



January 4, 2013

Ms. Lisa Strong, Deputy City Treasurer
City of Fontana
8353 Sierra Avenue
Fontana, CA 92335

Dear Ms. Strong:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated November 30, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Fontana (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 November 5, 2012. Finance issued a LMIHF DDR determination letter on November 30, 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 12, 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:

- Land acquisitions totaling \$1,506,772 were denied by Finance in our letter dated August 31, 2012 as an inclusion to the Housing Asset Transfer Form (HAT). Subsequently, the Agency requested a Meet and Confer session regarding the disputed parcels; the Agency provided a purchase and sales agreement dated May 16, 2011. Based on the HAT Meet and Confer session held on December 20, 2012, Finance no longer objects to these items.

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:

- Request to retain balances for the funding of enforceable obligations totaling \$7,553,759. The Agency did not request LMIHF funding for the 13 items listed on Attachment B8a of the DDR on a Recognized Obligation Payment Schedule submitted to Finance for the period January 2012 through June 2013.

Per Finance's letter dated November 30, 2012, the following adjustment not disputed by the Agency is maintained:

- Loan transfers totaling \$59,230. HSC section 34163(b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. It is our understanding that these loan agreements were executed after June 27, 2011.

The Agency's LMIHF balance available for distribution to the affected taxing has been revised to \$7,578,345 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ (34,644)
Finance Adjustments	
Add:	
Disallowed transfers	\$ 59,230
Denied HAT items	1,506,772
Requested retained balance not supported	7,553,759
Revised adjustment	(1,506,772)
Total LMIHF available to be distributed:	\$ 7,578,345

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

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Housing Assets Transfer letter dated August 31, 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: Ms. Dawn Brooks, Accounting Manager, City of Fontana
Ms. Vanessa Doyle, Auditor Controller Manager, San Bernardino County
California State Controller's Office