



December 27, 2012

Ms. Charity Hernandez, Redevelopment Manager  
City of Ontario  
303 East B Street  
Ontario, CA 91746

Dear Ms. Hernandez:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) determination letter dated November 21, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Ontario Successor Agency (Agency) submitted an oversight board approved LMIHF DDR to the California Department of Finance (Finance) on October 26, 2012. Finance issued a LMIHF DDR determination letter on November 21, 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 December 10, 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:

- Transfer to fund the Ontario Housing Authority Developer Fee in the amount of \$65,215 for the 305 North Begonia Avenue project was originally denied by Finance because the project was funded by HOME Community Housing Development Organization (CHDO) funds, not LMIHF. During the Meet and Confer session, the Agency provided additional information including loan agreements, staff reports, a resolution, and a developer administrative fee reconciliation schedule. Upon review of this information, Finance will allow the transfer of \$4,849 for developer fees. However, Finance continues to disallow the remaining transfer of \$60,365 as this portion was funded with CHDO funds.

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:

- Funds transferred to the Ontario Housing Authority in the amount of \$21,616,858. The transfer continues to be disallowed because the documents provided were not sufficient to prove this amount was encumbered by an enforceable obligation. Additionally, the item was also denied by Finance as an inclusion to the Recognized Obligation Schedule in the letter dated December 18, 2012.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to \$21,677,224 (see table below).

<b>LMIHF Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Previously disallowed transfers	\$ 21,682,073
Revised adjustments	(4,849)
<b>Total LMIHF available to be distributed:</b>	<b>\$ 21,677,224</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.

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 11, 2012 do not in any way eliminate the Controller's authority.

Ms. Charity Hernandez  
December 27, 2012  
Page 3

Please direct inquiries to Nichelle Thomas, Supervisor or Susana Medina Jackson, Lead Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a long, sweeping underline that extends to the left.

STEVE SZALAY  
Local Government Consultant

cc: Mr. John Andrews, Economic Development Director, City of Ontario  
Ms. Vanessa Doyle, Auditor Controller Manager, San Bernardino County  
California State Controller's Office