



February 6, 2013

Ms. Cindy M. Prothro, Finance Director
City of Barstow
220 E. Mountain View Avenue
Barstow, CA 92311

Dear Ms. Prothro:

Subject: Housing Asset Transfer Form

This letter supersedes Finance's Housing Asset Transfer Form letter dated August 31, 2012. Pursuant to Health and Safety Code (HSC) section 34176 (a) (2), the City of Barstow as Housing Successor Agency (Agency) submitted a Housing Assets Transfer Form (Form) to the California Department of Finance (Finance) on August 1, 2012, for the period February 1, 2012 through August 1, 2012. Finance issued its determination related to those transferred assets on August 31, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more items that was objected to by Finance. The Meet and Confer session was held on October 26, 2012.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of those specific items being disputed.

Exhibit D, Items 1 through 55, 249 through 280, and 337 – Loans/Grants receivables. Finance continues to object to the transfer of the items. Finance initially objected to the items because HSC section 34163 (b) prohibits a redevelopment agency (RDA) from entering into contracts after June 27, 2011. The Agency contends the items are housing assets because the loans/grants were funded by "Program Income" derived from the Mortgage Assistance Program (MAP) and the Facelift Program repayments, not the 20 percent tax increment housing set aside. The Agency further contends that the "Program Income" is a housing asset eligible for transfer under HSC section 34176 (e) (6) (A) and they have used this asset to fund more loans/grants under the MAP/Facelift Programs.

While the loans/grants receivables listed meet the definition of a housing asset, all of the loans/grants receivables listed were entered into after June 27, 2011, when the former RDA no longer had the authority to enter into such agreements. HSC section 34163 (a) and (b) states that the former RDA shall not have the authority to, and shall not, "make loans or advances or grant or enter into agreements to provide funds or provide financial assistance of any sort to any entity or person for any purpose" or "enter into contracts with, incur obligations, or make commitments to, any entity, whether governmental, tribal, or private, or any individual or groups of individuals for any purpose, including, but not limited to, loan agreements."

The Agency also contends that HSC section 34176 (e) (6) (A) states a housing asset includes "Repayments of loans or deferrals owed to the Low and Moderate Income Housing Fund pursuant to subparagraph (G) of paragraph (1) of subdivision (d) of Section 34171, which shall be used consistent with the affordable housing requirements in the Community Redevelopment Law." However, this section only applies to loan or deferral repayments the successor agency is to begin making in fiscal year 2013-14 for the amounts the former RDA borrowed from the fund or deferred payment of the 20 percent set aside, not to use funds received from prior years from the repayment by third parties for loans or grants. Typically, the former RDA would have borrowed from, or deferred deposits into, the fund in order to finance statutorily required payments to the Supplemental Educational Revenue Augmentation Fund (SERAF), or to make principal and interest payments on debt obligations.

Therefore, the loans/grants receivables listed are not housing assets and shall be returned to the successor agency. The successor agency shall administer the loans/grants receivables and any payments received shall be used to fund approved enforceable obligations or be disbursed to the affected taxing entities.

This is Finance's final determination related to the assets reported on your Form. Except for items disallowed as noted above, Finance is not objecting to the remaining items listed on your Form. Assets transferred deemed not to be a housing asset shall be returned to the successor agency.

Please direct inquiries to Evelyn Suess, Dispute Resolution Supervisor or Mary Halterman, Analyst at (916) 445-1546.

Sincerely,



Steve Szalay
Local Government Consultant

cc: Mr. Larry Walker, Auditor Controller, San Bernardino County
Ms. Vanessa Doyle, Property Tax Manager, San Bernardino County
Ms. Linda Santillano, Supervising Accountant, San Bernardino County
Ms. Franz Zyss, Accountant III, San Bernardino County
Mr. Albert Aleman, San Bernardino County
Ms. Ashley Schwenk, San Bernardino County
California State Controller's Office