



November 9, 2012

Ms. Lisa Grote, Community Development Director  
City of San Mateo  
330 West 20<sup>th</sup> Avenue  
San Mateo, CA 94403

Dear Ms. Grote:

**Subject: Low and Moderate Income Housing Fund Due Diligence Review**

Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of San Mateo (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 11, 2012. The purpose of the review was to determine the amount of cash and cash equivalents available for distribution to the affected taxing entities. Pursuant to HSC section 34179.6 (d), Finance has completed its review of your DDR, which may have included obtaining clarification for various items.

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:

- Balances restricted for uses specified in the amount of \$612,700 are not allowed. This amount is for payment of bonds due August 1, 2012 as reported in the DDR. These bond payments were requested on ROPS I for use of Redevelopment Property Tax Trust Fund (RPTTF). The Agency received RPTTF; therefore the Agency may not reserve LMIHF and must remit the amount for disbursement to the taxing entities.
- The items below do not qualify as enforceable obligations and were denied by Finance in our Recognized Obligation Payment Schedule letter dated October 8, 2012. The amount of \$661,984 must be remitted for disbursement to the taxing entities.
  - The Vendome Hotel in the amount of \$555,274.
  - The Community Funding-Affordable Housing Services Agreement for \$75,000.
  - The Administration-Project Management Salaries totaling \$25,610.
  - The Professional Consultant Services in the amount of \$6,100.

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/](http://www.dof.ca.gov/redevelopment/meet_and_confer/)

The Agency's LMIHF balance available for distribution to the affected taxing entities is \$2,554,959 (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.

<b>LMIHF Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 1,280,275
Finance Adjustments	
Denied ROPS items:	661,984
Requested retained balance not supported:	612,700
<b>Total LMIHF available to be distributed:</b>	<b>\$ 2,554,959</b>

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 above 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 29, 2012 does not eliminate the Controller's authority.

Please direct inquiries to Robert Scott, Supervisor or Jenny DeAngelis, Lead Analyst at (916) 445-1546.

Ms. Grote  
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Sincerely,

A handwritten signature in blue ink, appearing to read 'Steve Szalay', with a stylized flourish at the end.

**STEVE SZALAY**  
Local Government Consultant

cc: Mr. David Culver, Finance Director, City of San Mateo  
Mr. Robert Adler, Auditor Controller, San Mateo County  
California State Controller's Office