



December 14, 2012

Ms. Colleen O'Donoghue, Assistant Finance Director
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

Dear Ms. O'Donoghue:

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 Costa Mesa 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 November 26, 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:

- Loans transferred to the Authority totaling \$191,028, previously denied by Finance in the letter dated August 31, 2012. Loans to Duong and Paquette, for \$66,000 and \$115,250, respectively, were denied because the Agency did not provide documentation to support the loans were funded for low and moderate income households. Subsequently, the Agency requested a Housing Asset Meet and Confer Session regarding the disputed items. Based on a review of additional information and documentation provided, Finance no longer disputes the transfer of these loans.

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 the following adjustment continues to be necessary for the following reason:

- The Affordable Housing Agreement in the amount of \$892,500 is due upon completion of a portion of a construction project that has not yet begun. We acknowledge the Agency's request to extend the 'claw back' period in light of negotiations to potentially terminate the Agreement; however, based on the current status of the project, and the uncertainty regarding the termination of the Agreement, Finance continues to disallow the transfer.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to \$2.4 million (see table below).

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 1,500,920
Finance Adjustments	
Add:	
Disallowed transfers	\$ 892,500
Total LMIHF available to be distributed:	\$ 2,393,420

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 Housing Assets Transfer letter dated August 31, 2012 do not in any way eliminate the Controller's authority.

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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. Bobby Young, Finance Director, City of Costa Mesa
Mr. Frank Davies, Property Tax Manager, Orange County
California State Controller's Office