



December 8, 2012

Ms. Daphne Hodgson, Deputy City Manager
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955

Dear Ms. Hodgson:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated November 7, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Seaside 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 7, 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 29, 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 adjustments:

- Loan held for resale in the amount of \$658,068 was denied by Finance in our letter dated September 21, 2012 as an inclusion to the Housing Asset Transfer Form. Because land is not considered cash or a cash-equivalent asset, Finance has made an adjustment of \$658,068. During the Meet and Confer process, the Agency provided additional information including accounting documents showing the property was purchased in March 2009 using LMIHF. Therefore, Finance no longer objects to this transfer.
- Loan receivable in the amount of \$35,000 was denied by Finance in our letter dated September 21, 2012 as an inclusion to the Housing Asset Transfer Form. Pursuant to HSC section 34163(b), Agencies were prohibited from entering into any agreements after June 27, 2011. Because this loan was not an enforceable obligation, Finance made an adjustment in the amount of \$35,000. Based on the discussion with the Agency during the Meet and Confer process, and a review of the Loan Commitment Agreement, Finance agreed the loan commitment was approved on April 27, 2011. Therefore, Finance no longer objects to this transfer.
- Funds retained for the Affordable and Workforce Housing Agreement in the amount of \$4.1 million was disallowed because the Agency had not adequately proven there will be insufficient property tax revenues to satisfy this obligation. The Recognized Obligation

Payment Schedule for periods July 2012 through December 2012 and January 2013 through June 2013 approved \$300,000 to be funded by LMIHF. Therefore, Finance will allow the agency to retain \$300,000 to satisfy this obligation for the fiscal year 2012-13.

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:

- The Agency contends the retention of current balances totaling \$5,583,260 is necessary to satisfy the Affordable and Workforce Housing Agreement and the Department of Parks and Recreation loan agreement. However, sufficient documentation was not provided to prove there will be insufficient property tax revenues to pay for these obligations. Therefore, Finance continues to disallow the request to retain funds in the amount of \$5,583,260.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to \$6,680,773 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ 1,097,513
Finance Adjustments	
Add:	
Requested retained balances not supported	5,583,260
Total LMIHF available to be distributed:	\$ 6,680,773

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 21, 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,

A handwritten signature in black ink, appearing to read 'Steve Szalay', with a stylized flourish extending to the left.

STEVE SZALAY
Local Government Consultant

cc: Ms. Lisa Brinton, Redevelopment Project Manager, City of Seaside
Ms. Julie Aguero, Auditor Controller Analyst II, Monterey County
California State Controller's Office