



February 15, 2013

Ms. Karen Youel, Management Analyst II, Housing
City of Escondido
201 North Broadway
Escondido, CA 92025

Dear Ms. Youel:

Subject: Housing Assets Transfer Form

This letter supersedes Finance's Housing Asset Transfer Form letter dated August 30, 2012. Pursuant to Health and Safety Code (HSC) section 34176 (a) (2), the City of Escondido as Housing Successor Agency (Agency) submitted a Housing Assets Transfer Form (Form) to the California Department of Finance (Finance) on July 31, 2012, for the period February 1, 2012 through July 31, 2012. Finance issued its determination related to those transferred assets on August 30, 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 January 25, 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, Item 2 – Real property in the amount of \$568,510. Finance no longer objects to the transfer. Finance originally objected to the transfer because no documentation was provided to support that this property was purchased for low and moderate income housing purposes. The Agency contends the item is a housing asset because the property was purchased using funds from the Low and Moderate Income Housing Fund (LMIHF). Based on additional documents provided, the property was purchased in July 2010 using LMIHF funds and Neighborhood Stabilization Program funds. Therefore, the item is a housing asset.
- Exhibit C, Items 5 and 6 – Submetering service contracts. Finance continues to object to the transfers. Finance originally objected to the transfers because although the services are being rendered at low and moderate income housing sites, the contracts themselves do not represent encumbrances per the definition stated in HSC section 34176 (e) (2). The Agency contends the items are housing assets because these were not new agreements, but renewals, without change, of prior agreements. However, HSC section 34163 (b) and (c) prohibits an agency from entering into contracts or modifying existing agreements including renewing or extending terms. Furthermore, the agreements provided were between the City of Escondido and a third party, not the former redevelopment agency. Since there are no enforceable

obligations associated with the encumbrances, the items do not meet the definition of HSC section 34176 (e) (2) and are not housing assets eligible for transfer.

- Exhibit D, Items 4 and 16 – 41 out of 478 loans totaling \$562,610 are dated after June 27, 2011. Finance continues to object to the transfers. Finance originally objected to the transfers because HSC section 34163 (b) prohibits a redevelopment agency from entering into an agreement with any entity after June 27, 2011. The Agency contends the items are housing assets because the former redevelopment agency's (RDA) fiscal year 2011-12 budget approved on June 22, 2011 included funds for the continuation of the first time homebuyer program and the owner-occupied rehabilitation program. HSC section 34176 (e) (3) states a housing asset includes "Any loan or grant receivable, funded from the Low and Moderate Income Housing Fund, from homebuyers, homeowners, nonprofit or for-profit developers, and other parties that require occupancy by persons of low or moderate income as defined by the Community Redevelopment Law." While the loans/grants receivables listed appear to meet this definition, the loans/grants receivables identified 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." Therefore, the items are not housing assets and should 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: Ms. Christina Holmes, Accountant II, City of Escondido
Ms. Tracy Sandoval, General Manager, Finance and General Government/
Auditor and Controller, County of San Diego
Mr. Juan Perez, Senior Auditor and Controller Manager, County of San Diego
Ms. Nenita DeJesus, Senior Auditor and Controller Accountant, County of San Diego
California State Controller's Office