



January 16, 2013

Ms. Stacey Winton, Administrative Analyst II
City of Davis
23 Russell Blvd, Suite 1
Davis, CA 95616

Dear Ms. Winton:

Subject: Low and Moderate Income Housing Fund Due Diligence Review.

This letter supersedes Finance's original LMIHF DDR determination letter dated December 10, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Davis Redevelopment 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 14, 2012. Finance issued a LMIHF DDR determination letter on December 10, 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 January 3, 2013.

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 \$103,857 because neither the Recognized Obligation Payment Schedule (ROPS) for the period of July 1 through December 31, 2012 nor the ROPS for the period of January 1 through June 30, 2013 included any payments to be made using the LMIHF. Based on review of the additional information provided by the Agency during the Meet and Confer process, Finance is no longer making the adjustment in the amount of \$103,857. It is now our understanding the item that was requested and approved in the January to June 2012 ROPS was actually paid after June 30, 2012. Due to the timing difference, the DDR's June 30, 2012 cash balance included these encumbered funds; however, Finance's adjustment did not allow for the actual expenses incurred in fiscal year 2012-13.

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 adjustments continue to be necessary for the following reason:

Finance's December 10, 2012 letter questioned \$18,116,950 in assets that were transferred from the former RDA to the City of Davis on March 11, 2011. The City claims these are valid housing assets that are eligible for transfer to the housing

successor entity pursuant to HSC section 34176 (e) (1). However, these assets were not included on the Housing Asset Transfer form prescribed by HSC Section 34176(a)(2) and therefore, were not properly transferred to the City. To the extent these transfers truly represent housing assets; the City should submit a revised Housing Asset Transfer form to document all housing assets that were transferred, including the assets transferred on March 11, 2011. A resolution of the oversight board of the Agency will be required to submit the revised Housing Asset Transfer form. Finance will review the validity of these housing assets upon receipt of the City's revised Housing Asset Form.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to \$0 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Disallowed transfers:	\$ 18,116,950
Less:	
Assets that are not cash or cash equivalents:	18,116,950
Total LMIHF available to be distributed:	\$ -

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.

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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 September 5, 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: Mr. Howard Newens, Auditor-Controller, County of Yolo
California State Controller's Office