

**SPECIAL OVERSIGHT BOARD MEETING**  
**OF THE FORMER REDEVELOPMENT AGENCY**  
**OF THE CITY OF SANTA CLARITA**

**December 18, 2012**

**2:15 p.m.**

**Orchard A/B Conference Room**  
**23920 Valencia Boulevard**  
**Santa Clarita, CA 91355**

**AGENDA**

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In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Redevelopment Division at (661) 286-4141. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28CFR 35.102-35.104 ADA Title II)

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**I. CALL TO ORDER**

**II. ROLL CALL**

**III. APPROVAL OF AGENDA**

**IV. NEW BUSINESS**

**1. DUE DILIGENCE REVIEW – HOUSING FUND**

On October 10, 2012, the Oversight Board approved the Due Diligence Review for the Housing Fund, which was then transmitted to the Department of Finance for their review. On November 9, 2012, the Department of Finance provided their findings. Successor Agency staff subsequently requested a Meet and Confer with the Department of Finance to discuss the concerns identified and that meeting was held on November 30, 2012. On December 15, 2012, the Department of Finance provided the attached letter of determination. As is clear from the letter, the DOF is requiring payment of funds in excess of available cash balances. The DOF is also ignoring the Oversight Board's authorization to utilize former low/mod fund balances to satisfy ROPS obligations. The DOF letter suggests that the Oversight Board be consulted for direction.

**Recommended Action:**

Receive Staff's update on the Department of Finance's determination related to the Housing Due Diligence Review and provide direction to Staff, including, among other possible actions, transmitting a letter to the DOF enclosing a resolution reiterating the Oversight Board's prior authorization to utilize low/mod fund balance to satisfy ROPS 1 and ROPS 2 obligations.

**V. PUBLIC PARTICIPATION**

This time has been set aside for the public to address the Board on items that are NOT on the agenda. The Board will not act upon those items at this meeting, other than to review and return without action, or provide direction to staff. ALL speakers must submit a speaker's slip to the Meeting Clerk PRIOR to this portion of the meeting, and prepare a presentation not to exceed three (3) minutes.

## VI. ADJOURNMENT

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Complete packets are available for public inspection at City Hall. Any writings or documents distributed to a majority of the members of the Oversight Board regarding any open session item on this agenda will be made available for public inspection in City Hall, Suite 120 located at 23920 Valencia Boulevard, during normal business hours. These writings or documents will also be available for review at the meeting. Thank you for attending the Oversight Board meeting. If you have any questions or wish to know more about the Successor Agency or the Oversight Board, please call (661) 286-4141 Monday through Thursday, 7:30 a.m. to 5:30 p.m. and Fridays 8:00 a.m. to 5:00 p.m.

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## CERTIFICATION

I, Arminé Chaparyan, do hereby certify that I am the duly appointed and qualified Redevelopment Manager for the Successor Agency of the former Redevelopment Agency of the City of Santa Clarita, and that on December 17, 2012, between the hours of 9:00 a.m. and 5:00 p.m., the foregoing agenda was posted at City Hall, Santa Clarita Library, Valencia Branch, and the Santa Clarita Sheriff's Station.

Denise Couert for  
Arminé Chaparyan  
Redevelopment Manager  
Santa Clarita, California

**OVERSIGHT BOARD  
OF THE FORMER REDEVELOPMENT AGENCY  
OF THE CITY OF SANTA CLARITA**

**AGENDA REPORT**

Approved By: Denise Covert

Presented By: Denise Covert

DATE: December 18, 2012

SUBJECT: DUE DILIGENCE REPORT – NON-HOUSING FUND

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Recommended Action:

Receive Staff's update on the Department of Finance's determination related to the Housing Due Diligence Review and provide direction to Staff, including, among other possible actions, transmitting a letter to the DOF enclosing a resolution reiterating the Oversight Board's prior authorization to utilize low/mod fund balance to satisfy ROPS 1 and ROPS 2 obligations.

Background:

On October 10, 2012, the Oversight Board approved the Due Diligence Review for the Housing Fund, which was then transmitted to the Department of Finance for their review. On November 9, 2012, the Department of Finance provided their findings. Successor Agency staff subsequently requested a Meet and Confer with the Department of Finance to discuss the concerns identified and that meeting was held on November 30, 2012. On December 15, 2012, the Department of Finance provided the attached letter of determination.

The DOF is demanding that \$3,005,293 be transmitted to the County Auditor-Controller for disbursement. As is clear from the letter, the DOF is requiring payment of funds in excess of available cash balances. The DOF is also ignoring the Oversight Board's authorization to utilize former low/mod fund balances to satisfy ROPS obligations. The DOF letter suggests that the Oversight Board be consulted for direction.

A full report will be provided at the meeting which will include a list of options for the Oversight Board to consider. Successor Agency staff will seek direction from the Oversight Board at that time.

Fiscal Impact:

The Successor Agency does not have the funds available to meet the demands of the Department of Finance.

Attachments:

Department of Finance Determination letter

AC:DC:ms



December 15, 2012

Ms. Arminé Chaparyan, Redevelopment Manager  
City of Santa Clarita  
23920 Valencia Boulevard, Suite 300  
Santa Clarita, CA 91355-2196

Dear Ms. Chaparyan:

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 9, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the City of Santa Clarita successor agency (Agency) submitted an oversight board approved LMIHF DDR to the California Department of Finance (Finance) on October 11, 2012. Finance issued a LMIHF DDR determination letter on November 9, 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 30, 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.

- We originally adjusted \$2.9 million of the \$5.3 million restricted bond proceeds as of June 30, 2012 because it was unclear the actual source of the \$2.9 million. It is our understanding Agency LMIHF housing bond proceeds were used to purchase a City block intended for affordable housing. The Agency subsequently decided the development would be mixed use. Therefore, in May 2011, \$2.9 million of non-housing funds were deposited back into LMIHF for the portion of the development that was mixed use. After reviewing the supporting documents provided by Agency, Finance determined the \$2.9 million that was transferred back into LMIHF can be considered as unspent bond proceeds. As such, Finance will revise the adjustment of \$2.9 million.

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 retention of current balances is necessary for the purpose of a bond reserve and payment for enforceable obligations. Finance originally denied the Agency's request to retain \$757,297 due to a lack of evidence there would be insufficient property taxes to pay future obligations.

Finance approved RPTTF funding for the bond reserve and other enforceable obligations on Recognized Obligation Payment Schedule (ROPS) III. The Agency provided a cash flow analysis showing a positive cash flow scenario for fiscal year 2012-13 if Finance approved the Agency to retain the requested funds. However, the Agency states there will be insufficient RPTTF to pay these obligations, if Finance does not allow the Agency to retain the requested funds. For the ROPS II period, the cash flow analysis inappropriately includes administrative expenses in the amount of \$263,398 which is in excess of the \$125,000 administrative cost approved in ROPS II. As a result, the cash shortfall in the ROPS II period is more likely around \$15,500.

Based on the cash flow analysis provided, it appears debt service payments for ROPS II and III periods will not be jeopardized if the Agency is not allowed to retain the LMIHF balances they are requesting. The cash flow analysis includes a bond reserve in the amount of \$735,652 that is due September 2013. The June 2013 RPTTF distribution will be sufficient to cover bond debt that is due, including the payment that is due in September 2013; therefore, the Agency should not include the reserve on this cash flow. As such, the Agency has not illustrated an immediate need to retain these balances.

- In our November 9, 2012 letter, the amount needed to satisfy fiscal year 2012-13 LMIHF planned expenditures was reduced by \$1.8 million because there were no payments identified in the ROPS using LMIHF. Finance continues to believe this adjustment is appropriate.

The Agency contends retention of these funds is necessary to cover obligations where RPTTF will be insufficient. It is our understanding the Agency commingled the non-housing and housing funds in Redevelopment Obligation Retirement Fund (RORF) and did not distinguish the funding source. The Agency states the funds were used interchangeably due to the lack of guidance provided by ABx1 26.

Pursuant to HSC 34177 (a) (3), expenditures approved in the ROPS can only be made from the funds identified. However, HSC 34177 (a) (4) allows Agencies, with prior approval from the oversight board, to pay enforceable obligations from sources other than those listed on the ROPS. It is our understanding prior oversight board approval was not obtained and therefore, the Agency did not have the authority to use funding sources other than those identified and approved on the ROPS.

Since the law prohibits the use of funds other than what was approved on a ROPS unless prior approval from the oversight board is obtained, the Agency's request to retain \$1.8 million in LMIHF balances is not allowed. To the extent this adjustment causes cash flow issues, the Agency may request a loan from the city to cover valid enforceable obligations pursuant to HSC section 34173 (h). The Agency should seek counsel from their oversight board to determine the solution most appropriate for their situation. Since the Agency has alternatives to address short term cash shortages, Finance deems it not necessary for the Agency to retain the requested funds.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to \$3,005,293 (see table below).

<b>LMIHF Balances Available For Distribution To Taxing Entities</b>	
Available Balance per DDR:	\$ 402,766
Finance Adjustments	
Add:	
Requested restricted balance not supported:	0
Requested retained balance not supported:	2,602,527
<b>Total LMIHF available to be distributed:</b>	<b>\$ 3,005,293</b>

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 August 31, 2012 do not in any way eliminate the Controller's authority.

Ms. Arminé Chaparyan  
December 15, 2012  
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Please direct inquiries to Kylie Le, Supervisor or Michael Barr, Lead Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Szalay", with a long, sweeping underline that extends to the left.

**STEVE SZALAY**  
Local Government Consultant

cc: Ms. Carmen Magana, Finance Manager, Santa Clarita  
Ms. Denise Covert, Administrative Analyst, Santa Clarita  
Ms. Kristina Burns, Manager, Manager, Los Angeles County Auditor-Controller's Office  
California State Controller's Office