

March 15, 2013

Mr. James E. Taubert, Executive Director  
City of Madera  
428 East Yosemite Avenue  
Madera, CA 93630

Dear Mr. Taubert:

Subject: Housing Assets Transfer Form

This letter supersedes the California Department of Finance's (Finance) Housing Asset Transfer Form letter dated August 30, 2012. Pursuant to Health and Safety Code (HSC) section 34176 (a) (2), the City of Madera as Housing Successor Agency (Agency) submitted a Housing Assets Transfer Form (Form) to Finance on July 31, 2012, for the period February 1, 2012 through July 31, 2012. Finance issued its determination related to those transferred asset 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 February 8, 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 – Grant Agreement totaling \$375,000. Finance no longer objects to the transfer of this encumbrance. The Agency provided documentation supporting that the original agreement was entered into on March 11, 2009. Finance originally denied the item as HSC section 34163 (c) prohibits former Redevelopment Agency (RDA) from modifying or amending agreements after June 27, 2011. Although the former RDA amended the grant agreement in August 2011, the original grant agreement remains an enforceable obligation. Therefore, this Item meets the definition of a housing asset per HSC section 34176 (e).
- Exhibit C, Item 2 – Replacement Housing Obligation totaling \$1.24 million. Finance continues to object to the transfer of this item. The Agency claims it has an obligation to provide replacement housing resulting from the construction of a new courthouse; however, there are no current contracts to build the replacement housing. Therefore, this item is not an enforceable obligation as defined in HSC section 34171 (d) and not a housing asset as defined in HSC section 34176 (e).

In addition, per HSC section 34176 (a), if the city, county, or city and county that authorized the creation of a redevelopment agency elects to retain the housing assets and functions previously performed by the former redevelopment agency, all rights, powers, duties, obligations, and housing assets shall be transferred to the city, county,

or city and county. Therefore, while Finance understands there may be an obligation to provide the replacement housing, the obligation becomes that of the Agency.

- Exhibit C, Item 3 - Housing Bond Encumbrance totaling \$806,991. Finance continues to object to the transfer of this item. HSC section 34176 (e) (2) states funds that are encumbered by an enforceable obligation to build or acquire low and moderate income housing are considered to be housing assets. However, there were no contracts in place prior to June 27, 2011 to build or acquire property. Therefore, the encumbrance does not exist and the Item does not meet the definition of a housing asset per HSC section 34176 (e) (2).

Finance notes that pursuant to HSC section 34191.4 (c), successor agencies of former redevelopment agencies that have been issued a Finding of Completion by Finance will be allowed to use excess proceeds from bonds issued prior to December 31, 2010 for the purposes for which the bonds were issued.

The second process, which can be utilized by the Agency, is set forth in HSC section 34176 (g), which authorizes the Agency to designate the use of and commit bond proceeds that remain after the satisfaction of enforceable obligations that have been approved in a ROPS and that are consistent with the bond covenants. The proceeds must have been derived from bonds that were issued for the purposes of affordable housing and issued prior to January 1, 2011. To initiate this process, the Agency is required to provide notice to the successor agency of any designations of use or commitments of funds that it wishes to make at least 20 days before the deadline for submission of the ROPS to the Oversight Board. These commitments and designations will not be considered valid or binding until they are included in and approved and valid ROPS.

In addition, Finance continues to object to the transfer of the following assets not contested by the Agency during the Meet and Confer process:

- Exhibit A, Item 50 – Vacant Lot. The property is defined as an economic remnant with landscape improvements and is not considered a housing asset pursuant to HSC section 34176 (e).
- Exhibit A, Item 370 – Low Mod Tenant Occupied Units. This item was included in the Exhibit twice, under Item 361 and 370.

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

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Sincerely,



STEVE SZALAY  
Local Government Consultant

cc: Ms. Sandi Brown, Agency Secretary, City of Madera  
Mr. Jim Boyajian, Assistant Auditor-Controller, County of Madera  
Mr. Karl Noyes, Assistant Auditor-Controller, County of Madera  
California State Controller's Office