



December 15, 2012

Ms. Lani Emmich, Finance Manager  
City of Hawthorne  
4455 West 126th Street  
Hawthorne, CA 90250

Dear Ms. Emmich:

**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 Hawthorne 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 15, 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 28, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance continues to believe 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:

- The cumulative rental income generated from housing rental properties in the amount of \$695,540 should be considered part of the unencumbered cash balance held by the Agency as of June 30, 2012.

The Agency believes the funds are encumbered as part of the on-going capital improvement program to address health and safety issues and major capital improvements for the affordable housing transferred to the housing successor agency. Further, the Agency believes the balance of the rental income was an allowable transfer of assets to the housing successor agency pursuant to HSC section 34176 (e) (5).

Finance disagrees and maintains that HSC section 34177 (d) requires all unencumbered balances in the LMIHF, including accumulated rents prior to February 1, 2012, be remitted to the county auditor controller for distribution to the taxing entities. The accumulated rental income is considered a housing asset because its revenues are derived from an asset purchased with low-mod funds.

HSC section 34176 (a) (1) states if a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a RDA, all rights, powers, duties, obligations, and housing assets shall be transferred to the city, county, or city and county. Since the City of Hawthorne assumed the housing functions, the administrative costs associated with these functions are the responsibility of the housing successor. In addition, the City of Hawthorne is the entity eligible to receive all rental income derived from transferred housing assets earned after February 1, 2012. Therefore, the Agency's LMIHF balance available for distribution to the affected taxing entities will be adjusted by \$695,540.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be \$6,558,116 (see table below).

<b>LMIHF Balances Available For Distribution To Taxing Entities</b>	
Available balance per DDR:	\$ 5,862,576
Finance Adjustments	
Add:	
Adjustment to the June 30, 2012 balance:	\$ 695,540
<b>Total LMIHF available to be distributed to taxing entities:</b>	<b>\$ 6,558,116</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.

Ms. Emmich  
December 15, 2012  
Page 3

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 Kylie Le, Supervisor or Brian Dunham, Lead Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Ms. Felise Lopez, Accounting Supervisor, City of Hawthorne  
Ms. Kristina Burns, Manager, Los Angeles County Auditor-Controller's Office  
California State Controller's Office