



December 14, 2012

Mr. David Belmer, Assistant City Manager  
City of Lake Forest  
25550 Commercentre Drive  
Lake Forest, CA 92630

Dear Mr. Belmer:

**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 Lake Forest 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 30, 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 reasons:

- The Agency contends relocation benefits required per a relocation agreement in the amount of \$223,317 is an enforceable obligation. While Finance does not question the enforceability of this obligation, we do question the transfer of LMIHF to the Lake Forest Housing Authority (LFHA). According to the Recognized Obligation Payment Schedules submitted for the January through June 2012 and July through December 2012 periods, the Agency requested Redevelopment Property Tax Trust Funds, and not LMIHF, to fund these obligations. Because LMIHF was not requested, the request to retain funds continues to be disallowed.
- Madrid Condominium Homeowner's Association (HOA) costs in the amount of \$252,000 are not sufficiently supported. Although the Lease and Management Agreement states the Agency is responsible for costs that *may* be imposed by an HOA, no support has been provided that indicates \$252,000 is required for current payment of HOA costs. Therefore, the request to retain funds continues to be disallowed.
- The Agency contends that various third party contracts totaling \$122,400 are obligations of the Agency per the Cooperation Agreement between the Lake Forest Housing Authority, the City of Lake Forest, and the Agency. Finance continues to assert that

agreements between the City and the Agency are not enforceable obligations pursuant to HSC section 34171 (d) (2), unless they were entered into within the first two years of the former Redevelopment Agency's existence or if they are specifically for the repayment of debt service issued prior to December 31, 2010. Because the Cooperation Agreement is not specifically for the repayment of debt service, this does not constitute an enforceable obligation. Therefore, Finance continues to disallow the transfer of these funds.

The Agency's LMIHF balance available for distribution to the affected taxing entities continues to be \$4,033,376 (see table below).

<b>LMIHF Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 3,435,659
Finance Adjustments	
Add:	
Disallowed transfers	\$ 597,717
<b>Total LMIHF available to be distributed:</b>	<b>\$ 4,033,376</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.

Mr. David Belmer  
December 14, 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 September 5, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Nichelle Thomas, Supervisor or Wendy Griffe, 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. Keith Neves, Director of Finance, City of Lake Forest  
Mr. Frank Davies, Property Tax Manager, Orange County  
California State Controller's Office