



February 8, 2013

Mr. Jacob Rahn, Financial Services Manager  
City of San Clemente  
100 Avenida Presidio  
San Clemente, CA 92672

Dear Mr. Rahn:

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 January 4, 2013. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of San Clemente Successor Agency (Agency) submitted an oversight board approved LMIHF DDR to the California Department of Finance (Finance) on December 10, 2012. Finance issued a LMIHF DDR determination letter on January 4, 2013. 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 28, 2013.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance is revising the adjustment made in our previous DDR determination letter. Specifically, we are revising the following adjustment:

- Finance originally denied transfers totaling \$115,461 made to various entities; the Agency had previously requested \$13,595 to be funded from LMIHF during prior Recognized Obligation Payment Schedules (ROPS) periods. Finance has now confirmed the American Bank and Family Assistance Ministries transfers, totaling \$73,456, were supported by an enforceable obligation.
- However, transfers involving Friendship Shelter, Inc., totaling \$10,300 for this period, were not supported by an enforceable obligation. Additionally, transfers to Family Assistance Ministries and Families Forward, in the amounts of \$27,705 and \$4,000, respectively, were made after July 1, 2011 and were not identified in the Enforceable Obligation Payment Schedule for the period of August 1, 2011 through December 31, 2011. Therefore, Finance believes a revised adjustment of \$42,005 is necessary.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to \$1,876,670 (see table below).

<b>LMIHF Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 1,834,665
Finance Adjustments	
Add:	
Disallowed transfers	\$ 42,005
<b>Total LMIHF available to be distributed:</b>	<b>\$ 1,876,670</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 August 31, 2012 do not in any way eliminate the Controller's authority.

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Please direct inquiries to Nichelle Thomas, Supervisor or Alex Watt, 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: Ms. Sandee Chiswick, Senior Accountant, City of San Clemente  
Mr. Frank Davies, Property Tax Manager, Orange County  
California State Controller's Office