



**DEPARTMENT OF
FINANCE**

EDMUND G. BROWN JR. • GOVERNOR

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October 26, 2012

Ms. Sarah Schlenk, Agency Administrative Manager
City of Oakland
150 Frank H. Ogawa Plaza, Suite 6353
Oakland, CA 94612

Dear Ms. Schlenk:

Subject: Objection to Oversight Board Action

The City of Oakland Successor Agency (Agency) notified the California Department Finance (Finance) of its August 20, 2012 Oversight Board (OB) resolution on August 23, 2012. Pursuant to Health and Safety Code (HSC) section 34179 (h), Finance has completed its review of your OB resolution, which may have included obtaining clarification for various items.

Based on our review and application of the law, the Agency's OB resolution No. 2012-10 approving the Agency to enter into a Disposition and Development Agreement (DDA) for the sale of property at Foothill Boulevard and Seminary Avenue and allocating \$150,000 for remediation of the site is not allowed. Specifically, our review noted the following:

- According to a grant deed, the Agency transferred 11 undeveloped parcels located at Foothill Boulevard and Seminary Avenue to the City of Oakland (City) on January 26, 2012. HSC section 34163 (d) states that the former redevelopment agency (RDA) shall not dispose of any assets by sale, long term-lease, gift, grant, exchange, transfer, assignment, or otherwise, for any purpose after June 27, 2011. Therefore, the transfer of the properties is not permitted.
- The Agency plans to enter into a new Disposition and Development Agreement with Sunfield Development, LLC for the development of the properties above. HSC section 34177.3 (a) states successor agencies shall lack the authority to, and shall not create new enforceable obligations, or begin new redevelopment work, except in compliance with an enforceable obligation that existed prior to June 28, 2011. Therefore, the Agency's plan to enter into a new DDA is not allowed.
- The RDA transferred \$150,000 to the City for remediation and demolition of the properties above. HSC section 34177.3 (c) prohibits the successor agency from transferring revenues or powers to any other public entity except pursuant to an enforceable obligation on an approved Recognized Obligation Payment Schedule. Because there was no contract executed prior to June 28, 2011 to develop the properties, this transfer is not permitted and the funds should be returned to the Agency.

Furthermore, the properties subject to this review are assets of the RDA, which are currently not being used for a governmental purpose. HSC section 34191.3 suspended the requirements of

HSC section 34181 (a) and the successor agency's ability to dispose assets for non-governmental purposes, until Finance has issued a finding of completion and has approved a long range property management plan. HSC section 34177 (e) directs successor agencies on the steps to dispose of non-governmental purpose assets. Because the Agency has not met all statutory requirements, the disposition of the Foothill Boulevard and Seminary Avenue properties by sale or transfer is not permitted.

The process and guidelines related to the disposition of former RDA assets are available at Finance's website below:

http://www.dof.ca.gov/redevelopment/property_disposition/

Furthermore, as authorized in HSC section 34167.5, the State Controller may audit asset transfers that occurred after January 1, 2011 between the RDA and the city that created the RDA, and may order the return of the assets if they are not contractually committed to a third party for the encumbrance or expenditures of these assets.

As authorized by HSC section 34179 (h), Finance is returning your OB action to the board for reconsideration.

Please direct inquiries to Justyn Howard, Assistant Program Budget Manager, at (916) 445-1546.

Sincerely,



STEVE SZALAY
Local Government Consultant

cc: Mr. Fred Blackwell, Assistant City Administrator, City of Oakland
Ms. Michele Byrd, Director of Housing and Community Development, City of Oakland
Mr. Gregory Hunter, Neighborhood Investment Manager, City of Oakland
Mr. Patrick Lane, Redevelopment Program Manager, City of Oakland
Mr. Jeffrey Levin, Redevelopment Program Manager, City of Oakland
Mr. Daniel Rossi, Deputy City Attorney, City of Oakland
Ms. Carol S. Orth, Tax Analysis, Division Chief, County of Alameda
California State Controller's Office