



January 4, 2013

Mr. Lee Squire, Financial Services Manager  
City of Brea  
1 Civic Center Circle  
City of Brea, CA 92821

Dear Mr. Squire:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated December 2, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Brea 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 November 6, 2012. Finance issued a LMIHF DDR determination letter on December 2, 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 20, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance is revising some of the adjustments made in our previous DDR determination letter. Specifically, we are revising the following adjustment:

- Finance originally denied the Agency's request to retain \$3,938,669 million due to a lack of adequate documentation, such as a bond indenture or debt covenant. During the Meet and Confer process the Agency provided documentation to support the existing housing bonds for the Senior Rental Subsidy program and Birch Project.

Pursuant to HSC section 34191.4 (c), successor agencies that have been issued a Finding of Completion by Finance will be allowed to use excess proceeds from bonds issued prior to December 31, 2010 for the purposes for which the bonds were issued. However, successor agencies are required to defease any bonds that cannot be used for the purpose they were issued, or if they were issued after December 31, 2010. The bond proceeds requested to be retained in this case were issued on June 1, 2011. Therefore, for DDR purposes, Finance approves the Agency to retain the \$3,938,669 in unspent bond proceeds.

However, Finance continues to believe some of 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 these adjustments continue to be necessary for the following reasons:

- Finance originally denied the Agency's request to retain \$716,062 to fund the Senior Citizen Housing Subsidy Agreement (Agreement) due to a lack of adequate documentation. Based on a review of the Recognized Obligation Payment Schedule for the period January through June 2013 (ROPS III), the Agency requested bond proceeds, not LMIHF. Additionally, the Agency's total obligation requested for the ROPS III period for the Agreement totaled \$160,200, not the \$716,062.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to \$4,060,059 (see table below).

<b>LMIHF Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 3,343,997
Finance Adjustments	
Add:	
Requested retained balances not supported	\$ 716,062
<b>Total LMIHF available to be distributed:</b>	<b>\$ 4,060,059</b>

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.

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

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Housing Assets Transfer letter dated August 25, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Nichelle Thomas, Supervisor or Alex Watt, Lead Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a long horizontal stroke extending to the left.

STEVE SZALAY  
Local Government Consultant

cc: Mr. Bill Gallardo, Administrative Services Director  
Mr. Frank Davies, Property Tax Manager, Orange County  
California State Controller's Office