



February 6, 2013

Ms. Maureen Toms, Principal Planner
Contra Costa County
30 Muir Road
Martinez, CA 94553-0095

Dear Ms. Toms:

Subject: Housing Assets 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 County of Contra Costa as Housing Successor Agency (Agency) submitted a Housing Assets Transfer Form (Form) to the California Department of Finance (Finance) on August 3, 2012, for the period February 1, 2012 through August 3, 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 conducted on January 23, 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 A-5, Items 1 through 19, Exhibit A-6, Items 1 through 20, Exhibit A-7, Items 1 through 20, and Exhibit A-8, Items 1 through 11 – Finance no longer objects to the transfers. Finance originally objected to the transfers because the properties listed are owned by private individuals and not the former redevelopment agency (RDA). The Agency contends the items are housing assets because these are affordability covenants, which constitute an interest in real property and a restriction on the use of real property. Although the properties were not owned by the former RDA, the former RDA had contributed funding from the Low and Moderate Income Housing Fund (LMIHF) to the properties and had affordability covenants recorded on the properties as a condition of the receipt of LMIHF funding. HSC section 34176 (e) (1) includes as a housing asset the "restriction on the use of real property." Finance agrees that affordability covenants are a "restriction on the use of real property." Therefore, the items are housing assets eligible for transfer to the housing successor agency.
- Exhibit C-1, Item 2 – The Agency did not object to our determination. Per Finance's letter dated August 31, 2012, contracts are not in place for this item, and HSC 34163 (b) prohibits a RDA from entering into contracts with any entity after June 27, 2012. Therefore, the item is not a housing asset.

- Exhibit C-2, Items 1 through 8 – Finance continues to object to the transfer of the items. Finance originally objected to the transfers because the items in question are unencumbered bond proceeds and do not meet the definition of a housing asset. The Agency contends the housing bond proceeds are encumbered by the bond indentures and bond covenants requiring proceeds to be used to build or acquire low and moderate income housing. However, bond indentures and bond covenants, in and of themselves, are not enforceable obligations as there were no contracts in place prior to June 27, 2011 encumbering the use of excess bond proceeds. Therefore, the items are not housing assets eligible for transfer to the housing successor agency pursuant to HSC 34176 (e) (2). To the extent the Agency has projects to fund, they may follow the process outlined in HSC section 34176 (g) to use bond proceeds.

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 Sues, Dispute Resolution Supervisor, or Mary Halterman, Analyst, at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Steven Goetz, Deputy Director, Conservation, Transportation and Redevelopment Programs, Contra Costa County Department of Conservation and Development
Mr. Bob Campbell, Auditor-Controller, Contra Costa County
Mr. Jay Wilverding, Chief Accountant, Contra Costa County
California State Controller's Office