



January 4, 2013

Mr. Donald W. McVey, Director of Finance and Administrative Services  
City of Daly City  
333 – 90<sup>th</sup> Street  
Daly City, CA 94015

Dear Mr. McVey:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

The City of Daly City (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund Due Diligence Review (DDR) to the California Department of Finance (Finance) on December 11, 2012. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Since the Agency did not meet the October 15, 2012 submittal deadline pursuant to HSC section 34179.6 (c), Finance is not bound to completing its review and making a determination by the November 9, 2012 deadline pursuant to HSC section 34179.6 (d). However, Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

HSC section 34179.6 (d) authorizes Finance to adjust the DDR's stated balance of Low and Moderate Income Housing Fund (LMIHF) available for distribution to the taxing entities. Based on our review of your DDR, the following adjustments were made:

- Per the Agency records, the cash and cash equivalents balance held as of June 2011 is \$3,545,193. As of the date of this letter, there was insufficient documentation to support adjusting this number to the balance reported on the LMIHF DDR. Therefore, we are adjusting the assets held as of June 30, 2012 balance by \$2,239,557.
- The Agency reported a balance of \$648,231 needed to satisfy expenditures for fiscal year 2012-13. Finance has concluded that this amount should not be retained by the Agency for the following reasons:
  - HELP Loan Sinking Fund totaling \$234,350 – Although this item is an enforceable obligation, its funding source was identified as RPTTF on the Recognized Obligation Payment Schedule (ROPS). Since funding was approved from RPTTF, additional funds cannot be retained from LMIHF to fund the expenditure.
  - Admin Fee in the amount of \$125,000 – This item is funded from RPTTF; therefore, additional funds should not be retained from LMIHF to fund the expenditure.

- Landmark Refundable Deposit in the amount of \$150,000 (ROPS II, pg.1, item #5), 135 Acacia Rental Deposit in the amount of \$700 (ROPS II, pg.2, item #4), and 260 Abbot Rental Deposit in the amount of \$3,350 (ROPS II, pg.2, item #6) – These items were not identified on the ROPS as LMIHF projects. As such, these items are not eligible to be funded from current LMIHF funds.
- Successor Agency Cash Deficit (excluding Low/Mod funds) as of June 30, 2012 in the amount of \$113,505 and Successor Agency Unrealized Gain on Investments in the amount of \$21,326. LMIHF funding for these shortfalls has not been requested on ROPS I, II, or III. As such, these items are not enforceable obligations and LMIHF current balances cannot be retained to fund them.

If you disagree with Finance’s adjusted amount of LMIHF balances available for distribution to the taxing entities, you may request a Meet and Confer within five business days of the date of this letter. The Meet and Confer process and guidelines are available at Finance’s website below:

[http://www.dof.ca.gov/redevelopment/meet\\_and\\_confer/](http://www.dof.ca.gov/redevelopment/meet_and_confer/)

The Agency’s LMIHF balance available for distribution to the affected taxing entities is \$3,545,193 (see table below). Pursuant to HSC 34179.6 (h) (1) (B), 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.

<b>LMIHF Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 657,405
Finance Adjustments	
Add:	
Adjustment to the June 30, 2012 balance:	2,239,557
Requested retained balance not supported:	648,231
<b>Total LMIHF available to be distributed:</b>	<b>\$ 3,545,193</b>

Absent a Meet and Confer request, 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, that taxing entity’s failure to remit those funds may result in offsets to its sales and use tax allocation or to its property tax allocation.

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 30, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Wendy Griffe, Supervisor, or Derk Symons, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Ms. Rose Zimmerman, City Attorney, City of Daly City  
Ms. Shirley Tourel, Senior Internal Auditor, County of San Mateo  
California State Controller's Office