

Lawndale Successor Agency
OVERSIGHT BOARD
REGULAR MEETING

AGENDA

AUGUST 16, 2012

8:00 AM

Lawndale City Council Chambers
14717 Burin Avenue, Lawndale, California 90260

- A. **CALL TO ORDER**

- B. **ROLL CALL / INTRODUCTIONS - Board Members: Steve Mandoki, Greg Tsujiuchi, John Vinke, Barry Waite, Patricia Flynn, Michael Stewart, Joann Higdon**

- C. **PLEDGE OF ALLEGIANCE**

- D. **ADMINISTRATION – NEW BUSINESS**
 - 1. SUMMARY OF AB 1484
 - 2. THIRD RECOGNIZED OBLIGATION PAYMENT SCHEDULE
 - 3. REVISED ADMINISTRATIVE BUDGETS
 - 4. PASS-THROUGH PAYMENT LITIGATION
 - 5. AB 1484 AND FUTURE MEETINGS
 - 6. HOUSING SUCCESSOR AGENCY ASSET REPORTING FORM
 - 7. MINUTES OF MAY 24, 2012 MEETING

- E. **CONSENT CALENDAR**

- F. **PUBLIC COMMENTS**

- G. **ITEMS FROM SECRETARY/ADMINISTRATIVE CLERK**

**Oversight Board Agenda
August 16, 2012**

H. ITEMS FROM BOARD MEMBERS

I. ADJOURNMENT

The next scheduled Oversight Board meeting is **Thursday, October 4, 2012.**

Copies of staff reports or other written documentation relating to each agenda item are on file with the Oversight Board and are available for public inspection prior to the meeting.

It is the intention of the Oversight Board to comply with the Americans With Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, the Board will attempt to accommodate you in every reasonable manner. Please contact the Lawndale Community Development Department at (310) 973-3230, at least forty-eight (48) hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible.

CERTIFICATION

Pursuant to the requirements of Government Code Section 54954.2, agendas for each Oversight Board meeting must be posted at least 72 hours in advance in a location that is freely accessible to members of the public. As the Secretary/Administrative Clerk of the Oversight Board, I declare under penalty of perjury that I caused the Oversight Board Agenda to be posted on **August 9, 2012** in accordance with the provisions of State Law and local regulations.

Otis W. Ginoza, Secretary/Administrative Clerk



OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE LAWNDALE REDEVELOPMENT AGENCY

14717 BURIN AVENUE, LAWNDALE, CALIFORNIA 90260
PHONE (310) 973-3200, FAX (310) 644-4556
www.lawndalecity.org

DATE: August 16, 2012
TO: Honorable Chairman and Agency Members
FROM: Otis Ginoza, Deputy City Manager 
SUBJECT: Summary of AB 1484

BACKGROUND

ABx1 26, approved in June of 2011 eliminated Redevelopment in California as of February 1, 2012 and established a process to wind down the affairs of the former redevelopment agencies. ABx1 26 contained many contradictions, ambiguities and ill conceived processes. The California Legislature sought to correct these problems with the passage of AB 1484 in June of 2012. AB 1484 makes significant changes to the dissolution process.

STAFF REVIEW

A summary of AB 1484 prepared by the League of California Cities is attached. Several organizations have prepared guides to AB 1484, but most are of greater length. At the Oversight Board meeting on August 16, staff will provide an oral report on AB 1484.

FUNDING

None required at this time.

RECOMMENDATION

Staff recommends that the Oversight Board receive and file this report.

Attachments: Major Provisions of AB 1484



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

Major Provisions of AB 1484¹

1. **Three payments:** Successor agency must make three payments:

- July 12: Taxing entities' share of December 2011 property tax distribution to redevelopment agency/successor agency
- November 9+/-: Low-Moderate Income Housing Fund
- April 10 +/- : Unencumbered cash

In addition to these three payments, if a successor agency did not make complete 2011-12 pass-through payments, amount of payment not made will be deducted from property tax distribution from auditor-controller.²

2. **New audit by October 1:** Successor agency must retain licensed accountant to audit books:³

- Audit of LMIHF
- Audit of cash assets
- Audit of cash transfers to public agencies and private parties⁴

3. **New penalties:**

- Failure to make July 12 payment: successor agency subject to civil penalty of 10% of the amount owed plus 1.5% of the amount owed for each month that payment is not made unless DOF finds that payment of penalty will jeopardize payment of enforceable obligations. Until payment is made,

¹ The League will continue to refine this analysis with the assistance of its RDA Attorney Working Group and other city officials.

² Additional information about these payments is found in the Appendix.

³ Agreed-upon procedures audit completed by auditor-controller can substitute for the licensed accountant audit if it includes all statutory requirements

⁴ Successor agency must attempt to recover cash transferred to public agency without an enforceable obligation.

July 2, 2012

successor agency may only pay bond debt. City subject to same civil penalty. City will not receive July 18 sales tax payment (up to amount owed).⁵

- Failure to transfer LMIHF funds: Offset of city sales tax or property tax of the amount required to be transferred⁶
- Failure to transfer cash assets: Offset of city sales tax or property tax of the amount required to be transferred⁷
- Failure to recover cash transferred to local agency without enforceable obligation: Offset of sales tax or property tax of the local agency to which the cash was transferred.⁸
- Failure to submit ROPS by September 1, 2012 and subsequent deadlines: City to pay civil penalty of \$10,000 per day for each day beyond deadline

4. Safe Harbor: Finding of Completion⁹

The Department of Finance will issue a finding of completion to a successor agency that pays the following amounts:

- ✓ The amount determined in the audit of the LMIHF¹⁰
- ✓ The amount determined in the audit of all other funds¹¹
- ✓ The amount (if any) owing to taxing entities from the December 2011 property tax payment¹²

The following applies to a successor agency that is issued a finding of completion:

- ✓ Loan agreements entered into between the redevelopment agency and the city are deemed to be enforceable obligations if oversight board makes a finding that loan was for legitimate redevelopment purposes. As enforceable obligations, payments are listed on ROPS¹³.

Repayments of loans may not begin prior to 2013-14 fiscal year at maximum amount described in statute. Repayment amounts received by city must first be used to retire outstanding amounts borrowed and owed to LMIHF of the

⁵ Section 34183.5(b)(2)

⁶ Section 34179.6(h)

⁷ Section 34179.6(h)

⁸ Section 34179.6(h); see, also 34179.8

⁹ Section 34191.1.

¹⁰ Section 34179.6

¹¹ Section 34179.6

¹² Section 34183.5

¹³ DOF continues to retain final authority to approve items listed on ROPS.

July 2, 2012

former redevelopment agency for purposes of the SERAF payment. 20% of loan repayment amount must be transferred to LMIH Asset Fund.¹⁴

- ✓ Bond proceeds derived from bonds issued on or before 12/31/10 shall be used for the purposes for which the bonds were sold. Proceeds which cannot be spent consistent with bond covenants shall be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.¹⁵ Use of bond proceeds listed on ROPS.¹⁶
- ✓ Real property assets: In lieu of the provisions of AB 26 which require disposal of real property assets at the direction of the oversight board, successor agency prepares a long-range property management plan and submits to oversight board and DOF for approval. Permissible uses of property include retention for governmental use; retention for future development; sale of property; use of the property to fulfill enforceable obligations. If plan directs use or liquidation of property for a project identified in an approved redevelopment plan, the property shall transfer to the city. No transfers until plan approved by oversight board and DOF.¹⁷
- ✓ Statute of Limitations: The longer statutes of limitations (2 years) to challenge actions of the former redevelopment agencies do not apply.¹⁸

5. New Power of State Controller¹⁹

AB 1484 directs the Controller to review the activities of successor agencies to determine whether an asset transfer occurred after January 31, 2012, between the successor agency and the city or county that created the redevelopment agency, or any other public agency that was not pursuant to an enforceable obligation on an approved ROPS. The Controller is directed to order the assets returned to the successor agency. "City" is defined very broadly to include any entity which is controlled by the city or for which the city is financially responsible or accountable.²⁰

6. Increase in authority for Department of Finance

- DOF may eliminate or modify any item on an oversight board-approved ROPS. The auditor-controller must distribute property tax in accordance with changes made to the ROPS by DOF. If successor agency disputes DOF

¹⁴ 34191.4(b)(2).

¹⁵ 34191.4(c)

¹⁶ DOF continues to retain final authority to approve items listed on ROPS.

¹⁷ Section 34191.5

¹⁸ Section 33500, 33501

¹⁹ Section 34178.8

²⁰ Section 34167.10. AB 26 directed the State Controller to review asset transfers from redevelopment agencies to the city or county that created the agency that occurred after January 1, 2011. If the city or county was not contractually committed to a third party for the expenditure or encumbrance of those assets, the Controller was directed to order the return the assets to the redevelopment agency or successor agency.

action, disputed item may be carried on ROPS. If dispute resolved in favor of successor agency in the future, the past allocation of property tax to the successor agency is not changed nor is a “liability” created for any affected taxing entity.²¹

- DOF may review and object to oversight board actions approving (1) establishment of new repayment terms for outstanding loans; and (2) setting aside amounts in reserves as required by bond indentures, and similar documents²²

7. New restrictions on authority of Successor agency

- No new enforceable obligations except (1) as specifically authorized by the statute; (2) in compliance with enforceable obligations that existed prior to June 28, 2011; or (3) to hire staff, acquire professional services and procure insurance.²³
- May not transfer revenues or powers to any other public or private party except pursuant to enforceable obligation on an approved ROPS. Any such transfer of authority or revenues are “void” and successor agency required to reverse transfers. Controller may audit and order return of transfers of authority or revenues.²⁴
- Actions taken by redevelopment agencies pursuant to VARP (Voluntary Alternative Redevelopment Program in AB 27) are “ultra vires” and do not create enforceable obligations.²⁵
- If successor agency exercised power to reenter into agreements with city (section 34178) and agreement was approved by oversight board but rejected by DOF, successor agency and oversight board may not act to restore funding for the reentered agreement.²⁶
- No reestablishment of loan agreements between successor agency and city except pursuant to safe harbor provisions.²⁷

8. Miscellaneous

- City loans to successor agency: City may loan or grant funds for administrative costs, enforceable obligations or project-related expenses. Receipt and use of these funds shall be reflected on the ROPS or in the

²¹ Section 34179(h)

²² Section 34181(f)

²³ Section 34177.3(a); 34177.3(b)

²⁴ Section 34177.3(c)

²⁵ Section 34177.3(d)

²⁶ Section 34178(a)

²⁷ Section 34180(a)

administrative budget subject to oversight board approval. An enforceable obligation is created for repayment of loans.²⁸

- New Oversight Board Provisions²⁹
 - ✓ Auditor-controller may determine “largest special district”
 - ✓ Section 1090 does not apply to employee representative on oversight board
 - ✓ Oversight board members are protected by immunities applicable to public entities and public employees
 - ✓ Meetings at which oversight board will consider disposal of successor agency assets or allow set-aside of reserves required by bond indentures requires 10 days’ public notice.³⁰
 - ✓ Written notice and information about all oversight board actions must be provided to DOF by electronic means. DOF has 40 (instead of 10) days to review and approve, reject, or modify oversight board action.
 - ✓ Oversight board may direct successor agency to provide additional legal or financial advice.
 - ✓ Authorized to contract with the county or other public or private agencies for administrative support
 - ✓ On matters within its purview, decisions made by oversight board “supersede those made by the successor agency or the staff of the successor agency.”³¹
- New authority for auditor-controller³²: A county auditor-controller can object to an item on the ROPS or to the funding source listed for an item on the ROPS. Objections are sent to DOF to resolve.
- Polanco Act protection for successor agency: Cleanup plans and liability limits of redevelopment agency transferred to successor agency and to housing entity, upon entity’s request.³³
- Limited authority for successor agency to refinance existing debt.³⁴
- Successor agency is separate public entity.³⁵

²⁸ Section 34175(h)

²⁹ Section 34180

³⁰ Section 34181(f)

³¹ Section 34179

³² Section 34182.5

³³ Section 34173(f)

³⁴ Section 34177.5

³⁵ Section 34173(g)

Appendix – Successor Agency Required Payments/Fund Transfers

✓ Transfer of Unencumbered Balances³⁶

AB 26 requires that a successor agency transfer unencumbered cash balances and low and moderate income housing funds to the county auditor-controller for distribution to the taxing entities. AB 1484 requires a successor agency to retain the services of a licensed accountant to audit (1) the balance in the LMIHF; (2) the balance in other cash funds; (3) cash payments that were made in compliance with an enforceable obligation; and (4) cash transfers that were made without an enforceable obligation. In addition to transferring the balances in the LMIHF and other cash funds, a successor agency must make efforts to recover the cash transferred without an enforceable obligation.

✓ Payment of December 2011 Taxing Entity Property Tax³⁷

AB 26 distributes property tax through a “waterfall” of payments which includes passthrough payments, payments to successor agencies for enforceable obligations, payments to successor agencies for administrative costs, and payments to taxing entities. The waterfall for the December 2011 property tax payment did not operate as intended because of the stay imposed by the Court in *Matosantos*. The property tax payment to taxing entities was not made. AB 1484 requires successor agencies to make those payments by July 12.

✓ Payment of 2011-12 Passthrough Payments

Some successor agencies made 2011-12 passthrough payments and some did not. AB 1484 requires the auditor-controller to reduce property tax payments to those successor agencies that did not make pass through payments in 2011-12.

³⁶ Section 34179.5; 34179.6

³⁷ Section 34183.5



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

AB 1484: Important Dates

- July 9: County auditor-controller notifies successor agency of amount of funds owing taxing entities based upon December 2011 property tax payment¹
- July 12: Successor agency must make payment to auditor-controller for deposit into Redevelopment Property Tax Trust Fund and distribution to taxing entities.²
- July 16: Auditor-controller distributes money received from successor agencies to taxing entities. Monies received after July 12 date distributed within 5 days of receipt.³
- July 18: **City sales tax payment suspended if successor agency doesn't make July 12 payment.**⁴
- August 1: Successor housing entity must submit to DOF a list of housing assets that contains explanation of how assets meet criteria set forth in the law. DOF will prescribe format for list. DOF may object to any of the assets within 30 days. If after meet and confer, DOF continues to object, asset must be returned to the successor agency.⁵
- August 10: Successor housing entity notifies successor agency of any designations of use or commitments of funds that successor housing entity authorizes successor agency to retain.⁶
- August 15 +/-: Oversight board meets to consider ROPS for January 1, 2013 through June 30, 2013 which must be submitted to DOF by September 1.
- September 1: ROPS for January 1, 2013 through June 30, 2013 must be submitted electronically to DOF after oversight board approval.⁷ DOF makes determinations within 45 days. Within 5 days of determination, successor agency may request additional review and meet and confer.

¹ Section 34183.5(b)(2)(A). Note: The statute, that may be drafted in error, states that if June 1 property tax payment has not been made to successor agencies, the amount owing to taxing entities will be deducted from that same June 1 payment (34183.5(b)(1)).

² Section 34183.5(b)(2)(A).

³ Section 34183.5(b)(2)(A).

⁴ Section 34183.5(b)(2)(A)

⁵ Section 34176(a)(2). Definition of "housing asset" found at section 34176(e).

⁶ Section 34179.6(c)

⁷ Section 34177(m). Future ROPS must be submitted to DOF 90 days prior to property tax distribution. **City subject to civil penalty of \$10,000 per day for successor agency's failure to timely submit ROPS (Section 34177(m)(2)).**

- October 1: Auditor-controller may provide notice to successor agency of any objections to items on January – June 2013 ROPS.⁸
- October 1: Successor agency submits to oversight board, county auditor-controller, State Controller, and DOF results of the review of the LMIHF conducted by the licensed accountant agency must retain.⁹ Note: licensed accountant must be approved by the county auditor-controller.
- October 1: County auditor-controller completes agreed-upon procedures audit of each redevelopment agency.¹⁰ Auditor-controller provides estimate of property tax payments to successor agency for upcoming six-month period.¹¹
- October 15: Oversight Board must review, approve, and transmit LMIHF audit to DOF, auditor-controller. Note that oversight board must hold a public session to consider audit at least five business days prior to the meeting of oversight board in which LMIHF audit is considered for approval.¹²
- November 9: Last day for DOF to complete review of LMIHF audit and reports findings, determinations, and decision to overturn oversight board decision to allow retention of successor agency assets.¹³
- W/in 5 days of receipt of DOF audit findings: Successor agency may request meet and confer to resolve disputes with DOF findings on LMIHF audit.¹⁴ DOF must confirm or modify its determination and decisions within 30 days.
- W/in 5 days of receipt of DOF final audit determination: Successor agency to transfer LMIHF funds to auditor-controller.¹⁵ **City sales tax/property tax may be offset for unfunded amounts.**
- December 1: Successor agency may report to auditor-controller that total amount of available revenues will be insufficient to fund enforceable obligations.¹⁶

⁸ Section 34182.5.

⁹ Section 34179.6(a). The requirement to retain a licensed accountant is found in section 34179.5. The audit provided by the county auditor-controller can be substituted for an audit by a licensed accountant if it contains the information required by Section 34179.5.

¹⁰ Section 34182(a)(1).

¹¹ Section 34182(c)(3)

¹² Section 34179.6(c) and (b)

¹³ Section 34179.6(d)

¹⁴ Section 34179.6(e)

¹⁵ Section 34179.6(f)

¹⁶ Section 34183(b)

December 15: Successor agency submits to oversight board, county auditor-controller, State Controller, and DOF results of the review of all other fund and account balances by licensed accountant.¹⁷

2013

- January 2: Auditor-controller makes distributions of property tax for January – June 2013 ROPS.¹⁸
- January 15: Oversight board must review, approve, and transmit other funds audit to DOF, auditor-controller.¹⁹
- March 3: Successor agency submits ROPS for July 1, 2013 through December 31, 2013 to DOF after oversight board approval.²⁰
- April 1: County auditor-controller provides estimate of property tax payments to successor agency for upcoming six-month period.²¹
- April 1: DOF completes review of other funds audit and reports findings, determinations, and decision to overturn oversight board decision to allow retention of successor agency assets.²²
- April 6 +/-: No later than 5 days after receiving DOF determination on other funds audit, successor agency may request meet and confer to resolve disputes with DOF findings. DOF must confirm or modify its determination and decisions within 30 days.
- April 10: +/- Successor agency to transfer other “cash and assets” audit payment to auditor-controller if meet and confer process complete.²³ **City sales tax/property tax may be offset for unfunded amounts.**
- May 1: Successor agency reports to auditor-controller if total amount of available revenues will be insufficient to fund enforceable obligations.²⁴

¹⁷ Section 34179.6(a).

¹⁸ Section 34183(b).

¹⁹ Section 34179.6(a).

²⁰ Section 34177(m).

²¹ Section 34182(c)(3)

²² Section 34179.6(a)

²³ Section 34179.6(f). The statute does not allow sufficient time between completion of DOF review on April 1 and required payment on April 10.

²⁴ Section 34183(b).



OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE LAWDALE REDEVELOPMENT AGENCY

14717 BURIN AVENUE, LAWDALE, CALIFORNIA 90260
PHONE (310) 973-3200, FAX (310) 644-4556
www.lawndalecity.org

DATE: August 16, 2012

TO: Honorable Chairman and Agency Members

FROM: Otis Ginoza, Deputy City Manager *OG*
Ken Louie, Finance Director

SUBJECT: Third ROPS and Administrative Budget

BACKGROUND

ABx1 26 eliminated Redevelopment in California as of February 1, 2012. The legislation provided for the City to become the Successor Agency to the former Lawndale Redevelopment Agency, responsible for winding down its affairs and paying off its debts. The ongoing financial operations of the Successor Agency are subject to the approval of an Oversight Board. The Oversight Board is comprised of representatives of the various public agencies that share property tax revenues from the former Agency's redevelopment project areas. The actions of the Oversight Board are subject to the approval of the State Department of Finance.

The Successor Agency is required to prepare a draft Recognized Obligation Payment Schedule ("ROPS") for each six month period of its operations (January through June, and July through December), which it submits to the Oversight Board for approval. The ROPS lists all the financial obligations of the former Agency and the amount of property tax increment revenue needed over the six month period to pay those obligations. Upon approval of the Oversight Board, and with the concurrence of the Department of Finance, the Successor Agency may receive property tax increment revenues from the County Auditor-Controller to pay the approved obligations. Another responsibility of the Oversight Board is to approve the Successor Agency administrative budgets for each six month period.

In June of 2012, the California legislature approved AB 1484 which made many changes to the redevelopment dissolution process and added new requirements. AB 1484 changed the completion date of the Third ROPS (January to June of 2013) from October 1 to September 1. The legislation also specified that the Third ROPS was to be submitted to DOF electronically using a form created by the DOF. AB 1484 significantly increased DOF's authority to accept, reject or require the modification of a successor agency ROPS. DOF now has clear authority to overturn actions of oversight boards when it disagrees.

Item #2

STAFF REVIEW

On May 24, 2012, the Oversight Board approved the First ROPS (January to June of 2012) and the Second ROPS (July to December 2012). The Third ROPS (January to June of 2013) must be approved by the Oversight Board and submitted to the County Auditor Controller and the California Department of Finance by September 1, 2012. The attached Third ROPS and Administrative Budget was approved by the Lawndale Successor Agency on August 6, 2012.

The Third ROPS must be submitted using a DOF approved form which the DOF released at the end of the day on August 1, 2012. The new form requires more information for each line item on the Third ROPS. The DOF form also requires a significant amount of information regarding successor agency expenditures during the First ROPS period (January to June, 2012). The Oversight Board's agenda packet was completed on August 9, 2012 and in the five work days following the availability of the DOF ROPS form, staff has not had time to complete this document. Therefore, staff is requesting that the Oversight Board approve a Third ROPS which uses the prior ROPS format. At the August 16 oversight Board meeting, staff will provide the Oversight Board with a partially completed ROPS which uses the DOF form. Staff believes that it will need until August 31 to gather the additional data required for the DOF form.

Staff's experience with prior DOF redevelopment forms is that they have been created quickly and subject to differing interpretations. The new ROPS form is no exception. In past months, the DOF has addressed the ambiguity of their forms with advisories, sometimes issuing advisories hours before the submission deadline. Staff requests that the Oversight Board authorize staff to convert the attached ROPS to the DOF format following Oversight Board approval.

Explanation of 3rd ROPS Line Items

The 3rd ROPS has 25 line items. I will not attempt to explain the line items individually. What follows is a description of types of obligations listed on the ROPS:

DOF Approved Enforceable Obligations with Fixed Payment Dates - listed under this heading are a redevelopment agency bond issue and a loan from the State of California Infrastructure Bank. These recurring payments were approved by the DOF on the First and Second ROPS.

Successor Agency Administration – the obligations under this heading are the administrative costs of the Successor Agency and include the annual administrative allowance, an annual redevelopment agency audit. These line items were approved by DOF on the Second ROPS.

Audits Required by AB 1484 – The California Legislature approved AB 1484 in June of 2012. The legislation added new requirements for the dissolution process including the preparation of a review of the Low and Moderate Income Housing Fund and a second review of other agency funds. The two reviews are discussed in greater detail in the “AB 1484 and Future Meetings” staff report.

Obligations Without Fixed Payment Dates – When it went out of existence on February 1, 2012, the Lawndale Redevelopment Agency had an obligation to pay all of its FY 2011 statutory pass through payments and a portion of the FY 2012 pass through payments to its

neighboring taxing agencies. The Successor Agency paid all of the FY 2011 pass-through obligation in June of 2012 and has recently paid most of the FY 2012 pass-through. The final payment for the FY 2012 pass-through payments will be provided during the Third ROPS period. The pass through payments must be paid, but State Law does not specify when they are to be paid.

ABx1 26 states that loans from a city to a redevelopment agency made in the first two years of an agency's existence are enforceable obligations. The City of Lawndale made one such loan to its redevelopment agency in 1991 and this loan was approved by the DOF when it approved the Second ROPS.

Disputed Obligations – The DOF verbally instructed staff to remove items from the Second ROPS on May 23, 2012, and rejected items listed on the First ROPS in their May 27, 2012 letter (attached) approving the First and Second ROPS. The Lawndale Successor Agency wished to contest several of these disapprovals, but on July 12, 2012, the DOF released a letter (attached) stating that they would not meet or accept any appeals regarding rejected items, but allowed that rejected items could be considered as part of the Third ROPS review. So that it can obtain DOF review of rejected items, the Successor Agency has listed them on the Third ROPS. The instructions for the new DOF ROPS form state that if a successor agency wishes to obtain a DOF review of a previously rejected item, it may include in on the Third ROPS.

Eligible Expenditures After Finding of Completion – AB 1484 contains an incentive for successor agencies. If a successor agency can obtain a Finding of Completion from the DOF then it may spend unobligated bond proceeds, retain redevelopment property, and city loans may be repaid. The Third ROPS lists obligations that could be paid if the successor Agency is able to obtain a Finding of Completion in the Spring of 2013.

Potential Expenditures if Manhattan/Hawthorne Site Returned to Successor Agency – The former Redevelopment Agency owned property at the southeast corner of Manhattan Beach and Hawthorne Boulevards. The Agency transferred the property the City. If the property is transferred back the to the Successor Agency, the Successor Agency and Oversight Board may need to make additional expenditures to manage the park, close the park or sell the park. These contingent expenditures were previously approved by DOF.

FUNDING

None required at this time.

RECOMMENDATION

Staff recommends that the Oversight Board adopt Resolution 2012-1 approving the Third ROPS and Resolution 2012-2 approving the Third Administrative Budget for the period, January 1 to June 30, 2013 and authorize staff to revise the Third ROPS and Third Administrative Budget as required by the California Department of Finance.

Attachments: Third ROPS
Administrative Budget
DOF letter on First and Second ROPS
DOF Appeal Letter

I:\COMMUNITY DEVELOPMENT DEPARTMENT\Oversight Board\Aug16-2012 Meeting\3rd ROPS\ROPS staffreportV3.doc



May 27, 2012

Steven Mandoki, City Manager
City of Lawndale
14717 Burin Avenue
Lawndale, CA 90260

Dear Mr. Mandoki:

Subject: Recognized Obligation Payment Schedule Approval Letter

Pursuant to Health and Safety Code (HSC) section 34177 (l) (2) (C), the City of Lawndale Successor Agency submitted Recognized Obligation Payment Schedules (ROPS) to the California Department of Finance (Finance) on May 17, 2012 for period January to June 2012 and On May 24, 2012 for the period of July to December 2012. Finance is assuming appropriate oversight board approval. Finance has completed its review of your ROPS, which may have included obtaining clarification for various items.

Finance is approving the items listed in both ROPS submitted except for the following:

January through June, 2012

- Line 3, 23, and 47 totaling \$3 million. Documentation provided identifies the City, not the former RDA, as contractually obligated to the third party. Therefore, these items are not enforceable.
- Line 12 and 13 totaling \$72,778. HSC section 34163(b) prohibits a redevelopment agency from entering into a contract with any entity after June 27, 2011. It is our understanding that contracts for these line items were awarded after June 27, 2011.
- Item 44 in the amount of \$65,500. HSC section 34176 (a) states that if a city or county that authorized the creation of an RDA elects to retain the responsibility for performing housing functions, all rights, powers, duties, and obligations shall be transferred to the city or county. Further, 34176 (c) states that the housing successor may enforce affordability covenants and perform related activities. Related activities such as oversight costs on housing assets is an optional obligation of the housing successor, not of the Successor Agency for the RDA. Therefore, this is not an enforceable obligation.
- Item Nos. 45 and 46 totaling \$1.8 million. No supporting documentation was provided to establish this EO.
- Administrative cost of \$151,258 is not allowed. HSC section 34171 (b) limits the 2011-12 administrative cost allowance to five percent of the property tax allocated to the successor agency or \$250,000, whichever is greater. Five percent of the property tax allocated to the Successor Agency in 2011-12 is \$121,638. Since there is a \$250,000 minimum funding for administrative expenses, we are questioning

Mr. Mandoki
May 24, 2012
Page 2

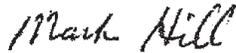
\$151,258 of the claimed \$401,258. The following items are administrative costs:
items 4, 6 and 43.

This is our determination with respect to any items funded from the Redevelopment Property Tax Trust Fund for the June 1, 2012 property tax allocations. If your oversight board disagrees with our determination with respect to any items not funded with property tax, any future resolution of the disputed issue may be accommodated by amending the ROPS for the appropriate time period. Items not questioned during this review are subject to a subsequent review, if they are included on a future ROPS. If an item included on a future ROPS is not an enforceable obligation, Finance reserves the right to remove that item from the future ROPS, even if it was not removed from the preceding ROPS.

Please refer to Exhibit 12 at http://www.dof.ca.gov/assembly_bills_26-27/view.php for the amount of Redevelopment Property Tax Trust Fund (RPTTF) that was approved by Finance based on the schedule submitted.

As you are aware the amount of available RPTTF is the same as the property tax increment that was available prior to ABx1 28. This amount is not and never was an unlimited funding source. Therefore as a practical matter, the ability to fund the items on the ROPS with property tax is limited to the amount of funding available in the RPTTF.

Sincerely,



MARK HILL
Program Budget Manager

cc: Mr. Otis Ginoza, Deputy City Manager, City of Lawndale
Mr. Ken Louie, Finance Director, City of Lawndale
Ms. Kristina Burns, Program Specialist III, Los Angeles County



July 12, 2012

TO REDEVELOPMENT SUCCESSOR AGENCY REPRESENTATIVES

Subject: Request to Revise Recognized Obligations Payment Schedules and Requests for Reconsideration

Pursuant to Health and Safety Code (HSC) section 34177 (l) (2) (C), the California Department of Finance (Finance) has completed its review of Recognized Obligation Payment Schedules (ROPS) for the periods January through June 2012 and July through December 2012 and issued approval letters accordingly.

All distributions from the Redevelopment Property Tax Trust Fund (RPTTF) were required by law to be made on June 1, 2012 covering obligations for July 2012 through December 2012, as well as adjusting for property tax funding needs for the January through June 2012 period.

Pursuant to section 34183.5 (b)(2)(A), the county auditor-controller had to determine the amount, if any, that is owed by each successor agency to taxing entities based on ROPS approved by the Department. Therefore, the RPTTF amounts approved by Finance (as shown in Exhibit 12 at http://www.dof.ca.gov/assembly_bill_26-27/view/php) will remain final. Although we have continued to work diligently with each successor agency to review additional information and/or documentation related to disputed ROPS items, we are no longer accepting revised ROPS or requests to reconsider denied items nor making any revisions to existing requests. Any and all revised ROPS submitted to Finance for previous ROPS periods are hereby rejected. Requests to reconsider denied or disputed ROPS items will be addressed in our January through June 2013 ROPS review.

Please send any inquiries by email to: Redevelopment_Administration@dof.ca.gov.

Sincerely,

KRISTIN SHELTON
Program Budget Manager

cc: County Auditor-Controllers

RESOLUTION NO. 2012 -1

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO
THE LAWDALE REDEVELOPMENT AGENCY APPROVING THE
RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE
JANUARY 1 – JUNE 30, 2013 SIX-MONTH FISCAL PERIOD
("THIRD ROPS") AND MAKING RELATED FINDINGS AND
DECLARATIONS AND TAKING RELATED ACTIONS IN
CONNECTION THEREWITH**

WHEREAS, pursuant to ABx1 26 (as amended by AB 1484, the "Dissolution Act"), the separate legal entity known as the Successor Agency of the Lawndale Redevelopment Agency (the "Successor Agency") must prepare "Recognized Obligation Payment Schedules" ("ROPS") that enumerate the enforceable obligations and expenses of the Successor Agency for each successive six-month fiscal period until the wind down and disposition of assets of the dissolved Lawndale Redevelopment Agency (the "Dissolved RDA") has been completed; and

WHEREAS, Successor Agency staff has prepared a ROPS for the six-month fiscal period commencing on January 1, 2013 and continuing through June 30, 2013 (the "Third ROPS") substantially in the form attached hereto and incorporated herein as Exhibit "1"; and

WHEREAS, under the Dissolution Act, the Third ROPS must be approved by the Successor Agency's oversight board (the "Oversight Board") and submitted to the Department of Finance to enable the Successor Agency to continue to make payments on enforceable obligations; and

WHEREAS, pursuant to the Dissolution Act, the Oversight Board for the Successor Agency met at a duly noticed public meeting on August 16, 2012 to consider specific obligations listed on the Third ROPS and to consider approval of the Third ROPS, among other approvals; and

WHEREAS, evidence was heard and presented from all persons interested in affecting the Third ROPS presented to and recommended for approval to the Oversight Board by Successor Agency staff, including written and oral comments from the public relating thereto, and the Oversight Board has reviewed, analyzed and studied the Third ROPS.

**NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO
THE LAWDALE REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:**

SECTION 1. The foregoing recitals are true and correct, and, together with information provided by the Successor Agency staff and the public, form the basis for the approvals, findings, resolutions, and determinations set forth below.

SECTION 2. Under Health and Safety Code Section 34180(g), the Oversight Board hereby approves the Third ROPS for the Successor Agency, including the agreements and obligations described in the Third ROPS, and hereby determines that such agreements and obligations constitute "enforceable obligations" and "recognized obligations" for all purposes of the Dissolution Act. In connection with such approval, the Oversight Board makes the specific findings set forth below.

SECTION 3. The Oversight Board has examined the items contained on the Third ROPS and finds that each of them is necessary for the continued maintenance and preservation of property owned by the Successor Agency until disposition and liquidation, the continued administration of the ongoing agreements herein approved by the Oversight Board, or the expeditious wind-down of the affairs of the Dissolved RDA by the Successor Agency.

SECTION 4. The Successor Agency is authorized and directed to enter into any agreements and amendments to agreements consistent with the Dissolution Act and necessary to memorialize and implement the agreements and obligations in the Third ROPS.

SECTION 5. The Oversight Board authorizes and directs the Successor Agency staff to take all actions necessary under the Dissolution Act to post the Third ROPS on the Successor Agency website, transmit the Third ROPS to the Auditor-Controller and the County Administrator of the County of Los Angeles and to the State Controller and the State Department of Finance (the "DOF"), and to take any other actions necessary to ensure the validity of the Third ROPS and the validity of any enforceable obligation approved by the Oversight Board in this Resolution. In addition, the Oversight Board authorizes and directs the Successor Agency staff to make such non-substantive revisions to the Third ROPS as may be necessary to submit the Third ROPS in any modified form required by the DOF, and the Third ROPS as so modified shall thereupon constitute the Third ROPS as approved by the Oversight Board pursuant to this Resolution.

SECTION 6. This Resolution shall be transmitted by Successor Agency staff to the Department of Finance and shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h).

PASSED, APPROVED AND ADOPTED this 16th day of August, 2012.

Chair

ATTEST:

State of California)
County of Los Angeles) SS
City of Lawndale)

I, _____, Secretary of the Successor Agency of the Lawndale Redevelopment Agency, do hereby certify that the Members of the Successor Agency of the Lawndale Redevelopment Agency duly approved and adopted the foregoing Resolution No. _____ at a regular meeting of said Successor Agency held on the ___ day of _____, 2012, by the following roll call vote:

Ayes:

Noes:

Absent:

Abstain:

Secretary

F:\COMMUNITY DEVELOPMENT DEPARTMENT\Oversight Board\Aug16-2012 Meeting\3rd ROPS\3rdROPSResoV2.doc

3rd Lawndale Recognized Obligation Payment Schedule (January 1, 2013 to June 30, 2013)

Exhibit 1

Project Name	Payee	Description	Initial Date	Source of Repayment	Total Outstanding Debt or Obligation	Total Due by 6/30/2013	Payments by Month, FY 2011-2012					Total	
							Jan	Feb	Mar	Apr	May		Dec
DOF Approved Enforceable Obligations With Fixed Payment Dates													
1) 2009 Tax Allocation Bonds	Wells Fargo	Bond Debt Service	9/21/2009	RPTTF	20,060,000	527,119	527,119					527,119	
2) Hawthorne Blvd I-Bank Loan	Wells Fargo	Infrastructure Loan	7/15/2002	RPTTF	1,559,439	28,460	28,460					28,460	
Successor Agency Administration													
3) Successor Agency staff and supplies	City of Lawndale	successor agency administration		RPTTF	250,000	100,000	16,667	16,667	16,667	16,667	16,667	100,000	
4) Agency Audit	City of Lawndale	Agency Audit	10/16/2008	RPTTF	8,700	4,350					4,350	0	
Audits Required by AB 1484													
5) Housing Fund Audit		34179.5 Review - Housing		RPTTF	10,000	10,000						10,000	
6) Other Funds Audit		34179.5 Review - Other		RPTTF	10,000	10,000						10,000	
DOF Approved obligations Obligations Without Fixed Payment Dates													
7) FY 2012 Statutory Pass-through	Multiple taxing entities	2nd 2012 Pass-through Payment		RPTTF	95,806	95,806						95,806	
8) City/Agency Advance Agreement	City of Lawndale	City loan to the Redevelopment Agency	4/4/1991	RPTTF	983,165	983,165						983,165	
Sub Total													
												1,758,900	
Disputed Obligations													
9) Hopper Park I-Bank Loan	Calif Infra Bank	Hopper Park Infrastructure Loan	2/1/2010	RPTTF	704,739	12,356	12,356					12,356	
10) Lawndale Community Center	City of Lawndale	Construct Community Center (2009 TAB's)	8/3/2009	Bond proceeds	2,887,389	2,887,389		0	0	0	0	2,887,389	
11) Commercial Rehab Program	Paul Lei	CRP 30 Commercial Rehab contract	9/15/2010	RPTTF	15,440	15,440						15,440	
12) Commercial Rehab Program	Hagop C. Aparahamian	CRP 31 Commercial Rehab Contract	10/28/2010	RPTTF	57,338	57,338						57,338	
Eligible Expenditures After Finding of Completion													
13) SERAF Deferral	Successor Agency Housing Fund	Repay SERAF deferral	2/16/2010	RPTTF	816,730	0						0	
14) Expenditure of Bond Proceeds				RPTTF	6,614,518							0	
15) Repayment of City Loans	City of Lawndale	City Advance		RPTTF	10,564,245							0	
16) Repayment of City Loans	City of Lawndale	City Advance		RPTTF	728,242							0	
17) Repayment of City Loans	City of Lawndale	City Advance		RPTTF	4,512,306							0	
Potential Expenditures if Manhattan/Hawthorne site Returned to Successor Agency													
18) Hawthorne/Manhattan Development Site	OPC	Management of mobile home park	7/5/2011	Retained rents	28,000	0	0	0	0	0	0	0	
19) Mobile Home Park Closure	Mobile Home Park Tenants	Mobile Home Park Relocation Costs		RPTTF	321,578	0	0	0	0	0	0	0	
20) Mobile Home Park Closure	OPC	relocation consulting for mobile home park	7/5/2011	RPTTF	50,000	0						0	
21) Mobile Home Park Closure		demo mobile home park improvements		RPTTF	50,000	0						0	
22) Mobile Home Park Closure		CEOA and RIR for mobile home park closing		RPTTF	30,000	0						0	
23) Mobile Home Park Closure	City of Lawndale	project management for mobilehome park closure		RPTTF	64,316	0	0	0	0	0	0	0	
24) Disposition of Agency Property	Keyser Marston	land disposal strategy for successor agency	6/16/2008	RPTTF	5,000	0						0	
25) Disposition of Agency Property	unknown	Appraisals of agency owned property		RPTTF	6,000	0						0	
Totals													
					50,432,951	4,731,423	4,080,155	584,501	16,667	16,667	16,667	16,667	4,731,423

RESOLUTION NO. 2012 -2

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO
THE LAWDALE REDEVELOPMENT AGENCY APPROVING THE
SUCCESSOR AGENCY ADMINISTRATIVE BUDGET FOR THE
SIX-MONTH FISCAL PERIOD OF JANUARY 1 – JUNE 30, 2013
("THIRD ADMINISTRATIVE BUDGET") AND MAKING RELATED FINDINGS AND
DECLARATIONS AND TAKING RELATED ACTIONS IN
CONNECTION THEREWITH**

WHEREAS, pursuant to ABx1 26 (as amended by AB 1484, the "Dissolution Act"), the separate legal entity known as the Successor Agency of the Lawndale Redevelopment Agency (the "Successor Agency") must prepare administrative budgets for its general administrative costs and expenses for upcoming six-month intervals; and

WHEREAS, the Successor Agency staff has prepared an administrative budget for the six-month fiscal period commencing on January 1, 2013, and continuing through June 30, 2013 (the "Third Administrative Budget") in substantially the form attached hereto and incorporated herein as Exhibit "1"; and

WHEREAS, the Successor Agency is entitled to an administrative cost allowance (the "Administrative Cost Allowance") pursuant to Health and Safety Code Sections 34171(b) and 34183(a)(3) in the minimum amount of \$250,000 per fiscal year; and

WHEREAS, pursuant to the Dissolution Act the Successor Agency utilized \$150,000 of its administrative allowance in the period from July 1, 2012 to December 31, 2012 and will now use \$100,000 for administrative expenses during the period from January 1, 2013 to June 30, 2013; and

WHEREAS, under the Dissolution Act, the Third Administrative Budget must be submitted to the Oversight Board for the Successor Agency (the "Oversight Board") for approval; and

WHEREAS, pursuant to the Dissolution Act, the Oversight Board met at a duly noticed public meeting on August 16, 2012, to consider specific costs and expenses listed on the Third Administrative Budget and to consider approval of the Third Administrative Budget, among other approvals; and

WHEREAS, evidence was heard and presented from all persons interested in affecting the Third Administrative Budget presented to and recommended for approval to the Oversight Board by Successor Agency staff, including written and oral comments from the public relating thereto, and the Oversight Board has reviewed, analyzed and studied the Third Administrative Budget.

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE LAWDALE REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and incorporated herein, and, together with information provided by the Successor Agency staff and the public, form the basis for the approvals, findings, and determinations set forth below.

SECTION 2. Under Health and Safety Code Section 34177(j), the Third Administrative Budget has been submitted by the Successor Agency for consideration by the Oversight Board.

SECTION 3. The Oversight Board hereby finds that the Third Administrative Budget supports an Administrative Cost Allowance to the Successor Agency for the period covered by the Third Administrative Budget in the minimum authorized amount of \$100,000 and approves the Third Administrative Budget attached hereto as Exhibit "1", and authorizes the Successor Agency to incur costs for the general administrative activities and functions described in the Third Administrative Budget.

SECTION 4. The Oversight Board authorizes and directs the Successor Agency staff to take all actions necessary under the Dissolution Act to post the Third Administrative Budget on the Successor Agency website, to transmit the Third Administrative Budget to the Auditor-Controller (the "Auditor-Controller") and the County Administrator of the County of Los Angeles and to the State Controller and the State Department of Finance, to inform the Auditor-Controller of the Administrative Cost Allowance in the amount of \$100,000 for the period covered by the Third Administrative Budget, and to take any other actions necessary to ensure the validity of the Third Administrative Budget and corresponding Administrative Cost Allowance.

SECTION 5. This Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h).

PASSED, APPROVED AND ADOPTED this 16th day of August, 2012.

Chair

ATTEST:

State of California)
County of Los Angeles) SS
City of Lawndale)

I, _____, Secretary of the Successor Agency of the Lawndale Redevelopment Agency, do hereby certify that the Members of the Successor Agency of the Lawndale Redevelopment Agency duly approved and adopted the foregoing Resolution No. _____ at a regular meeting of said Successor Agency held on the ____ day of _____, 2012, by the following roll call vote:

Ayes:

Noes:

Absent:

Abstain:

Secretary

I:\COMMUNITY DEVELOPMENT DEPARTMENT\Oversight Board\Aug16-2012 Meeting\3rd ROPS\DOCS-#122142-v1-Lawdale_-_Oversight_Board_-_Administrative_Budget_Adoption_ResolutionV.DOC

Exhibit 1

Successor Agency to the Lawndale Redevelopment Agency

Administrative Budget for the Period January 1 to June 30, 2013

Personnel Costs	
Community Development Department	40,600
Finance Department	29,400
Operations	10,000
Legal	20,000
Total Budget Costs 1/1/13 -6/30/13	100,000



OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE LAWNDALE REDEVELOPMENT AGENCY

14717 BURIN AVENUE, LAWNDALE, CALIFORNIA 90260
PHONE (310) 973-3200, FAX (310) 644-4556
www.lawndalecity.org

DATE: August 16, 2012

TO: Honorable Chairman and Agency Members

FROM: Otis Ginoza, Deputy City Manager *OG*
Ken Louie, Finance Director

SUBJECT: Revised Administrative Budgets

BACKGROUND

Oversight board responsibilities include the review and approval of successor agency administrative budgets. On May 24, 2012, the Oversight Board for the Lawndale Successor Agency approved the Successor Agency 1st Administrative Budget (January to June 2012) and the 2nd Administrative Budget (July to December 2012).

STAFF REVIEW

A few days prior to the May 24 meeting of the Oversight Board, and after the administrative budget had been sent the Oversight Board, the California Department of Finance (DOF) instructed the Successor Agency staff to change the 2nd ROPS. On May 27, the DOF provided the Lawndale successor Agency with a letter disallowing certain expenditures on the 1st ROPS. As a result of the actions of the DOF, the administrative budgets approved by the Oversight Board on May 27th are no longer accurate and must be amended.

The DOF disallowed the inclusion of legal expenses as a separate enforceable obligations on the First and Second Administrative Budgets and directed that this expense be paid from the administrative allowance.

FUNDING

None required at this time.

RECOMMENDATION

Staff recommends that the Oversight Board approve the revised Successor Agency 1st Administrative Budget (January to June 2012) and the 2nd Administrative Budget (July to December 2012).

Attachments: Revised First and Second Administrative Budgets

RESOLUTION NO. 2012 -3

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE LAWDALE REDEVELOPMENT AGENCY REVISING THE SUCCESSOR AGENCY ADMINISTRATIVE BUDGETS FOR THE SIX MONTH FISCAL PERIOD OF JANUARY 1 – JUNE 30, 2012 (“FIRST ADMINISTRATIVE BUDGET”) AND THE SIX MONTH FISCAL PERIOD OF JULY 1 – DECEMBER 31, 2012 (“SECOND ADMINISTRATIVE BUDGET”) AND MAKING RELATED FINDINGS AND DECLARATIONS AND TAKING RELATED ACTIONS IN CONNECTION THEREWITH

WHEREAS, pursuant to ABx1 26 (as amended by AB 1484, the "Dissolution Act"), the separate legal entity known as the Successor Agency of the Lawndale Redevelopment Agency (the "Successor Agency") must prepare administrative budgets for its general administrative costs and expenses for upcoming six-month intervals; and

WHEREAS, under the Dissolution Act, the administrative budgets must be submitted to the Oversight Board for the Successor Agency (the "Oversight Board") for approval; and

WHEREAS, the Recognized Obligation Payment Schedules (ROPS) prepared by the Successor Agency contains administrative cost items and the California Department of Finance ("DOF") can make changes to the ROPS; and

WHEREAS, in compliance with the Dissolution Act the Oversight Board approved the Successor Agency's First Administrative Budget and Second Administrative Budgets and First and Second ROPS at the Oversight Board's initial meeting on May 24, 2012; and

WHEREAS, the DOF subsequently changed or directed Successor Agency staff to change the First and Second ROPS necessitating revisions to the First and Second Administrative Budgets; and

WHEREAS, pursuant to the Dissolution Act, the Oversight Board met at a duly noticed public meeting on August 16, 2012, to consider revisions to the First and Second Administrative Budgets among other approvals; and

WHEREAS, after reviewing the Revised First and Second Administrative Budgets (collectively attached hereto and incorporated herein as Exhibit 1) presented to and recommended for approval to the Oversight Board by Successor Agency staff, and after reviewing written and oral comments from the public relating thereto, the Oversight Board desires to approve the Revised First and Second Administrative Budgets and to make the following accompanying findings, resolutions and determinations.

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE LAWDALE REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and incorporated herein, and, together with information provided by the Successor Agency staff and the public, form the basis for the approvals, findings, and determinations set forth below.

SECTION 2. The Oversight Board hereby finds that the Revised First Administrative Budget supports an Administrative Cost Allowance to the Successor Agency for the period covered by the Revised First Administrative Budget in the minimum authorized amount of \$250,000 for the fiscal year and that the Revised Second Administrative Budget supports and Administrative Cost Allowance for the period covered by the Revised Second Administrative Budget in the amount of \$150,000 and approves the Revised First and Second Administrative Budgets, in the form presented to the Oversight Board and attached hereto as Exhibit 1, and authorizes the Successor Agency to incur costs for the general administrative activities and functions described in the Revised First and Second Administrative Budgets.

SECTION 3. The Oversight Board authorizes and directs the Successor Agency staff to take all actions necessary under the Dissolution Act to post the Revised First and Second Administrative Budgets on the Successor Agency website, to transmit the Revised First and Second Administrative Budgets to the Auditor-Controller (the "Auditor-Controller") and the County Administrator of the County of Los Angeles and to the State Controller and the State Department of Finance, and to take any other actions necessary to ensure the validity of the Revised First and Second Administrative Budgets.

SECTION 4. This Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h).

PASSED, APPROVED AND ADOPTED this 16th day of August, 2012.

Chair

ATTEST:

State of California)
County of Los Angeles) SS
City of Lawndale)

I, _____, Secretary of the Successor Agency of the Lawndale Redevelopment Agency, do hereby certify that the Members of the Successor Agency of the Lawndale Redevelopment Agency duly approved and adopted the foregoing Resolution No. _____ at a regular meeting of said Successor Agency held on the ____ day of _____, 2012, by the following roll call vote:

Ayes:

Noes:

Absent:

Abstain:

Secretary



OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE LAWDALE REDEVELOPMENT AGENCY

14717 BURIN AVENUE, LAWDALE, CALIFORNIA 90260
PHONE (310) 973-3200, FAX (310) 644-4556
www.lawndalecity.org

DATE: August 16, 2012
TO: Honorable Chairman and Agency Members
FROM: Otis Ginoza, Deputy City Manager 
SUBJECT: Litigation and the Calculation of Pass-through Payments

BACKGROUND

Oversight Board Member John Vinke has requested that this item be placed on the agenda. California Redevelopment Law (CRL) required redevelopment agencies to share a portion of the property tax they received with other government agencies. Each year redevelopment agencies provided statutory pass-through payments to the school districts, cities, special districts and other taxing entities. Redevelopment agencies calculated the amount of the pass-through payments based on the recipient's share of the property tax determined each year by Los Angeles County.

The Los Angeles County Unified School District (LAUSD) sued the County of Los Angeles contending that the County had not correctly calculated the LAUSD share of the statutory pass-through payments from redevelopment agencies. Many redevelopment agencies were also defendants in this litigation. The arguments regarding the proper way to calculate the schools share of the redevelopment agency payments is very technical and complex and are described in the attached documents.

STAFF REVIEW

The LAUSD litigation seems to have been successful and it is our understanding the LAUSD and Los Angeles County have been discussing how to calculate the school share of the pass-through payments. If the final resolution is that the tax share was improperly calculated and LAUSD is entitled to additional tax revenues, it is possible that the Lawndale Successor Agency will need to provide additional payments to affected school districts. The Lawndale Redevelopment Agency prior pass-through payments were based on the property tax shares determined by Los Angeles County.

Should the Lawndale Successor Agency owe additional funds to the school districts, it would likely add this debt as a line item on its ROPS and collect additional tax increment from Los Angeles County to provide the payments.

FUNDING

None required at this time.

RECOMMENDATION

Staff recommends that the Oversight Board receive and file this report

Attachments: Documents related to Los Angeles Unified School District v. County of Los Angeles

I:\COMMUNITY DEVELOPMENT DEPARTMENT\Oversight Board\Aug16-2012 Meeting\Pass-through Payments\Pass-through.doc

LAWDALE ELEMENTARY SCHOOL DISTRICT

4161 West 147th Street • Lawndale, CA 90260 • (310) 973-1300 FAX (310) 263-6492



May 11, 2012

Mr. Otis Ginoza
City of Lawndale
Successor Agency to the RDA
14717 Burin Avenue
Lawndale, CA 90260

Dear Mr. Ginoza:

Re: Formal Notice of Claim Related to the Calculation of Pass-Through Payments to the Lawndale School District

It is the Lawndale School District's understanding that in 2007 the Los Angeles Unified School District (LAUSD) filed a lawsuit against the County of Los Angeles and others alleging that the County had been improperly excluding ERAF revenues when calculating LAUSD's share of statutory pass-through payments under Health and Safety Code section 33607.5(a)(2). It is our further understanding that LAUSD prevailed at the Court of Appeal in *Los Angeles Unified School District v. County of Los Angeles et al.* 181 Cal App. 5th 414,427 (2010), and that ERAF revenues must be treated as property taxes for the purposes of calculating pass-through payments.

Therefore, to protect and preserve the interests of the Lawndale School District, this formal notice of claim is presented for any additional amounts that might be due to the Lawndale School District resultant from the calculations of amounts due to the school district in the form of pass-through payments.

We would also request periodic updates as to the status of this matter and its ultimate resolution.

Sincerely,



John D. Vinke
Deputy Superintendent, Business Services

JDV

Enclosures: Certified for Publication, LAUSD v. County of Los Angeles
League of California Cities, Status Report on LAUSD v. County of
Los Angeles

cc: Monique Benjamin, Director of Accounting
Ellen Dougherty, Superintendent
Wendy Watanabe, L.A. County Auditor-Controller

Filed 1/27/10

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

LOS ANGELES UNIFIED SCHOOL
DISTRICT,

Plaintiff and Appellant,

v.

COUNTY OF LOS ANGELES et al.,

Defendants and Respondents;

CITY OF LOS ANGELES et al.,

Real Parties in Interest and
Respondents.

B213703

(Los Angeles County
Super. Ct. No. BS108180)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Emilie H. Elias, Judge. Reversed and remanded.

Strumwasser & Woocher, Michael J. Strumwasser, Gregory G. Luke, Aparna
Sridhar; Los Angeles Unified School District Office of the General Counsel, John F.
Walsh, and Gregory L. McNair for Plaintiff and Appellant.

Troutman Sanders, Paul L. Gale, Erik M. Pritchard, Jenece D. Solomon, and Peter R. Lucier; Robert E. Kalunian, Acting County Counsel (Los Angeles), and Thomas M. Tyrell, Principal Deputy County Counsel, for Defendants and Respondents County of Los Angeles and J. Tyler McCauley, as Auditor-Controller for the County of Los Angeles, and Real Parties in Interest and Respondents Antelope Valley Resource Conservation District, Bell Gardens Lighting District, Consolidated Fire Protection District of Los Angeles County, Consolidated Maintenance Sewage District; Firestone Garbage Disposal District, Los Angeles County Flood Control District, Los Angeles County Lighting Maintenance District No. 1697, Los Angeles County Sanitation District, Los Angeles County Sanitation District No. 23-Refuse T & D System, Los Angeles County Sanitation District No. 1 Operating, Los Angeles County West Vector Control District, Mesa Heights Garbage Disposal District, and Wilmington Cemetery District.

Kane Ballmer & Berkman, Murray O. Kane, Donald P. Johnson, Susan Y. Cola; Carmen A. Trutanich, City Attorney (Los Angeles), and Colleen M. Courtney, Deputy City Attorney, for Defendants and Respondents Community Redevelopment Agency of the City of Los Angeles and Maywood Redevelopment Agency and Real Parties in Interest and Respondents City of Lynwood, City of Maywood, Culver City, and Culver City Redevelopment Agency.

Alvarez-Glassman & Colvin and Roger A. Colvin for Defendant and Respondent City of Bell Gardens Redevelopment Agency and Real Party in Interest and Respondent City of Bell Gardens.

Robert E. Shannon, City Attorney (Long Beach), and Randall C. Fudge, Deputy City Attorney, for Defendant and Respondent Redevelopment Agency of the City of Long Beach and Real Party in Interest and Respondent City of Long Beach.

Aleshire & Wynder, June S. Ailin, William W. Wynder, and Dawn C. Honeywell for Defendants and Respondents City of Carson Redevelopment Agency and City of Lynwood Redevelopment Agency and Real Parties in Interest and Respondents City of Carson and City of Lynwood.

Richards Watson Gershon, Gregory M. Kunert, Michael Estrada, and Roxanne M. Diaz for Defendants and Respondents Community Development Commission of the City of Huntington Park, San Fernando Redevelopment Agency, and West Hollywood Redevelopment Agency [West Hollywood Community Development Commission] and Real Parties in Interest and Respondents City of Huntington Park, City of San Fernando, City of West Hollywood, and West Hollywood Lighting Maintenance District.

Jeff A. Harrison, and Willard G. Yamaguchi for Defendant and Respondent City of Vernon Redevelopment Agency and Real Party in Interest and Respondent City of Vernon.

Vanderford & Ruiz, Rodolfo F. Ruiz, and Paloma Peracchio for Defendant and Respondent Cudahy Redevelopment Agency and Real Parties in Interest and Respondents City of Cudahy and City of Cudahy Lighting District Zone 1.

Eduardo Olivo, City Attorney (Commerce), and Bruce Bartram for Defendant and Respondent Commerce Community Development Commission and Real Party in Interest and Respondent City of Commerce.

Carpenter, Rothans & Dumont, Steven J. Rothans, Justin Reade Sarno, and David G. Torres-Siegrist for Defendant and Respondent City of South Gate Community Development Commission and Real Party in Interest and Respondent City of South Gate.

Carmen A. Trutanich, City Attorney (Los Angeles), and Todd T. Leung, Deputy City Attorney, for Real Party in Interest and Respondent City of Los Angeles.

Sedgwick, Detert, Moran & Arnold and Curtis D. Parvin for Real Party in Interest and Respondent Central Basin Municipal Water District.

Meyers Nave Riback Silver & Wilson and James M. Casso for Real Party in Interest and Respondent Water Replenishment District of Southern California—Central & West Basin.

Lemieux & O'Neill, W. Keith Lemieux, Steven P. O'Neill, and Christine Carson for Real Party in Interest and Respondent West Basin Municipal Water District.

Thomas & Thomas, Andrew J. Thomas, and J. Michael Echevarria for Real Party in Interest and Respondent Greater Los Angeles County Vector Control District.

Karen L. Tachiki, General Counsel, Sydney B. Bennion, Assistant General Counsel, and Peter E. vonHaam, Senior Deputy General Counsel, for Real Parties in Interest and Respondents City of Long Beach Area-Southern California Metropolitan Water District, City of Los Angeles Area-Southern California Metropolitan Water District, City of San Fernando Area-Southern California Metropolitan Water District, Central Basin-Southern California Metropolitan Water District, and West Basin-Southern California Metropolitan Water District.

Mitchell R. Weinbaum for Real Party in Interest and Respondent Compton Creek Mosquito Abatement District.

This is an appeal from the denial of a petition for writ of mandate. Plaintiff Los Angeles Unified School District (LAUSD) petitioned to compel defendants County of Los Angeles, City of Los Angeles, and numerous community redevelopment and other

local agencies¹ (collectively, the County) to increase its allocation of community redevelopment project mitigation payments (pass-through payments) under Health and Safety Code section 33607.5. We conclude, as a matter of law, that LAUSD's pass-through payments have been based on an erroneous calculation of its percentage share of property taxes. Given that LAUSD's right to reimbursement has yet to be litigated, we reverse and remand for further proceedings.

FACTUAL AND PROCEDURAL BACKGROUND

This appeal presents a single legal issue regarding the correct allocation of LAUSD's pass-through payments under Health and Safety Code section 33607.5. The petition, filed on March 29, 2007, cites two relevant statutory schemes: (1) the Educational Revenue Augmentation Fund (ERAF) legislation (Rev. & Tax. Code, §§ 97.2, 97.3), which was enacted in 1992 as former section 97.03 of the Revenue and Taxation Code (Stats. 1992, ch. 699, § 12, pp. 3093-3096; Stats. 1992, ch. 700, § 4, pp. 3120-3125); and (2) the pass-through legislation (Health & Saf. Code, § 33607.5), which was enacted in the Community Redevelopment Law Reform Act of 1993 (Stats. 1993, ch. 942 (Assem. Bill No. 1290)). Before discussing these two statutes, we briefly review the relevant events preceding their enactment.

Since 1971, the division of state and local responsibility for educational funding has "been in a state of flux." (*City of El Monte v. Commission on State Mandates* (2000))

¹ The defendants are: County of Los Angeles; J. Tyler McCauley, as Auditor-Controller for the County of Los Angeles; Community Redevelopment Agency of the City of Los Angeles; Maywood Redevelopment Agency; City of Bell Gardens Redevelopment Agency; Redevelopment Agency of the City of Long Beach; City of Carson Redevelopment Agency; City of Lynwood Redevelopment Agency; Community Development Commission of the City of Huntington Park; San Fernando Redevelopment Agency; West Hollywood Redevelopment Agency; City of Vernon Redevelopment Agency; Cudahy Redevelopment Agency; Commerce Community Development Commission; and City of South Gate Community Development Commission.

83 Cal.App.4th 266, 278.) The state's responsibility for educational funding has increased since 1971 for three primary reasons.

First, in the 1970's, the California Supreme Court held that the state must ameliorate the disparities in local property tax-based educational funding. (*Serrano v. Priest* (1971) 5 Cal.3d 584; *Serrano v. Priest* (1976) 18 Cal.3d 728.) Second, in 1978, the voters adopted Proposition 13, now article XIII A of the California Constitution, which limited local property taxation. (See, e.g., *County of Los Angeles v. Sasaki* (1994) 23 Cal.App.4th 1442, 1450-1452 [after Prop. 13 was adopted, the share of local property tax revenue allocated to K-14 schools dropped from 53 percent to 35 percent by the 1991-1992 fiscal year].) Finally, in 1988, the voters enacted Proposition 98, which established a minimum guaranteed state funding entitlement for schools. (Cal. Const., art. XVI, § 8, subd. (b); see *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1275, fn. 8 [under Prop. 98, non-excess tax school entities are entitled to additional revenue from the state General Fund according to one of three formulas].)

The term "excess tax school entity" refers to "an educational agency for which the amount of the state funding entitlement determined under Section 2558, 42238, 84750, or 84751 of the Education Code, as appropriate, is zero." (Rev. & Tax. Code, § 95, subd. (n).) Under Proposition 98, non-excess tax-school entities (hereafter, schools) are entitled to additional revenue from the state General Fund in order to supplement the funds received from local property taxes. (*County of Sonoma v. Commission on State Mandates, supra*, 84 Cal.App.4th at p. 1275, fn. 8.)

The state's ability to meet its increased financial obligation to schools under Proposition 98 was severely tested in fiscal year 1991-1992, when the state "faced an unprecedented budgetary crisis . . . with expenditures projected to exceed revenues by more than \$14 billion." (*Department of Personnel Administration v. Superior Court* (1992) 5 Cal.App.4th 155, 163.) In response to this economic crisis, the Legislature

enacted the 1992 ERAF legislation, former Revenue and Taxation Code section 97.03² (presently § 97.2). The ERAF legislation lessened the burden imposed by Proposition 98 on the state General Fund by reducing the property tax allocation of cities, counties, and special districts, and shifting the amount of the reduction to ERAF's for distribution to schools. (*County of Los Angeles v. Sasaki, supra*, 23 Cal.App.4th at p. 1452; *City of El Monte v. Commission on State Mandates, supra*, 83 Cal.App.4th at p. 272.)

“The ERAF reallocation design can be summarized as requiring reduction of property tax revenues previously allocated to counties by use of a specified formula, deposit of the reduced amounts into ERAF's, and distribution of the ERAF funds to schools. Another portion of the same legislation deemed the ERAF revenues to be part of the state General Fund revenues for purposes of calculating the minimum educational funding guarantee under Proposition 98. [Fn. omitted.] The overall result of these statutes is that the tax revenues of the counties are decreased, school revenues remain the same, and the minimum school funding guarantee of Proposition 98 is satisfied in part by the ERAF funds. This legislative adroitness fulfilled the funding of Proposition 98 by reallocating available finite funds from one local governmental entity to another. (Legis. Analyst, Rep. to Joint Legis. Budget Com., analysis of 1993-1994 Budget Bill, p. 90.) [Fn. omitted.]” (*County of Sonoma v. Commission on State Mandates, supra*, 84 Cal.App.4th at pp. 1275-1276.)

In addition to shifting property taxes from other local entities to ERAF's for distribution to schools, the 1992 ERAF legislation added former section 33681 to the Health and Safety Code (repealed by Stats. 2002, ch. 1127, § 13, operative Jan. 1, 2004), which required redevelopment agencies to make supplemental deposits to ERAF's during fiscal years 1992-1993 and 1993-1994. (Stats. 1992, ch. 699, § 7, and ch. 700, § 1.5.) By subsequent legislation, the Legislature required redevelopment agencies to make supplemental deposits to ERAF's during fiscal years 1994-1995 (Health & Saf. Code, § 33681.7), 2002-2003 (*id.* at § 33681.7), 2003-2004 (*id.* at § 33681.9), 2004-2005 and

² All further statutory references are to the Revenue and Taxation Code.

2005-2006 (*id.* at § 33681.12). As provided in the Health and Safety Code, redevelopment agencies may make the required supplemental deposits to ERAF's with funds *other* than property taxes.³

In short, the ERAF legislation employed two separate funding mechanisms. One required the annual shift of property taxes from other local entities to ERAF's for distribution to schools (§§ 97.2, 97.3), and the other required the occasional deposit of funds (not limited to property taxes) by redevelopment agencies to ERAF's as required by the Health and Safety Code.

The pass-through legislation, which also applies to redevelopment agencies and schools, was enacted in 1993, one year after the ERAF legislation was adopted. (Health & Saf. Code, § 33607.5.) After a redevelopment project is established, all growth in property tax revenue that occurs after the initial or base year⁴ is commonly called the property tax increment. When certain requirements are met, a redevelopment agency may retain the property tax increment and apply it toward the indebtedness incurred in financing the redevelopment project. (Cal. Const., art. XVI, § 16, subds. (a), (b); see 11 Miller & Starr, Cal. Real Estate (3d ed. 2004) § 30B:6, p. 16.)

³ For example, Health and Safety Code section 33681.7, subdivision (c) provides that redevelopment agencies may make their supplemental ERAF deposits with any funds that are legally available and not legally obligated for other uses, including reserve funds, land sale proceeds, bond proceeds, lease revenues, interest, and earned income. (See also Health & Saf. Code, §§ 33681.9, subd. (c) [same], 33681.12, subd. (c) [same].)

⁴ Health and Safety Code section 33670 provides in relevant part that a "redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in a redevelopment project . . . after the effective date of the ordinance approving the redevelopment plan, shall be divided as follows: [¶] (a) That portion of the taxes . . . , last equalized prior to the effective date of the ordinance, shall be allocated to and . . . paid to the respective taxing agencies as taxes . . . on all other property are paid . . . ; and [¶] (b) . . . that portion of the levied taxes each year in excess of that amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness . . . incurred by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project. . . ."

The pass-through legislation requires redevelopment agencies to share or pass-through a portion of the property tax increment to affected local taxing entities, including schools. The Legislature declared pass-through payments are “necessary . . . to alleviate the financial burden and detriment that affected taxing entities may incur as a result of the adoption of a redevelopment plan, and payments made pursuant to this section will benefit redevelopment project areas.” (§ 33607.5, subd. (f)(1)(A).) Pass-through payments uniquely benefit schools in that they are deemed to contain fixed percentages of property tax and non-property tax revenue, and only the latter may be used for educational facilities. (Health & Saf. Code, § 33607.5, subd. (a)(4).)⁵

This litigation involves the overlap that exists between the ERAF and the pass-through legislation because the pass-through payments must be “allocated among the

⁵ “(4)(A) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to school districts, 43.3 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code, and 56.7 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities.

“(B) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to community college districts, 47.5 percent shall be considered to be property taxes for the purposes of Section 84751 of the Education Code, and 52.5 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities.

“(C) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to county offices of education, 19 percent shall be considered to be property taxes for the purposes of Section 2558 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities.

“(D) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section for special education, 19 percent shall be considered to be property taxes for the purposes of Section 56712 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for education facilities.

“(E) If, pursuant to paragraphs (2) and (3), an agency reduces its payments to an educational entity, the calculation made by the agency pursuant to paragraph (3) shall determine the amount considered to be property taxes and the amount available to be used for educational facilities in the year the reduction was made.” (Health & Saf. Code, § 33607.5, subd. (a)(4)(A)-(E).)

affected taxing entities . . . in proportion to the percentage share of property taxes each affected taxing entity . . . receives during the fiscal year the funds are allocated” (Health & Saf. Code, § 33607.5, subd. (a)(2).) In other words, the statutes overlap because the correct allocation of the pass-through payments is dependent upon the correct calculation of the percentage share of property taxes that each affected taxing entity receives during the fiscal year the funds are allocated.

The parties agree that the County has consistently ignored LAUSD’s ERAF revenue in calculating its percentage share of property taxes. This led to the present dispute regarding the proper allocation of LAUSD’s pass-through payments, which by statute is based on its percentage share of property taxes. In the bifurcated proceedings below, the trial court considered only the allocation issue, leaving LAUSD’s reimbursement claim for another date.

The trial court held that although LAUSD undeniably received ERAF revenue that was comprised primarily of property taxes, it was properly excluded from the calculation of its percentage share of property taxes. The trial court reasoned that because the pass-through legislation does not mention the ERAF legislation, the statutes “are separate statutory schemes that were not intended to be read together. Conflating the statutes as LAUSD requests would result in LAUSD obtaining a financial windfall to the detriment of non-school taxing entities. The Legislature does not appear to have intended such a result.”

The trial court entered judgment for the County. LAUSD has timely appealed.

DISCUSSION

The resolution of this appeal requires the statutory interpretation of the ERAF and the pass-through legislation. There are no disputed issues of material fact.

I. Standard of Review

“Under the rules of statutory construction, we bear in mind that our primary task is to determine the intent of the Legislature so as to effectuate the purpose of the law. (*Kane v. Hurley* (1994) 30 Cal.App.4th 859, 862.) In determining legislative intent, we first look to the statutory language itself. (*Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1386.) ‘The words of the statute must be construed in context, keeping in mind the statutory purpose, and statutes or statutory sections relating to the same subject must be harmonized, both internally and with each other, to the extent possible.’ (*Id.* at p. 1387.)” (*De Anza Santa Cruz Mobile Estates Homeowners Assn. v. De Anza Santa Cruz Mobile Estates* (2001) 94 Cal.App.4th 890, 909.)

“Statutory interpretation is a question of law, which we review de novo. (*Burden v. Snowden* (1992) 2 Cal.4th 556, 562.) When statutory language is clear and unambiguous, there is no need for construction and we shall not indulge in it. (*Rojo v. Kliger* (1990) 52 Cal.3d 65, 73; *Squaw Valley Ski Corp. v. Superior Court* (1992) 2 Cal.App.4th 1499, 1512.)” (*San Miguel Consolidated Fire Protection Dist. v. Davis* (1994) 25 Cal.App.4th 134, 146 (*San Miguel*).)

II. The ERAF Legislation Was Incorporated Into the Yearly Allocation of Property Taxes

For the reasons that follow, we conclude that the answer to this appeal is found in the clear and unambiguous language of subdivision (d)(5) of sections 97.2 and 97.3 (jointly, subdivision (d)(5)).⁶ Given that it was not raised below or on appeal, we invited the parties to address subdivision (d)(5) in supplemental letter briefs.

⁶ In light of our determination that the statutory language is clear and unambiguous, we deny LAUSD’s supplemental request for judicial notice filed on November 10, 2009.

Section 96.1,⁷ which provides the basic method of allocating property taxes, allocates each jurisdiction's⁸ yearly property tax revenue based upon its previous allocation in the prior fiscal year. Subdivision (d)(5), which incorporates the ERAF legislation into section 96.1's yearly allocation of property taxes, states in relevant part: "For purposes of allocations made pursuant to Section 96.1 . . . , the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than amounts deposited in the Educational Revenue Augmentation Fund pursuant to . . . the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year."⁹

By incorporating the ERAF legislation into section 96.1's yearly allocation of property taxes, the Legislature implemented an annual shift of property taxes to ERAF's

⁷ Section 96.1, subdivision (a) provides in relevant part that "property tax revenues shall be apportioned to each jurisdiction pursuant to this section and Section 96.2 by the county auditor, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, to each jurisdiction in the following manner: [¶] (1) For each tax rate area, each jurisdiction shall be allocated an amount of property tax revenue equal to the amount of property tax revenue allocated pursuant to this chapter to each jurisdiction in the prior fiscal year, modified by any adjustments required by Section 99 or 99.02. [¶] (2) The difference between the total amount of property tax revenue and the amounts allocated pursuant to paragraph (1) shall be allocated pursuant to Section 96.5, and shall be known as the 'annual tax increment.' [¶] (3) For purposes of this section, the amount of property tax revenue referred to in paragraph (1) shall not include amounts generated by the increased assessments under Chapter 3.5 (commencing with Section 75)."

⁸ The term "jurisdiction" includes local agencies (cities, counties, and special districts), school districts, community college districts, and county superintendents of schools. (§ 95, subds. (a), (b).)

⁹ Subdivision (d)(5), as first enacted in 1992, stated that property taxes received by schools through the ERAF's were to be treated, with the exception of supplemental payments made by redevelopment agencies pursuant to former section 33681 of the Health and Safety Code, as "property tax revenue allocated to a *jurisdiction* in the prior fiscal year." (Former § 97.03, subd. (d)(4) [Stats. 1992, ch. 700, § 4, p. 3124], italics added.) In October 1992, the term "jurisdiction" was replaced by the term "Educational Revenue Augmentation Fund." (Stats. 1992, ch. 1369, § 10, p. 6885.)

for distribution to the schools. Although this shift was implemented at the expense of cities, counties, and special districts, the Legislature was clearly authorized to make this redistribution (Cal. Const., art. XIII A, § 1; *San Miguel, supra*, 25 Cal.App.4th at pp. 148-149), and “[i]t is not the province of the judiciary to second-guess the wisdom of legislative appropriations.” (*San Miguel, supra*, at p. 149, fn. 12.)

As explained in *San Miguel, supra*, 25 Cal.App.4th at page 143, local governments exercise only those powers that are granted by the state for the purpose of advancing state policy. (*County of Marin v. Superior Court* (1960) 53 Cal.2d 633, 638-639.) As against the state, local governments have no vested right to receive property tax revenues and have no property interest in those revenues. (*Marin Hospital Dist. v. Rothman* (1983) 139 Cal.App.3d 495, 501; *Board of Supervisors v. McMahon* (1990) 219 Cal.App.3d 286, 297.) Because local moneys are public moneys acquired under the authority of the state for public purposes, the Legislature may direct a local government to make any payment of its funds that it sees fit. (*Conlin v. Board of Supervisors* (1893) 99 Cal. 17, 21.) “[A]ll property under the care and control of a county is merely held in trust by the county for the people of the entire state. . . . The county holds all its property . . . as agent of the state. [Citations.]’ (*County of Marin v. Superior Court, supra*, 53 Cal.2d at pp. 638-639.)” (*San Miguel, supra*, 25 Cal.App.4th at p. 143.)

III. Any Property Tax Revenue Deemed Allocated to ERAF’s Under Subdivision (d)(5) Necessarily Qualifies as Property Tax Revenue to the School That Received It

The Legislature requires that pass-through payments must be “allocated among the affected taxing entities . . . in proportion to the percentage share of property taxes each affected taxing entity . . . receives during the fiscal year the funds are allocated” (Health & Saf. Code, § 33607.5, subd. (a)(2).) LAUSD contends that because it undeniably receives ERAF revenue that is allocated as property taxes to the ERAF under subdivision (d)(5), it must be included in the calculation of its percentage share of

property taxes, which will necessarily increase its future pass-through allocations. We agree.

Subdivision (d)(5) plainly and unambiguously states that property tax revenue shifted to ERAF's under sections 97.2 and 97.3 is deemed property tax revenue allocated to the ERAF's. Given that, in the County's words, "ERAFs are merely an accounting device," we are compelled to conclude that any property tax revenue deemed allocated to ERAF's under subdivision (d)(5) necessarily qualifies as property tax revenue to the school that received it.

The County contends that because the pass-through legislation (Health & Saf. Code, § 33607.5, subd. (a)(2)) does not mention the ERAF legislation (§§ 97.2, 97.3), the Legislature did not intend to include ERAF's in the pass-through allocations. We are not persuaded. By its terms, the pass-through legislation requires the County to allocate the pass-through payments according to the percentage share of property taxes that each affected taxing entity receives in a fiscal year. It is impossible to calculate correctly the property taxes that LAUSD receives while excluding the property taxes received from ERAF's.

When faced with overlapping statutes such as the ERAF and pass-through legislation, we must read them together so as to give effect, to the extent possible, to all of their provisions. (*De Anza Santa Cruz Mobile Estates Homeowners Assn. v. De Anza Santa Cruz Mobile Estates, supra*, 94 Cal.App.4th at p. 909.) Adopting the County's interpretation of the pass-through legislation would effectively eliminate subdivision (d)(5) from the ERAF legislation, which we decline to do.

The County argues that the annual shift of property taxes to ERAF's pursuant to subdivision (d)(5) is irrelevant to this appeal because only the state will benefit from a reduction in its funding obligation under Proposition 98. The County asserts that schools receive no benefit from subdivision (d)(5) because their ERAF revenue must be deducted from their annual revenue limit in order to determine the state's required Proposition 98 contribution. The County contends that including the ERAF revenue in the pass-through

allocations would unfairly give the schools “an unintended windfall – at the expense of the other affected taxing entities (the cities, counties and special districts).”

However, none of these assertions is persuasive in light of the Legislature’s clear and unambiguous declaration in subdivision (d)(5) that the shifted property taxes are “deemed property tax revenue allocated” to the ERAF. Regardless of the benefit to schools or the detriment to other affected taxing entities, it is not our province “to second-guess the wisdom of legislative appropriations. The forums for addressing this issue lie with the voters and the Legislature.” (*San Miguel, supra*, 25 Cal.App.4th at p. 149, fn. 12.)

If the Legislature had intended to exclude ERAF revenue from the pass-through allocations, we are confident that it knew “how to express such a concept.” (*De Anza Santa Cruz Mobile Estates Homeowners Assn. v. De Anza Santa Cruz Mobile Estates, supra*, 94 Cal.App.4th at p. 911.) We view its failure to do so as intentional rather than accidental, particularly when considered in conjunction with the clear and unambiguous language of subdivision (d)(5).

Finally, we note that the County’s reliance on the state Controller’s Office two-part review report is misplaced. We have found nothing in the report to indicate that it was intended to address the legal issue presented on appeal.

IV. Supplemental ERAF Deposits by Redevelopment Agencies Under the Health and Safety Code May Be Excluded From the Pass-Through Allocations

The County contends that because the Health and Safety Code allows redevelopment agencies to make supplemental ERAF deposits with non-property tax revenue, and because there is no mechanism for identifying and subtracting the non-property tax revenue from the ERAF’s, it may safely ignore all ERAF revenue in allocating the pass-through payments. We agree with the County’s first two premises, but disagree in part with its conclusion.

Unlike the property taxes that are shifted to ERAF’s pursuant to sections 97.2 and 97.3, supplemental deposits by redevelopment agencies may be made with non-property

tax revenue. Given that subdivision (d)(5) contains an exception that effectively precludes the County from treating the supplemental deposits as property taxes allocated to ERAF's, we conclude they were not intended to be treated as such. In our view, subdivision (d)(5) clearly differentiates between property taxes that are shifted and allocated to ERAF's, and supplemental deposits that may be made from other revenue sources and are not allocated to ERAF's. In light of this distinction, we conclude the supplemental ERAF deposits made by redevelopment agencies under the Health and Safety Code may be excluded from the pass-through allocations.

According to LAUSD's opening brief, the impact of this distinction is relatively small. LAUSD states that according to historical figures, "the supplemental contributions to ERAF required to be made by [redevelopment agencies] amount to only 1.64 percent of the total funds in ERAF [T]he supplemental contributions to ERAF required of [redevelopment agencies] amount to only 3 percent of the tax increment received by" redevelopment agencies.

DISPOSITION

The judgment is reversed and the matter remanded for further proceedings. Appellant LAUSD is awarded its costs on appeal.

CERTIFIED FOR PUBLICATION

SUZUKAWA, J.

We concur:

WILLHITE, Acting P.J.

MANELLA, J.



Status Report on *LAUSD v. County of Los Angeles* and Potential Impacts on Calculating Statutory Pass-Through Payments for Successor Agencies in a Post ABx1 26 World

Wednesday, May 2, 2012 General Session; 3:00 – 4:30 p.m.

Susan Y. Cola, Deputy City Attorney, Santa Monica
Donald J. Fraser, Fraser & Associates
Dave Schey, HdI Coren & Cone



Notes...

STATUS REPORT ON LAUSD V. COUNTY OF LA AND POTENTIAL IMPACTS ON CALCULATING STATUTORY PASS-THROUGH PAYMENTS IN A POST AB 26 WORLD

INTRODUCTION

On June 29, 2012, the Governor signed Assembly Bills ("AB") x1 26 and x1 27 (enacted as Stats. 2011, 1st Ex. Sess. 2011-2012, chs. 5-6 and codified in Parts 1.8 and 1.85 of Division 24 of the California Health and Safety Code), which purported to dissolve each redevelopment agency ("RDA") in the State unless each RDA made "voluntary" payments to both the county Educational Revenue Augmentation Fund ("ERAF") and a new county special district augmentation fund. The California Redevelopment Association filed its challenge to both statutes directly to the California Supreme Court. The Supreme Court issued a stay of certain portions of AB 1x 26 and AB x1 27, pending issuance of a final decision. On December 29, 2011, the California Supreme Court upheld AB x1 26 and struck down AB x1 27, dealing the final death blow to all RDAs throughout the State.

While AB x1 26 dissolved redevelopment agencies as of February 1, 2012 and created successor agencies ("Successor Agencies") to manage the winding down of the former redevelopment agency's business and liquidation and distribution of former RDA assets,¹ it preserved certain provisions of the Community Redevelopment Law (Health and Safety Code sections 33000 *et seq.*) relating to the calculation and distribution of statutory and negotiated pass through payments to affected taxing entities (local agencies and schools that levy taxes on property located within a redevelopment project area), although it shifted the responsibility for calculation and distribution of all pass through payments from the RDAs to county auditors-controllers.²

This paper discusses the context and current status of the lawsuit filed by the Los Angeles Unified School District ("LAUSD") against the County of Los Angeles and all (former) RDAs and non-school affected taxing entities within LAUSD's jurisdiction, which resulted in a Court of Appeal ruling in *Los Angeles Unified School District v. County of Los Angeles et al.*, 181 Cal. App. 4th 414,427 (2010). The LAUSD case is

¹ While AB x1 26 purported to dissolve the RDAs on October 1, 2012, the California Supreme Court exercised its power of reformation and revised each effective date or deadline for performance of an obligation in Part 1.85 of Division 24 of Health and Safety Code sections 34170-34191 arising before May 1, 2012 to take effect four months later.

² Health and Safety Code section 34183(a)(1) requires the county auditor-controller to remit to each local agency and school entity an amount of property tax revenues in an amount equal to that which it would have received under Section 33401, 33492.1490, 33607, 33607.5 336-7.7, or 33676, as those sections read on January 1, 2011.

relevant because it impacts how statutory pass through revenues must be calculated for all affected taxing entities under the codified provisions of AB x1 26.

BACKGROUND

a. **General property tax allocation and ERAF**

Property taxes are allocated to jurisdictions within a county on a pro rata basis based upon the property tax revenue allocated to each jurisdiction in the prior fiscal year. Revenue and Taxation Code section 96.1(a).

Revenue and Taxation Code sections 97.2(a)-(c) and 97.3(a)-(c) operate to shift a portion of cities', counties', and special districts' allocations of property tax revenues to the Education Augmentation Revenue Fund ("ERAF"). Revenue and Taxation sections 97.2(d)(5) and 97.3(d)(5) deem this shifted revenue as property tax revenue allocated to the ERAF in the prior fiscal year for purposes of Section 96.1(a). The consequence of this is that ERAF should receive a pro rata share of annual property taxes (and growth) along with all of the taxing entities.

Non-basic aid school districts such as LAUSD generally receive their revenues from three sources.³ First, they receive a pro rata share of annual property taxes under Section 96.1(a) since schools are taxing entities under that statute. Second, they may receive a share of property tax revenues that are distributed by the county auditor from the ERAF. These distributions are made to each non-basic aid school district in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district, as reported by the county superintendent of schools.⁴ This means that districts with higher pupil attendance and lower property tax revenues get a larger share of the ERAF distribution. Conversely, school districts with low pupil attendance and high property tax revenues may get no share of the ERAF distribution. Third, as a result of Proposition 98 (article XVI, section 8 of the California Constitution and implemented, in part, by Education Code section 43328), non-basic aid school districts receive State general fund revenues to ensure that each district receives a minimum level of total revenues (referred to as "back-fill").⁵ The ERAF shifts are designed to offset State aid under Proposition 98. If a district's allocation under Section 96.1(a) results in reduced annual revenues, the State must increase its contribution of general funds to ensure that the minimum level of funding is maintained. Similarly, to the extent that revenues are shifted away from the ERAF by the State to satisfy other State purposes (like the Triple Flip and Vehicle License Swap legislation, which is discussed in sections, below), the State has an obligation to backfill that shift by increasing its contribution of general

³ Non-basic aid school districts do not receive sufficient property tax revenues to meet minimum revenue limits for operation and are therefore entitled to receive an allocation of ERAF revenues. As of 2008, over 90% of the school districts in the State were non-basic aid school districts.

⁴ Revenue and Taxation Code sections 97.2(d)(2) and 97.3(d)(2).

⁵ See *Sonoma v. Commission on State Mandates et al.* (2000) 84 Cal. App. 4th 1264, 1289-91.

fund revenues to maintain the district's minimum level of funding.

b. Redevelopment tax increment

The property tax revenue formerly known as redevelopment tax increment is allocated under an entirely different structure. In essence, tax increment revenues are allocated by a constitutional formula (Article XVI, section 16 of the California Constitution), which is codified in Health and Safety Code section 33670 ("Section 33670"). Section 33670 provides that property taxes produced from the assessed values of property in a redevelopment project area as shown upon the assessment roll last equalized prior to the effective date of the ordinance adopting a redevelopment project area, must be allocated to the respective taxing agencies as taxes by or for the taxing agencies ("Base Allocation"). Taxes in excess of the Base Allocation are paid to the RDAs to pay principal and interest on RDA debt. Consequently, tax increment revenues are solely dependent upon the growth in assessed values of properties within a redevelopment project area after the ordinance creating a redevelopment project area is adopted.

Statutory Pass-Through Payments for Post-AB 1290 Plans⁶

In accordance with Health and Safety Code section 33607.5(a)(1), redevelopment project areas and territories added to existing project areas adopted after January 1, 1994 are subject to the following formula relating to their pass-through payments:

Tier 1

The first tier ("Tier 1") begins in the first fiscal year that the agency receives tax increment and continues through the last fiscal year in which the agency receives tax increment. The Tier 1 payment is defined as "25 percent of the tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted."

Tier 2

The second tier ("Tier 2") of the pass-through payment begins with 11th fiscal year in which the agency receives tax increment and continues through the last fiscal year in which the agency receives tax increment. The Tier 2 payment is defined as "21 percent of the portion of tax increments received by the agency, which shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the first adjusted base year assessed value" after deducting the amount allocated to the Low and Moderate Income Housing Fund. The first

⁶ AB 1290 went into effect on January 1, 1994 and ended the ability of redevelopment agencies to negotiate pass through agreements with affected taxing entities. In lieu of negotiated pass through agreements, affected taxing entities were entitled to receive a designated share of redevelopment agency revenues pursuant to Sections 33607.5 and 33607.7 of the Health and Safety Code.

adjusted base year assessed value is the assessed value of the project area in the 10th fiscal year in which the agency receives tax increment revenues. This payment is in addition to the Tier 1 payment discussed above.

Tier 3

The third tier ("Tier 3") begins in the 31st fiscal year in which the agency receives tax increments and continues through the last fiscal year in which the agency receives tax increments. The Tier 3 payment is defined as "14 percent of the portion of tax increments received by the agency, which shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the second adjusted base year assessed value" after deducting the amount allocated to the Low and Moderate Income Housing Fund. The second adjusted base year assessed value is the assessed value of the project area in the 30th fiscal year in which the agency receives tax increments. This payment is in addition to the Tier 1 and Tier 2 payments discussed above.

Comment: Although AB x1 26 eliminated the concept of tax increment and the obligations of RDAs to deposit 20% of tax increment into a low and moderate income housing fund ("LMIHF"), there is disagreement over whether pass through calculations should be made as if deposits to the LMIHF had occurred. If yes, then payments to the affected taxing entities would remain the same as pre-AB x1 26 payments. If not, then payments to affected taxing entities would increase to reflect the 20% increase in gross revenues, which may have the unintended consequence of reducing availability of funds for payments of enforceable obligations.

Tier 1 payments are calculated differently than Tier 2 and Tier 3 payments. Tier 1 specifically authorizes tax sharing of "25 percent of tax increment received by the agency", which includes all tax revenues allocated to the agency, including supplemental, unitary taxes, redemption payments and penalty revenues and is net of reductions due to taxpayer refunds. By contrast, the Tier 2 and Tier 3 payments are calculated based upon the tax increment revenue attributable to incremental assessed value, measured as the difference between the "current year assessed value" and the "adjusted base year value," which excludes supplemental revenues, unitary taxes, redemption payments, penalties, and refunds.

Statutory Tax Sharing for the Pre-AB 1290 Plans

In accordance with Section 33607.7, pass-through payments for the Pre-AB 1290 Plans are triggered by a plan amendment that (i) increases the limitation on the number of dollars to be allocated to the redevelopment agency, (ii) increases or eliminates the time limit to incur indebtedness, or (iii) lengthens the period during which the redevelopment plan is effective if the redevelopment plan being amended authorizes collection of tax increment.

If tax sharing obligations are triggered by any one or more of the events above, then

Section 33607.7(b) requires payment to each affected taxing entity either of the following:

(1) If an agreement exists that requires payments to the taxing entity, the amount required to be paid by an agreement between the agency and an affected taxing entity entered into prior to January 1, 1994.

(2) If an agreement does not exist, the amounts required pursuant to subdivisions (b), (c), (d), and (e) of Section 33607.5 (representing Tier 1, Tier 2 and Tier 3 payments), until termination of the redevelopment plan, "calculated against the amount of assessed value by which the current year assessed value exceeds an adjusted base year assessed value."

Section 33607.7(c) defines "the adjusted base year assessed value" as the assessed value of the project area in the year in which the limitation being amended would have taken effect without the amendment or, if more than one limitation is being amended, the first year in which one or more of the limitations would have taken effect without the amendment. Consequently, the Tier 1-3 payments for the Section 33607.7 project areas are calculated similarly to Tier 2 and 3 payments for the Section 33607.5 project areas.

Comment: Historically, some counties have improperly included supplemental revenues, unitary revenues, prior year collections, redemption payments, penalties, and refunds in their calculation of Tier 1 payments under Section 33607.7 (for pre-1994 project areas). This has resulted in overpayments to the counties and all other affected taxing entities, at the expense of the RDAs. The California Redevelopment Association sought and obtained an Attorney General Opinion No. 10-101 on behalf of all redevelopment agencies within the State, validating the RDAs interpretation of this improper practice. The State Controller, which has supervising jurisdiction over the implementation of Sections 33607.5 and 33607.7, recently issued correspondence to several counties, expressing its concurrence with the Attorney General Opinion.⁷

Distribution Formula for Sharing Pass Through Revenues

Section 33607.5(a)(2) provides the formula for calculating and distributing statutory pass through payments amongst the affected taxing entities, as follows:

(2) The payments made pursuant to this section shall be in addition to any amounts the affected taxing entities receive pursuant to subdivision (a) of Section 33670. *The payments made pursuant to this section to the affected taxing entities, including the community, shall be allocated among the affected taxing entities, including the community if the community elects to receive payments, in proportion to the percentage share of property taxes each*

⁷ Attorney General Opinion No. 10-101

affected taxing entity, including the community, receives during the fiscal year the funds are allocated, which percentage share shall be determined without regard to any amounts allocated to a city, a city and county, or a county pursuant to Sections 97.68 and 97.70 of the Revenue and Taxation Code, and without regard to any allocation reductions to a city, a city and county, a county, a special district, or a redevelopment agency pursuant to Sections 97.71, 97.72, and 97.73 of the Revenue and Taxation Code and Section 33681.12. (Emphasis added.)

The formula thus contemplates that each affected taxing entity will receive a share of pass through revenue based upon its proportional share of property tax revenue.

c. Triple Flip Legislation

Effective from fiscal year 2004-05, Revenue and Taxation Code section 97.68(a) and (b) authorize the allocation of property tax revenue that would otherwise be transferred to the ERAF to the cities and county, to compensate those entities for 0.25 percent of the sales tax revenues transferred from cities and counties to the State of California. This section is commonly referenced as the Triple Flip legislation.

Section 97.68(e) provides that the revenues transferred to the cities and county under Section 97.68(a) do not count for purposes of calculating the tax allocations under Section 96.1(a). The consequence of this is that the allocations under section 96.1(a) are made without regard to any amounts allocated to a city, a city and a county, or a county pursuant to Section 97.68. This mirrors the express wording and operation of Section 33607.5(a)(2).

As illustrated in Table 1, below, the language in Sections 97.68(e) and 33607.5(a)(2) operates to preserve all of the taxing entities' percentage shares as if the transfers under Section 97.68 had not occurred. Consequently, the shares of the cities and county are not increased and the shares of the other taxing entities (including the schools) are not decreased by operation of Section 97.68.

Table 1: Operation of Sections 97.68 and 33607.5(a)(2), assuming a hypothetical set of property tax allocation ratios:

AFFECTED TAXING ENTITY	PERCENTAGE SHARE OF PROPERTY TAX REVENUES RECEIVED BY AFFECTED TAXING ENTITY	PERCENTAGE SHARE OF PROPERTY TAX REVENUES POST 97.68	PERCENTAGE SHARE RECEIVED BY AFFECTED TAXING ENTITY FOR PURPOSES OF SECTION 33607.5(A)(2)
------------------------	--	--	---

	UNDER SECTION 96.1		
City of Los Angeles	25%	30%	25%
County of Los Angeles	25%	30%	25%
Special Districts	25%	20%	25%
LAUSD	25%	20%	25%
	100%	100%	100%

d. Vehicle License Swap Legislation

Effective from fiscal year 2004-05, Revenue and Taxation Code section 97.70(a) authorizes the allocation of property tax revenue that would otherwise be transferred to the ERAF to the cities and counties, to compensate those entities' loss of vehicle license fees transferred from cities and counties to the State of California. This section is commonly referenced as the Vehicle License Swap legislation.

Just as the case with Section 97.68 discussed above, Section 97.70(d) provides that the revenues transferred to the cities and county under Section 98.70(a) do not count for purposes of calculating the tax allocations under Section 96.1(a). The consequence of this is that the allocations under Section 96.1(a) are made without regard to any amounts allocated to a city, a city and a county, or a county pursuant to Section 97.70. This language also mirrors the express wording and operation of Section 33607.5(a)(2).

As illustrated in Table 2 below, the language in Sections 97.70(d) and 33607.5(a)(2) operates to preserve all of the taxing entities' percentage shares as if the transfers under Section 97.70 had not occurred. Consequently, the shares of the cities and county are not increased and the shares of the other taxing entities (including the schools) are not decreased by operation of Section 97.70.

Table 2: Operation of Sections 97.70 and 33607.5(a)(2), again based on a hypothetical set of property tax allocation ratios:

AFFECTED TAXING ENTITY	PERCENTAGE SHARE OF PROPERTY TAX REVENUES	PERCENTAGE SHARE OF PROPERTY TAX REVENUES	PERCENTAGE SHARE RECEIVED BY AFFECTED TAXING ENTITY FOR PURPOSES OF SECTIONS

	RECEIVED BY AFFECTED TAXING ENTITY UNDER 96.1(a)	POST 97.70	96.1 AND 33607.5(A)(2)
City of Los Angeles	25%	30%*	25%
County of Los Angeles	25%	30%*	25%
Special Districts	25%	20%	25%
LAUSD	25%	20%	25%
	100%	100%	100%

BECAUSE ERAF REVENUES ARE DEEMED TO BE PROPERTY TAXES, THEY MUST BE CREDITED TO LAUSD IN THE CALCULATION OF PASS THROUGH PAYMENTS, BUT ONLY TO THE EXTENT THAT LAUSD ACTUALLY RECEIVES THEM

The calculation and distribution of statutory pass through payments has had a checkered history due to several contributing factors, including the complexity of the State's property tax allocation system (as codified in the Revenue and Taxation Code), the ambiguity in Section 33607.5 of the Health and Safety Code relating to the shared distribution of statutory pass through payments amongst affected taxing entities, the conflict between the Revenue and Taxation Code and the Health and Safety Code in the treatment of ERAF revenues, variations in tax allocation procedures from county to county and the lack of clear direction from the State legislature and the State Controller. As a result, varying methods for calculation and distribution of statutory pass through payments have been used throughout the State, some of which have resulted in over-payments to the affected taxing entities at the expense of the RDAs and some of which have resulted in over-payments to the non-school affected taxing entities at the expense of the school entities.⁸

In 2007, LAUSD filed its lawsuit against the County of Los Angeles and the cities, special districts, and RDAs within LAUSD's jurisdictional boundaries. According to the LAUSD, the County had been improperly excluding ERAF revenues when calculating LAUSD's share of statutory pass through payments under Health and Safety Code

⁸ For example, in some counties, ERAF is treated like an affected taxing entity while in others ERAF is ignored entirely.

section 33607.5(a)(2). The trial was bifurcated into two stages. The first stage addressed the statutory issue of whether ERAF revenues must be treated as property tax revenues for purposes of calculating statutory pass through payments. The second stage addressed the amounts owed to LAUSD, if any, depending upon the outcome of the first stage.

a. **LAUSD prevails in *Los Angeles Unified School District v. County of Los Angeles et al.*, 181 Cal. App. 4th 414,427 (2010).**

As noted earlier, Health and Safety Code section 33607.5(a)(2) provides the formula for calculating and distributing statutory pass through payments amongst the affected taxing entities.

While the parties in the LAUSD case generally agreed that the pro rata allocation of statutory pass through revenues should mirror the pro rata allocation of property taxes, the parties disagreed on the treatment of ERAF revenues. In essence, LAUSD argued that ERAF revenues must be counted as part of LAUSD's share of property taxes. The County and RDAs disagreed because the ERAF is not "an affected taxing entity" and Section 33607.5(a)(2) does not expressly require the inclusion of ERAF revenues in the computation of pass through shares. The County and RDAs prevailed at trial, but the Court of Appeal sided with LAUSD in *Los Angeles Unified School District v. County of Los Angeles et al.*, 181 Cal. App. 4th 414,427 (2010), holding that because the revenues transferred to the ERAF are deemed as property taxes under the Revenue and Taxation Code, ERAF revenues must be treated as property taxes for purposes of calculating pass through payments to LAUSD *to the extent that they are received by LAUSD*. While the opinion appears to offer a bright line rule on the treatment of ERAF revenues, its implementation is elusive given that statutory pass through payments are calculated on a project area basis while ERAF revenues are distributed on a countywide basis. The County of Los Angeles used this fact to argue (unsuccessfully) that all pass through calculations should be made on a countywide basis, but this would have resulted in a skewing of pass through revenues to the County at the expense of the other affected taxing entities since the County collects property taxes from all properties within its jurisdiction. Although the RDAs and LAUSD prevailed on this specific issue against the County, no formula for crediting the distribution of ERAF revenues to LAUSD has been accepted by all parties in the case and the County has thus far declined to articulate any position on its treatment of ERAF revenues from the post AB x1 26 distribution of property tax revenues.

b. **"Receives" means actual receipt of ERAF revenues**

Notwithstanding the Court of Appeal ruling in the first stage of the trial, the parties continued to battle over the meaning of "receives" in Health and Safety Code section 33607.5(a)(2) during the second stage of the trial. This dispute occurred because LAUSD has not received any distribution of revenues from the ERAF since 2005. The County Office of Education figures show that in fiscal year 06-07, LAUSD's share of

ERAF revenues was "0", in fiscal year 07-08, LAUSD's share of ERAF revenues was *negative* \$42,753,227, and in fiscal year 08-09, LAUSD's share of ERAF revenues was *negative* \$2,659,941. The negative outflow from LAUSD's share of the ERAF is attributable to the fact in certain fiscal years, the annual ERAF allocation under Revenue and Taxation 97.2(d)(5) and 97.3(d)(5) may not be sufficient to cover the amount of revenues owed to the cities and County under the Triple Flip and Vehicle License Swap legislation (discussed in further detail, below). Consequently, Revenue and Taxation Code section 97.68(c) of the Triple Flip legislation authorizes transfers from the ERAF, which results in a reduction of LAUSD's share of ERAF revenues, which must then be backfilled by the State pursuant to Proposition 98. Similarly, Revenue and Taxation Code section 97.70(a)(1)(B) of the Vehicle License Swap Legislation authorizes the County Auditor to reduce LAUSD's share of property tax revenues when there are insufficient funds to pay the cities and County their respective shares of the "countywide vehicle in lieu adjustment amount" from the ERAF. The consequence of this is that the State has had to back fill a larger share of its general fund revenues to make up for the loss in ERAF revenues to LAUSD. However, the general fund revenues from the State do not count as property tax revenues for purposes of Section 33607.5(a)(2), thus placing LAUSD in the awkward position of having to argue that "received" means "deemed received". LAUSD additionally argued that the hold harmless provision in Section 33607.5(a)(2) "*...which percentage share shall be determined without regard to any amounts allocated to a city, a city and county, or a county pursuant to Sections 97.68 and 97.70 of the Revenue and Taxation Code, and without regard to any allocation reductions to a city, a city and county, a county, a special district, or a redevelopment agency pursuant to Sections 97.71, 97.72, and 97.73 of the Revenue and Taxation Code and Section 33681.12*" requires the County to impute distributions of ERAF revenues to LAUSD, as if the triple Flip and Vehicle License Swap transfers had not occurred.

The trial court recently issued a ruling against LAUSD, finding that LAUSD must only be credited with ERAF revenues that are actually received by LAUSD, leaving LAUSD with a pyrrhic Court of Appeal victory. Given the amount at stake for LAUSD, it is anticipated that LAUSD will appeal the ruling. To complicate matters further, prior to the most recent trial court ruling, the County of Los Angeles created a new account for statutory pass through payments in post AB 1290 project areas based upon the transfer property taxes from cities, the county and special districts to the County ERAF. Assuming that the County and former RDAs prevail in any appeal of this latest ruling, if any, the County's actions appear to be premature. Furthermore, any payments to non-basic aid schools would be premature, absent a clear record from the County Board of Education evidencing that the non-basic aid schools received actual ERAF payments.

c. Additional Complications in AB x1 26

AB x1 26 has two inconsistent provisions relating to the distribution of pass-through revenues which have yet to be fully worked out. The first provision, which is included within Health and Safety Code section 34183(a)(2) pertains to the waterfall for distribution of property tax revenues deposited by the County into the Redevelopment

Property Tax Trust Fund for each Successor Agency. Section 34183(a)(1) requires the county auditor-controller, after deducting the county's administrative costs, to remit to each local agency and school entity an amount of property tax revenues in an amount equal to that which it would have received under Section 33401, 33492.1490, 33607, 33607.5 336-7.7, or 33676, as those sections read on January 1, 2011. The second provision, which is included within Health and Safety Code section 34188(a)(2) pertains to the distribution of property tax revenues remaining after funds deposited by the County into the Redevelopment Property Tax Trust Fund for each Successor Agency have been disbursed to pay for the Successor Agency's "enforceable obligations" and "administrative cost allowance".⁹ So it is effectively a residual payment to all affected taxing entities once the waterfall payments have been made under Section 34183(a)(1). In what appears to be an attempted legislative fix to the LAUSD case, Section 34188(c) provides that the total school share, including pass through, shall be the share of property taxes *that would have been received by school entities* within the jurisdiction of the former RDA, including the amounts received under Sections 97.68 (Triple Flip legislation) and 97.70 (Vehicle License Swap legislation). So if there is any residual distribution to be made, then the County would be required to impute ERAF revenues to LAUSD as if they had been received and the Triple Flip and Vehicle License Swap transfers had not occurred.

CONCLUSION

Justice Arabian, a noted jurist on the California Supreme Court (1990-1996), once described the difficult task of analyzing law of easements, real covenants, and equitable servitudes, as follows: "The law in this area is an unspeakable quagmire. The intrepid soul who ventures into this formidable wilderness never emerges unscarred. Some, the smarter ones, quickly turn back to take up something easier like the income taxation of trusts and estates. Others, having lost their way, plunge on and after weeks of effort emerge not far from where they began, clearly the worse for wear. On looking back they see the trail they thought they broke obscured with foul smelling waters and noxious weeds. Few willingly take up the challenge again." (Rabin, *Fundamentals of Modern Real Property Law* (1974) p. 489.)

It's hard, after having worked through the LAUSD case and witnessing the demise of redevelopment through the implementation of AB x1 26, not to feel a certain empathy with Justice Arabian's sentiment about venturing into the unspeakable quagmire. But, hopefully, despite the complicated and dysfunctional statutory framework that we former redevelopment practitioners find ourselves in, we have alerted readers to the simple message that ERAF revenues credited to the schools as property taxes "received" will mean smaller amounts of pass through revenues available for the non-school entities in a post AB x1 26 world.

⁹ As those terms are defined in Health and Safety Code section 34171.



OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE LAWDALE REDEVELOPMENT AGENCY

14717 BURIN AVENUE, LAWDALE, CALIFORNIA 90260
PHONE (310) 973-3200, FAX (310) 644-4556
www.lawndalecity.org

DATE: August 16, 2012
TO: Honorable Chairman and Agency Members
FROM: Otis Ginoza, Deputy City Manager *owg*
SUBJECT: AB 1484 and Future Meetings

BACKGROUND

In June of 2012, the Legislature approved AB 1484 which makes many significant changes to the redevelopment agency dissolution process. One of provisions of AB1484 will necessitate that the Oversight Board meet twice in early October.

STAFF REVIEW

ABx1 26, the legislation that ended redevelopment in California required successor redevelopment agencies to surrender money that had been reserved for the creation of low and moderate income housing to the County Auditor Controller for distribution to other taxing entities. AB 1484 has created a process for this surrender. Successor Agencies must hire a licensed accountant to prepare a due diligence review (LMIHF Review) of the cash held in the low and moderate income housing fund (LMIHF). The results of this review must be submitted to the Oversight Board by October 1, 2012. The Oversight Board must hold a public session regarding the LMIHF Review at least five days before the Oversight Board approves the LMIHF Review. Staff suggests the following schedule:

- October 1 LMIHF Review sent to Oversight Board, County Auditor Controller, State Controller, and California Department of Finance (DOF)
- October 4 Oversight Board holds public meeting on LMIHF Review
- October 11 Oversight Board meets to approve LMIHF Review
- October 15 Last day to transmit Oversight Board approved LMIHF Review to the DOF and Auditor Controller.

This is a tight schedule. It would be very difficult to obtain the LMIHF Review before October 1, 2012. Auditing firms for several successor agencies have expressed concern that there is insufficient time to prepare the LMIHF Review. The auditing firms and their professional organizations are

discussing this concern with the DOF. It is possible that these discussions may result in the alteration of the schedule for preparation and approval of the LMIHF Review. If that occurs, staff will notify the Oversight Board and discuss an alteration of this meeting schedule.

FUNDING

None required at this time.

RECOMMENDATION

Staff recommends that the Oversight Board approve the scheduling of meetings on October 4 and 11 at 8 am.

I:\COMMUNITY DEVELOPMENT DEPARTMENT\Oversight Board\Aug16-2012 Meeting\AB1484FutureMeetings\AB1484 adn Future Meetings.doc



OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE LAWDALE REDEVELOPMENT AGENCY

14717 BURIN AVENUE, LAWDALE, CALIFORNIA 90260
PHONE (310) 973-3200, FAX (310) 644-4556
www.lawndalecity.org

DATE: August 16, 2012
TO: Honorable Chairman and Agency Members
FROM: Otis Ginoza, Deputy City Manager 
SUBJECT: Housing Successor Agency Asset Reporting Form

BACKGROUND

AB 1484 allows successor housing agencies to retain certain housing assets of the former redevelopment agency. AB 1484 requires the successor housing agencies to complete a form listing the housing assets it proposes to retain and transmit the form to the California Department of Finance (DOF). The DOF will review the form to determine if the housing assets may be retained by the housing successor agency or must be returned to the successor agency to be sold.

STAFF REVIEW

The Housing Successor Agency Asset Reporting Form for the Lawndale Housing Authority was transmitted to the DOF on July 31, 2012. AB 1484 does not require Oversight Board review or approval of this document and it is being provided for you information only.

FUNDING

None required at this time.

RECOMMENDATION

Staff recommends that the Oversight Board receive and file this report.

I:\COMMUNITY DEVELOPMENT DEPARTMENT\Oversight Board\Aug16-2012 Meeting\Housing Assets\Housing Assets Cover.doc

Item #6



14717 BURIN AVENUE • LAWDALE, CALIFORNIA 90260 • (310) 973-3200

July 31, 2012

Ana J. Matosantos
Finance Director
California Department of Finance
915 L Street
Sacramento, CA 95814

Subject: Housing Successor Agency Asset Reporting Form

Dear Ms. Matosantos,

Attached is the Inventory of Assets Received Pursuant to Health and Safety Code section 34176 (a) (2) which I am sending you via email. We have completed the form as we understand it, though we undoubtedly could have prepared a better document given adequate time and detailed instructions. By submitting this Inventory of Assets Received Pursuant to Health and Safety Code section 34176 (a) (2) the Successor Agency, the City of Lawndale, and the Lawndale Housing Authority do not waive any constitutional, statutory, legal or equitable rights and expressly reserves any and all rights, privileges, and defenses available under law and equity.

Sincerely,

Steve Mandoki
City Manager

Enclosure

**DEPARTMENT OF FINANCE
HOUSING ASSETS LIST
ASSEMBLY BILL X1 26 AND ASSEMBLY BILL 1484
(Health and Safety Code Section 34176)**

Former Redevelopment Agency: Lawndale Redevelopment Agency
 Successor Agency to the Former Redevelopment Agency: Successor Agency to the Lawndale Redevelopment Agency
 Entity Assuming the Housing Functions of the former Redevelopment Agency: Lawndale Successor Housing Agency
 Entity Assuming the Housing Functions Contact Name: Otis W. Ginoza Title Deputy City Manager Phone 310-973-3200 E-Mail Address Oginoza@lawndalecity.org
 Entity Assuming the Housing Functions Contact Name: Steve Mandoki Title City Manager Phone 310-973-3210 E-Mail Address smandoki@lawndalecity.org

All assets transferred to the entity assuming the housing functions between February 1, 2012 and the date the exhibits were created are included in this housing assets list. The following Exhibits noted with an X in the box are included as part of this inventory of housing assets:

Exhibit A - Real Property	X
Exhibit B- Personal Property	X
Exhibit C - Low-Mod Encumbrances	X
Exhibit D - Loans/Grants Receivables	X
Exhibit E - Rents/Operations	X
Exhibit F- Rents	X
Exhibit G - Deferrals	X

Prepared By: Otis W. Ginoza
 Date Prepared: 7/31/2012

Exhibit A - Real Property

City of Lawndale
Inventory of Assets Received Pursuant to Health and Safety Code section 34176 (a) (2)

Item #	Type of Asset: a/	Legal Title and Description	Carrying Value of Asset	Total square footage	Square footage reserved for low/mod housing	Is the property encumbered by a low/mod housing covenant?	Source of low/mod housing covenant b/	Date of transfer to Housing Successor Agency	Construction or acquisition costs funded with Low/Mod Housing Fund monies	Construction or acquisition costs funded with other RDA funds	Construction or acquisition costs funded with non-RDA funds	Date of construction or acquisition by the former RDA	Interest in real property (option to purchase, easement, etc.)
1	Single Family Home	14611 Firmona Avenue Lawndale, CA 90260	\$262,595	4,483	7,783	No	N/A	12-Jan-12	\$262,595	None	None	30-Sep-11	N/A
2													
3													
4													
5													
6													
7													
8													
9													
10													
11													
12													
13													
14													
15													
16													
17													
18													
19													
20													

14611 Firmona is a single family home purchased by the Lawndale Housing Authority (LHA) using money from the low-mod housing fund. The house was never owned by the Redevelopment Agency or the Successor Agency. The intent of the LHA was to rehabilitate the home and use it for low-mod housing. Due to uncertainty regarding the dissolution of redevelopment agencies, the project was put on hold and the home is vacant.

a/ Asset types may include low-mod housing, mixed-income housing, low-mod housing with commercial space, mixed-income housing with commercial space.

b/ May include California Redevelopment Law, tax credits, state bond indentures, and federal funds requirements.

Exhibit B - Personal Property

City of Lawndale
 Inventory of Assets Received Pursuant to Health and Safety Code section 34176 (a) (2)

Item #	Type of Asset, a/	Description	Carrying Value of Asset	Date of transfer to Housing Successor Agency	Acquisition cost funded with Low-Mod Housing Fund monies	Acquisition costs funded with other RDA funds	Acquisition costs funded with non-RDA funds	Date of acquisition by the former RDA
1	Records	Documents	None	12-Jan-12	None	None	None	Various
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
17								
18								
19								
20								

Listed on this form are the housing records and documents of the Lawndale Redevelopment Agency which were transferred to the Lawndale Housing Authority when it became the housing successor agency.

a/ Asset types any personal property provided in residences, including furniture and appliances, all housing-related files and loan documents, office supplies, software licenses, and mapping programs, that were acquired for low and moderate income housing purposes, either by purchase or through a loan, in whole or in part, with any source of funds.

Exhibit C - Low-Mod Encumbrances

City of Lawndale
Inventory of Assets Received Pursuant to Health and Safety Code section 34176 (a) (2)

Item #	Type of housing built or acquired with enforceable obligated funds a/	Date contract for enforceable obligation was executed	Contractual counterparty	Total amount currently owed for the enforceable obligation	Is the property encumbered by a low-mod housing covenant?	Source of low-mod housing covenant b/	Current owner of the property	Construction or acquisition cost funded with Housing Fund monies	Construction or acquisition costs funded with other RDA funds	Construction or acquisition costs funded with non-RDA funds	Date of construction or acquisition of the property
1	Low/Mod Housing Two Units	6-May-10	Habitat For Humanity	\$ 55,867	Yes	California Redevelopment Law	Habitat For Humanity	\$739,644	None	\$272,000	1-Aug-08
2											
3											
4											
5											
6											
7											
8											
9											
10											
11											
12											
13											
14											
15											
16											
17											
18											
19											
20											

a/ May include low-mod housing, mixed-income housing, low-mod housing with commercial space, mixed-income housing with commercial space.

b/ May include California Redevelopment Law, tax credits, state bond indentures, and federal funds requirements.

**City of Lawndale
Inventory of Assets Received Pursuant to Health and Safety Code section 34176 (a) (2)**

Item #	Was the Low-Mid Housing Fund amount issued for a loan or a grant?	Amount of the loan or grant	Date the loan or grant was issued	Person or entity to whom the loan or grant was issued	Purpose for which the funds were loaned or granted	Are there contractual requirements specifying the purposes for which the funds may be used?	Repayment date, if the funds are for a loan	Interest rate of loan	Current outstanding loan balance
1	Loan	\$ 428,000	17-Jun-10	Habitat For Humanity	New Construction	Yes	Portion at Resale	0	\$ 428,000
2	Loan	\$20,000	8/16/05	Available for Review (1)	Rehabilitation	Yes	10/31/2007	0	\$20,000.00
3	Loan	\$15,000	1/10/01	Available for Review (1)	Rehabilitation	Yes	2/22/2002	0	\$15,000.00
4	Loan	\$15,000	5/7/01	Available for Review (1)	Rehabilitation	Yes	7/1/2004	0	\$14,046.51
5	Loan	\$15,000	9/11/02	Available for Review (1)	Rehabilitation	Yes	6/29/2005	0	\$15,000.00
6	Loan	\$15,000	5/2/00	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
7	Loan	\$18,000	7/14/00	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
8	Loan	\$15,000	7/24/00	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
9	Loan	\$15,000	10/5/00	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
10	Loan	\$15,000	9/20/00	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
11	Loan	\$15,000	1/22/01	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
12	Loan	\$15,000	1/31/01	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
13	Loan	\$8,000	2/8/02	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
14	Loan	\$18,000	3/6/02	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
15	Loan	\$15,000	11/23/03	Available for Review (1)	Rehabilitation	Yes	2/26/2008	0	\$8,710.22
16	Loan	\$18,000	5/12/04	Available for Review (1)	Rehabilitation	Yes	7/25/2006	0	\$14,789.49
17	Loan	\$23,000	9/10/04	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
18	Loan	\$1,318	9/10/04	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
19	Loan	\$14,274	11/29/04	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
20	Loan	\$43,000	4/11/05	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
21	Loan	\$862	7/6/05	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
22	Loan	\$23,000	12/27/05	Available for Review (1)	Rehabilitation	Yes	8/31/2011	0	\$20,000.00
23	Loan	\$23,000	7/1/06	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
24	Loan	\$23,000	10/24/06	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
25	Loan	\$22,970	1/9/08	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
26	Loan	\$5,970	1/9/08	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
27	Loan	\$23,000	3/10/08	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
28	Loan	\$23,000	6/20/08	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
29	Loan	\$22,735	7/7/08	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
30	Loan	\$22,850	7/27/08	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A
31	Loan	\$9,275	8/8/08	Available for Review (1)	Rehabilitation	Yes	N/A	0	N/A

Exhibit E - Rents/Operations

**City of Lawndale
Inventory of Assets Received Pursuant to Health and Safety Code section 34176 (a) (2)**

Item #	Type of payment, a/	Type of property with which they are associated b/	Property owner	Entity that collects the payments	Entity to which the collected payments are ultimately remitted	Purpose for which the payments are used	Is the property encumbered by a low-mod housing covenant?	Source of low-mod housing covenant c/	Item # from Exhibit A the re/operation is associated with (if applicable)
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15									
16									
17									
18									
19									
20									

*ASSETS ARE LISTED ON EXHIBIT "D" AND ARE INCORPORATED BY REFERENCE

a/ May include revenues from rents, operation of properties, residual receipt payments from developers, conditional grant repayments, costs savings and proceeds from refinancing, and principal and interest payments from homebuyers subject to enforceable income limits.

b/ May include low-mod housing, mixed-income housing, low-mod housing with commercial space, mixed-income housing with commercial space.

c/ May include California Redevelopment Law, tax credits, state bond indentures, and federal funds requirements.

Exhibit F - Rents

City Lawndale
Inventory of Assets Received Pursuant to Health and Safety Code section 34176 (a) (2)

Item #	Type of payment, a/	Type of property with which the payments are associated, b/	Property owner	Entity that collects the payments	Entity to which the payments are ultimately remitted	Purpose for which the payments are used	Is the property encumbered by a low-mod housing covenant?	Source of low-mod housing covenant, c/	Item # from Exhibit A the rent is associated with (if applicable)
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									
13									
14									
15									
16									
17									
18									
19									
20									

*ASSETS ARE LISTED ON EXHIBIT "D" AND ARE INCORPORATED BY REFERENCE

a/ May include rents or home loan payments.

b/ May include low-mod housing, mixed-income housing, low-mod housing with commercial space, mixed-income housing with commercial space.

c/ May include California Redevelopment Law, tax credits, state bond indentures, and federal funds requirements.

Exhibit G - Deferrals

City of Lawndale
 Inventory of Assets Received Pursuant to Health and Safety Code section 34176 (a) (2)

Item #	Purpose for which funds were deferred	Fiscal year in which funds were deferred	Amount deferred	Interest rate at which funds were to be repaid	Current amount owed	Date upon which funds were to be repaid
1	HSC 33334.2(k)	FY 2009-10	1016730	0	816730	Before June 2015
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						

In FY 2009/10 the Redevelopment Agency deferred a housing fund deposit in order to pay SERAF.

**MINUTES OF THE
LAWNDALE SUCCESSOR AGENCY
OVERSIGHT BOARD REGULAR MEETING
MAY 24, 2012 4:00 P.M.**

A. CALL TO ORDER

The regular meeting of the Lawndale Successor Agency Oversight Board was called to order at 4:10 p.m. in the City Hall council chamber, 14717 Burin Avenue, Lawndale, California.

B. ROLL CALL/INTRODUCTIONS

Board Members Present: Steve Mandoki, Lawndale City Manager, appointee of Mayor Hoffman representing the City of Lawndale, Greg Tsujiuchi, Lawndale Economic Development Coordinator, representing former employees of the Lawndale Redevelopment Area, John Vinke, Lawndale Elementary School District Deputy Superintendent representing school districts, Barry Waite City of Carson Business Development Manager and former Lomita Councilman appointee of Board Member Mark Ridley-Thomas, Michael Stewart, Partner of Katherine Company Land Use Consulting Firm and thirty year retired City Employee including Facilities Manager for the City of Los Angeles, Joann Higdon, El Camino College Vice President of Finance, Facilities, IT and Administrative, CPA background and previously held a A General Engineering License, Pat Flynn, Principle at Maxima Group, Real Estate Economic and Market Research Company, appointee of Board Member Mark Ridley-Thomas

Also Present: Otis Ginoza, Lawndale Deputy City Manager, Ken Louie, Lawndale Finance Director/City Treasurer, DeDe Tran, Lawndale Associate Planner

C. SWEARING IN OF BOARD MEMBERS

Swearing in of all Board Members occurred just prior to the meeting.

1. Election of Officers

A motion by Board Member Tsujiuchi to appoint Board Member Waite as Chair was seconded by Board Member Stewart and carried by a vote of 7-0.

Chair Waite asked for a Vice Chair and Board Member Stewart volunteered.

A motion by Board Member Mandoki to appoint Board Member Stewart as a Vice Chair and was seconded by Board Member Flynn and carried by consensus.

D. PLEDGE OF ALLIGIANCE

Flag Salute - led by Board Member Waite

E. ADMINISTRATION- NEW BUSINESS

1. Introduction of Successor Agency Attorney- Tiffany Israel

Ms. Israel is not the attorney for the Oversight Board but is available for general questions.

4. Request from Nonprofit Organizations for Use of Land Located at Hawthorne/Manhattan Beach Blvd.

Item taken out of order. Deputy City Manager Ginoza delivered staff report. The Board discussion included: a) the requested time period of use, b) Finance (DOF) can overturn the Oversight Board within three days of decision, c) how the parcels were purchased, d) the July 4th request and Christmas Tree request.

A motion by Board Member Higdon to permit non-profits to use land located at Hawthorne/Manhattan Beach Blvd provisional with actions of the state or court or sale of the property seconded by Board Member Flynn and carried by a vote of 7-0.

2. Designation of Contract Person for Department of Finance Inquiries

A motion by Board Member Vinke to designate Lawndale Deputy City Manager seconded by Board Member Stewart and carried by a vote of 7-0.

3. Overview of Oversight Board Responsibilities

Deputy City Manager Ginoza delivered staff report. Staff also provided that the Low Moderate Income Housing Fund (LMIHF) has a balance of \$3,750, 346 which now resides with Lawndale Housing Authority. Board Member Higdon's stated that the California Community College budgets have assumed that redevelopment monies valued at over four million dollars were coming in but to date have not. Board Member stated that if it takes much longer than months to dissolve the former Lawndale Redeployment Agency funds, then she will become very concerned. The funds cannot be undecided and unresolved indefinitely. She is also concerned about the balance not committed in the LMIHF.

Board also discussed: a) timing of upcoming legislation and legal challenges, b) loans given by the City to the Redevelopment Agency, c) recognition that the legislation is confusing and often contradictory and was never intended to be enacted d) confirmation that all Board Members attended the County's training,

Staff noted that a) Los Angeles County and the City of Lawndale interests will not always be aligned in the dissolution of the Redevelopment Agency, b) the City has

been advised to hold off on LMIHF payments until the legislation has been clarified, c) since the Redevelopment Obligation Payment Schedules (ROPS) was sent to the DOF, they have been directed to remove half of the items on the list included in the agenda packet.

The Board reached a consensus to hold off on recommending action because current legislation is unclear and at times contradicts itself.

5. Successor Agency Cash Flow

Deputy City Manager Ginoza presented the staff report.

A motion by Board Member Higdon to adopt the cash flow report seconded by Board Member Tsujiuchi and carried by a vote of 7-0.

6. Repayment Schedule for Funds Owed to Low and Moderate Income Housing Fund

Deputy City Manager Ginoza presented the staff report. Board discussed: a) repayment of housing funds timing and fate, b) requirement from Auditor Controller for adoption of a payment schedule, c) balance of unencumbered housing funds.

Deputy City Manager also clarified that the City will not be spending dollars out of the LMIHF until the legislative issues are resolved.

A motion by Board Member Madoki to adopt the report schedule of funds owed to the Low Moderate Income Housing Fund after other obligations are satisfied before the Low Moderate Income Housing Fund seconded by Board Member Flynn and carried by a vote of 5-0-2 with Members Vinke and Higdon abstaining.

7. Redevelopment Obligation Payment Schedules (ROPS)

Deputy City Manager Ginoza presented the staff report. Deputy City Manager Ginoza updated the Board that DOF had just reviewed and required changes to the ROPS that was included in the agenda. Staff of the Successor Agency does not agree with all the DOF changes but the DOF does not leave room for negotiations because staff would like to receive tax increment and pay obligations. An amended ROPS was distributed to the Board Members. Board discussed: a) I bank loan for Hopper Park, b) the reality of likely litigation regarding the ROPS, c) if the ROPS is not adopted then the DOF will direct the Los Angeles County Auditor Controller to withhold all funds from the former Lawndale Redevelopment Agency and disperse them to other taxing agencies, d) approval of the ROPS does not preclude future litigation from the City.

A motion by Board Member Vinke to adopt Redevelopment Obligation Payment Schedule seconded by Board Member Flynn and carried by a vote of 7-0.

Board Member Stewart encouraged the Board to revisit the item and try and preserve money for parks. A discussion of the defeasement of bonds, arbitrage issues and loss of ability to build parks, replace playground lights and equipment.

8. Redevelopment Administrative Budgets

Deputy City Manager Ginoza presented the staff report. Board discussed: a) if property or defeasement of bonds comes back to the Board, a special meeting and budget be considered and possible amendment of the ROPS, b) \$120,000 for public works oversight of existing projects for first five months, c) pension obligations

A motion by Board Member Flynn to adopt Redevelopment Administrative Budgets seconded by Board Member Higdon and carried by a vote of 7-0.

F. CONSENT CALENDAR

1. Requirements of the Brown Act
2. Adoption of Oversight Board Conflict of Interest Code
3. Dates and Times of Future Meetings
4. Meeting Protocol

Item 3 was pulled from the Consent Calendar.

A motion by Board Member Mandoki to approve the Consent Calendar items 1, 2, and 4 seconded by Board Member Vinke and carried by a vote of 7-0.

Item 3: Board discussed their schedules. Board agreed to meet again July 19, 2012 at 8 AM. At the next meeting, the Board will set a Board calendar.

G. PUBLIC COMMENTS

None

H. ITEMS FROM SECRETARY/ADMINISTRATIVE CLERK

Agendas to be sent to Board Members as requested.

I. ITEMS FROM BOARD MEMBERS

Request to send updated information to Board Members as it becomes available.

J. ADJOURNMENT

There being no further business to conduct, the meeting was adjourned at 6 p.m