties under existing law.

Pursuant to HSC section 34167.5 and 34178.8, the California State Controller's Office (Controller) has the authority to claw back assets that were inappropriately transferred to the city, county, or any other public agency. Determinations outlined in this letter and Finance's Housing Assets Transfer letter dated August 31, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Kylie Le, Supervisor or Brian Dunham, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Andy Agle, Director of Housing and Economic Development, City of Santa Monica
Ms. Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office