



March 19, 2013

Ms. Debbie Fountain, Housing and Neighborhood Services Director
City of Carlsbad
2965 Roosevelt Street, Suite B
Carlsbad, CA 92008

Dear Ms. Fountain:

Subject: Housing Assets Transfer Form

This letter supersedes the California Department of Finance's (Finance) Housing Asset Transfer Form letter dated August 31, 2012. Pursuant to Health and Safety Code (HSC) section 34176 (a) (2), the City of Carlsbad as Housing Successor Agency (Agency) submitted a Housing Assets Transfer Form (Form) to Finance on August 1, 2012, for the period February 1, 2012 through August 1, 2012. Finance issued its determination related to those transferred asset 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 February 11, 2013.

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 C, Item 1 and Exhibit D, Item 1 – Finance continues to object to the transfer of these items. Finance notes that Exhibit C, Item 1 is no longer an encumbrance as the \$3.75 loan has been fully funded and paid to the developer. Finance has determined the loan commitment letter is not adequate documentation to substantiate the requirement to make the loan. As stated in the Commitment Letter dated August 12, 2009, "The Agency's obligation to make the Loan will be subject to satisfaction of all the terms and conditions set forth in various loan documents to be executed... at a later date." It is Finance's position the loan was discretionary and not required; therefore, the contract with Tavaura Limited Partners, executed on December 12, 2012, is not an enforceable obligation established prior to June 27, 2011 per HSC section 34163 (b) and not a housing asset as defined in HSC section 34176 (e).

Therefore, the loan/grant receivable listed is not a housing asset and shall be returned to the successor agency. The successor agency to the former redevelopment agency shall administer the loan/grant receivable and any payments received shall be used to fund approved enforceable obligations or be disbursed to the affected taxing entities.

Exhibit C, Item 8 – Low-Mod Housing totaling \$5.4 million. Finance continues to object to the transfer of this item as unencumbered balances do not meet the definition of a housing asset. As stated in Finance's December 3, 2012 Low to Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) determination letter, Finance maintains that HSC section 34177 (d) requires all unencumbered balances in the LMIHF be remitted to the county auditor controller for distribution to the 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 Danielle Brandon, Analyst at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Juan Perez, Senior Auditor and Controller Manager, San Diego County
Ms. Nenita DeJesus, Senior Auditor and Controller Accountant, San Diego County
California State Controller's Office