



February 15, 2013

Ms. Leslye Corsiglia, Director of Housing
City of San Jose
200 East Santa Clara Street
12th Floor, Housing Department.
San Jose, CA 95113

Dear Ms. Corsiglia:

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 City of San Jose 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 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 January 28, 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 4 and Exhibit D, Item 8 – Eden Housing Loan Agreement. Finance continues to object to the transfers. Finance originally objected to the transfers because the loan agreement for Eden Housing was entered into on June 29, 2011; however, HSC section 34163 (b) prohibits an agency from entering into a contract with any entity for any purpose after June 27, 2011. The Agency contends the items are housing assets because on March 29, 2011, the City Council and former Redevelopment Agency (RDA) Board approved the Development and Disposition Agreement (DDA), which was signed on June 29, 2011. However, the resolution provided show that the Council of the City of San Jose (City Council) approved the DDA between the City and Eden Housing and not the former RDA Board. Therefore, the DDA is not an enforceable obligation of the former RDA. Since there is no enforceable obligation associated with the Exhibit C, Item 4 encumbrance, the item is not a housing asset pursuant to HSC section 34176 (e) (2). Furthermore, to the extent that former RDA funds were used to fund the Exhibit D, Item 8 loan receivable, the asset should be returned to the successor agency. The successor agency shall administer the loan receivable and any payments received shall be used to fund approved enforceable obligations or be disbursed to the affected taxing entities.
- Exhibit D, Items 1176 through 1195 – These are rehabilitation loan receivables entered into after June 27, 2011. HSC section 34163 (b) prohibits an agency from entering into

loans, agreements, or contracts with any entity for any purpose after June 27, 2011. The Agency did not object to the determination and stated that the items were listed in error because these were items funded through City agreements and not by the former RDA. Therefore, the items are not housing assets and should be removed from the Form.

- Exhibit G, Item 1 – A reported \$56 million in deferred receivable related to a Supplemental Educational Revenue Augmentation Fund (SERAF) loan out of the successor agency's Low and Moderate Income Housing Fund (LMIHF). Finance continues to object to the transfer. Finance originally objected to the transfer because the Santa Clara County Auditor-Controller's Office provided Finance with a preliminary objection determination. According to the Auditor-Controller's Office, the loan was funded using successor agency Tax Allocation Bond (TAB) proceeds, which are currently in repayment from the Redevelopment Property Tax Trust Fund (RPTTF) through the successor agency's Recognized Obligations Payment Schedule (ROPS). The Agency contends the item is a housing asset because the SERAF payment was made with \$10 million in interfund loans and \$52 million in cash from the LMIHF.

Finance does not dispute that the SERAF payment was made with cash from the LMIHF. However, based on our review, the SERAF Loan for \$56 million was funded from two sources: (1) the February 23, 2010 Loan Agreement between the City and the former RDA and (2) from funds borrowed from the 2010 Housing TABs (\$12 million and \$40 million, respectively, plus all fees and interest incurred). The LMIHF acted as a conduit between the City and the former RDA under the loan agreement. Specifically, the loan agreement states "The City shall repay the [City of San Jose Financing] Authority, from the [LMIHF]" and that "The City's obligation to repay the Authority Loan from the [LMIHF] shall be contingent on the [former Redevelopment] Agency's repayment of the SERAF Loan." The obligations to repay the Loan Agreement, as a repayment of the Commercial Paper that was issued, and the principal and interest on the bonds are already listed on the Recognized Obligation Payment Schedule (ROPS) to be paid by the successor agency. Therefore, the item is not a housing asset eligible for transfer.

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. Rachel VanderVeen, Administrative Officer, City of San Jose
Ms. Irene Lui, Controller Treasurer, Santa Clara County
Ms. Jacelyn Ma, Property Tax Manager, Santa Clara County
Ms. Manju Beher, Internal Auditor Supervisor, Santa Clara County
California State Controller's Office