



November 15, 2012

Mr. John Dutrey, Housing Program Manager  
City of Rialto  
131 South Palm Avenue  
Rialto, CA 92376

Dear Mr. Dutrey:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

The City of Rialto Successor 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 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:

- Adjustments to June 30, 2012 balance:
  - Payments made from the LMIHF between January 1, 2012 and June 30, 2012 totaling \$1.3 million were identified on the Recognized Obligation Payment Schedule (ROPS) as being paid from another fund, not LMIHF.
  - The KDF Community Project in the amount of \$7.6 million was denied as an enforceable obligation on the ROPS for the January 1, 2013 through June 30, 2013 period. No contract was in place prior to June 27, 2011; therefore these funds are not eligible for transfer. Finance provided its determination of this line item in our letter dated October 6, 2012.
  - HELP Loans 1 and 2 totaling \$2.6 million have not had any payments identified on the ROPS for the current fiscal year. Additionally, the former redevelopment agency (RDA) does not appear to have been a party to these loan agreements.
- The transfer of cash to the Rialto Housing Authority in the amount of \$2.6 million was not made pursuant to an enforceable obligation. This **was** a loan from the former RDA to

the City's Housing Authority. Pursuant to HSC 34167.10 (a), the Housing Authority is considered part of the City. Agreements between the City and the former RDA are not considered enforceable obligations. Therefore, these funds have been added to the balance available for distribution to affected taxing entities.

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 \$14,086,445 (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:	\$ -
Finance Adjustments	
Add:	
Adjustments to the June 30, 2012 balance	\$ 11,481,445
Disallowed transfers	\$ 2,605,000
<b>Total LMIHF available to be distributed:</b>	<b>\$ 14,086,445</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 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 September 11, 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 long horizontal stroke extending to the left.

**STEVE SZALAY**  
Local Government Consultant

cc: Mr. Robb Steel, Assistant to the City Administrator, City of Rialto  
Ms. Vanessa Doyle, Auditor Controller Manager, San Bernardino County  
California State Controller's Office