DEPARTMENT OF FINANCE

EDMUND G. BROWN JR. • GOVERNOR
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November 15, 2012

Ms. Dena Fuentes, Director
San Bernardino County
385 North Arrowhead Avenue
San Bernardino, CA 92415

Dear Ms. Fuentes:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

The San Bernardino County Redevelopment Agency (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund Due Diligence Review (DDR) to the California Department of Finance (Finance) on October 18, 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

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:

- Statutory pass-through payments totaling $517,528 (2,717,284-2,199,756) were added back to the balance available for distribution. The DDR identified $2,717,284 transferred on June 27, 2012, but only $2,199,756 was identified on the Recognized Obligation Payment Schedule (ROPS) for the January 1, 2012 through June 30, 2012 period.

- Transfers totaling $13,988,616 for various housing obligations are disallowed:

    - The Replacement Housing Obligation in the amount of $4.9 million was not adequately supported; at the time the asset was reported to Finance the property had not yet been purchased. The assets were not properly encumbered; therefore the transfer in the amount of $4.9 million is disallowed.

    - Debt Service Reserve in the amount of $6,868,616. The Agency did not provide documentation to support the requirement for $6,868,616 million in reserves. Therefore, the transfer in the amount of $6,868,616 million is disallowed.

    - Redwood Terrace Housing Covenant in the amount of $2,960,000. The City funded a portion of the project with LMIHF, now valued at $740,000, and the

remaining portion of the project was funded with bond proceeds. Therefore, the transfer in the amount of $2,220,000 (2,960,000-740,000) was disallowed.

- The County General Fund Loan repayment in the amount of $1.2 million was denied as an enforceable obligation on the ROPS for the January 1, 2013 through June 30, 2013 period. Finance sent the Agency its determination in our letter dated October 6, 2012. Therefore, this item is disallowed.

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/

The Agency's LMIHF balance available for distribution to the affected taxing entities is $16,058,337 (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.

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	352,193
Finance Adjustments		
Add:		
Disallowed transfers	$	14,506,144
Denied ROPS items		1,200,000
Total LMIHF available to be distributed:	$	16,058,337

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 25, 2012 do not in any way eliminate the Controller's authority.

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

Sincerely,

STEVE SZALAY
Local Government Consultant

cc: Mr. Gary Hallen, Deputy Director of Community Development and Housing, San Bernardino County
Ms. Vanessa Doyle, Auditor-Controller Manager, San Bernardino County
California State Controller's Office