DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR
915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

February 26, 2013

Ms. Barbara Collins, Housing Manager
City of Santa Monica
1685 Main Street
Santa Monica, CA 90401

Dear Ms. Collins:

Subject: Housing Assets Transfer Form

This letter supersedes the California Department of Finance's (Finance) Housing Asset Transfer Form letter dated August 31, 2012. Pursuant to Health and Safety Code (HSC) section 34176 (a) (2), the City of Santa Monica as Housing Successor Agency (Agency) submitted a Housing Assets Transfer Form (Form) to Finance on August 1, 2012 for the period February 1, 2012 through August 1, 2012. Finance issued its determination related to those transferred assets on August 31, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more items that was objected to by Finance. The Meet and Confer session was conducted on October 31, 2012.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of those specific items being disputed.

- Exhibit C, Items 1 through 6 and Exhibit D, Items 27, 59, 63, 72, and 74 – For Exhibit C, Finance no longer objects to the transfer of Item 6; however, Finance continues to object to the transfer of the remaining items. For Exhibit D, Finance no longer objects to the transfer of Items 27, 59, 63, 72, and 74 for the amounts funded by the former redevelopment agency (RDA) under the Acquisition and Predevelopment Loan Agreements. Finance originally objected to the transfers because the encumbrances do not qualify as housing assets. The regulatory agreements were executed after June 27, 2011 and the agreements are between the City of Santa Monica (City) and a third party. HSC section 34171 (d) (2) states that agreements between the city that created the RDA and the former RDA are not enforceable obligations. HSC section 34163 (b) prohibits an agency from entering into contracts with any entity for any purpose after June 27, 2011.

  For Exhibit C, Items 1 through 5, 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not enforceable; therefore, the Cooperation Agreement dated September 1, 2010, between the City and the former RDA is no longer valid and the Loan Agreements entered into by the City are not enforceable obligations of the former RDA. Since there are no enforceable obligations associated with the encumbrances, the items are not housing assets pursuant to HSC section 34176 (e) (2).

For Exhibit C, Item 6, the Second Amended and Restated Program Loan Agreement dated November 30, 2009 between the former RDA and the Community Corporation of Santa Monica (borrower) along with the first commitment letter from the former RDA to the borrower dated March 9, 2011 adding additional loan funds is an enforceable obligation. The second commitment letter dated March 7, 2012 is from the City to the borrower and is not an enforceable obligation. Therefore, funds may be loaned in accordance with the Loan Agreement under the terms of the commitment letter dated March 9, 2011. The encumbrance is associated with an enforceable obligation and therefore, qualifies as a housing asset pursuant to HSC section 34176 (e) (2).

For Exhibit D, Items 27, 59, 63, 72, and 74, the amount in the column titled "Amount of the loan or grant" is currently the amount from the Construction Loan Agreements executed between the City and various third parties. On the Form, the amount in the column entitled "Current Outstanding Balance" is the total amount that has been disbursed by both the former RDA under the Acquisition and Predevelopment Loan Agreements and the City under the Construction Loan Agreements. However, Finance notes that the column entitled "Amount of the Loan or Grant" should equal the amounts in the Acquisition and Predevelopment Loan Agreements that were executed by the former RDA. The "Current Outstanding Balance" should equal the amounts disbursed by the former RDA under the Acquisition and Predevelopment Loan Agreements and should not include amounts disbursed by the City under the Construction Loan Agreements. Only those amounts associated with the Acquisition and Predevelopment Loan Agreements are housing assets eligible for transfer.

- Exhibit C, Item 8 – Finance continues to object to the transfer. Finance originally objected to the transfer because the encumbrance for senior low and moderate housing does not qualify as a housing asset because these contracts are between the City and a third party. HSC section 34171 (d) (2) states that agreements, contracts, or arrangements between the city, county, or city and county that created the RDA and the former RDA are not enforceable obligations. The Agency contends the item is a housing asset because the expenditure was approved by the City Council on November 14, 2006 and a Cooperation Agreement was entered into on May 17, 2007 between the former RDA and the City of Santa Monica Housing Authority for the Senior Homeless Prevention Voucher Program (Voucher Program). 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. Furthermore, there were no actions taken by the former RDA Board to commit or pledge the RDA's funds to the Voucher Program that is being administered by the City of Santa Monica Housing Authority. Because there is no enforceable obligation associated with the encumbrance, the item is not a housing asset pursuant to HSC section 34176 (e) (2).

This is Finance's final determination related to the assets reported on your Form. Except for items disallowed as noted above, Finance is not objecting to the remaining items listed on your Form. Assets transferred deemed not to be a housing asset shall be returned to the successor agency.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor or Mary Halterman, Analyst at (916) 445-1546.

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Jim Kemper, Housing Administrator, City of Santa Monica
Mr. Andy Agle, Director of Housing and Economic Development, City of Santa Monica
Ms. Kristina Burns, Manager, Community Redevelopment Administration Section, Property Tax Division, Los Angeles County Auditor-Controller's Office
California State Controller's Office

Email Addresses of Addressee and ccs:

Barbara.collins@smgov.net
James.kemper@smgov.net
Andy.agle@smgov.net
kburns@auditor.lacounty.gov
RDA-SDsupport@sco.ca.gov

California State Controller's Office
RDA-SDsupport@sco.ca.gov