



December 19, 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

This letter supersedes Finance's original Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) determination letter dated November 15, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Rialto Successor Agency (Agency) submitted an oversight board approved DDR to the California Department of Finance (Finance) on October 18, 2012. Finance issued a LMIHF DDR determination letter on November 15, 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 6, 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:

- The KDF Community Project in the amount of \$7,560,000 was denied in our letter dated October 6, 2012 as an inclusion to the Recognized Obligation Payment Schedule (ROPS) for the period January through June 2013. Subsequently, the Agency requested a Meet and Confer session regarding the disputed project. Based on the ROPS Meet and Confer session held on November 14, 2012, Finance continued to object to this project, but identified the \$7,175,328 related to this project as funded by unspent bond proceeds. As such, for DDR purposes, Finance approves the Agency retain the \$7,175,328 in unspent bond proceeds. However, Finance continues to disallow the transfer of \$384,672 from LMIHF for the KDF Community Project since it has been determined that it is not an enforceable obligation.
- Payments made from the LMIHF between January 1, 2012 and June 30, 2012 totaling \$1,321,445 were identified on the ROPS as being paid from another fund, not LMIHF. During the Meet and Confer session, the Agency provided additional information including an Expenditure Detail Report for LMIHF, and explanation on the funding source of these payments. The Agency received Redevelopment Property Tax Trust Funds (RPTTF) and erroneously deposited these funds into the LMIHF. The agency then paid the approved RPTTF ROPS items from LMIHF. Upon the review of this additional information, Finance has concluded to allow the transfer of funds totaling \$1,294,261 for those approved enforceable obligations. However, Finance continues to

disallow the transfer of funds totaling \$27,184 because sufficient documentation was not provided to demonstrate LMIHF as a funding source.

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 reasons:

- Affordable Housing Agreement in the amount of \$2,605,000, did not have any payments identified on the ROPS for the current fiscal year. The agreement was between the Housing Authority and the developer, not for the former redevelopment agency.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to \$5,616,856 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities	
Available Balance per DDR:	\$ -
Finance Adjustments	
Add:	
Disallowed transfers	\$ 2,605,000
Adjustment to the June 30, 2012 balance	11,481,445
Revised Adjustments	(8,469,589)
Total LMIHF available to be distributed:	\$ 5,616,856

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 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 blue ink that reads "Steve Szalay" with a stylized flourish at the end.

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