

REPORT TO SUCCESSOR AGENCY BOARD

DATE: JULY 23, 2012

TO: HONORABLE CHAIR AND MEMBERS OF THE SUCCESSOR AGENCY BOARD

FROM: GREG RAMIREZ, EXECUTIVE DIRECTOR

BY: NATHAN HAMBURGER, ASSISTANT EXECUTIVE DIRECTOR

SUBJECT: APPROVAL OF RESOLUTION NO. SA12-10; RESCINDING RESOLUTION NO. SA12-05,

At the meeting of the Successor Agency to the Agoura Hills Redevelopment Agency on February 22, 2012, Resolution No. SA12-05 was unanimously approved, which essentially designated the County of Los Angeles Housing Authority as the housing successor as related to previous redevelopment and affordable housing activities.

The California Supreme Court's decision in *California Redevelopment Association, et al. v. Matosantos, et al.* (Case No. S194861), the litigation challenging AB X1 26 ("AB 26) and AB X1 27("AB 27"). AB 26 and AB 27, which were signed by the Governor of California on June 29, 2011, added Parts 1.8 and 1.85 to the Community Redevelopment Law. Prior to this ruling, the Agoura Hills Redevelopment Agency (the "Redevelopment Agency") was in the planning and design process for two affordable housing developments and, as such, had not acquired any property nor completed the proposed designs. Thus, there were no housing assets beyond the monies in the Low and Moderate Income Housing Fund (LMIHF), and some plans and related documents. The fact that the Redevelopment Agency had no large housing assets, combined with the fact that AB 26 did not appear to authorize a funding mechanism for performing housing functions in the future, led to the original recommendation to transfer the housing responsibilities to the Housing Authority of the County of Los Angeles.

Since that time, the passage of Assembly Bill (AB) 1484 has amended and added language in an effort to "clean up" previous inconsistencies or overlooked issues in AB 26. Specifically of interest to the City of Agoura Hills and the Successor Agency to the Agoura Hills Redevelopment Agency (the "Successor Agency") is the language in California Health and Safety Code, Section 34176. In particular, Section 34176(a) authorizes a city that created a redevelopment agency to elect to retain the housing assets and functions previously performed by the redevelopment agency. If a city elects to retain the responsibility for performing housing functions previously performed by the redevelopment agency, Section 34176(a) provides that all rights, powers, duties, obligations, and housing assets, excluding any amounts on deposit in the LMIHF and enforceable obligations retained by the successor agency, shall be transferred to the city.

AB 1484 added Section 34176(g), providing the ability of the housing successor agency to utilize unexpended bond proceeds in a manner consistent with the bond covenants, including covenants related to the tax status of the bonds. This new language poses potential liability to the City and Successor Agency in that the 2008 housing bonds were issued as tax-exempt bonds and thus come with various regulations and requirements that fall under the auspices of the Internal Revenue Service. Allowing another agency to control and expend the previously discussed bond proceeds poses the potential for several situations that would be disadvantageous to the City and Successor Agency.

Although the language in AB 1484 covers a variety of topics and establishes dates and timelines for certain actions, there is an August 1, 2012 deadline for the housing successor agency to report housing assets as defined in Section 34176(e), to the State Department of Finance. The Agency Attorney has recommended that this item be considered by the Successor Agency prior to that deadline in order to avoid any conflicts in regard to the unexpended housing bond funds, distribution of housing assets, and responsibilities. Should the Successor Agency Board approve this proposed resolution, the City Council would then consider the recommendation to retain the housing functions of the former redevelopment agency.

Health and Safety 34176(c) provides that the entity assuming the housing functions formerly performed by the redevelopment agency may enforce affordability covenants and perform related activities pursuant to applicable provisions of the Redevelopment Law, including, but not limited to, Health and Safety Code Section 33418. There is no requirement as such and the Department of Finance has taken the position that any previous housing obligations are no longer applicable except for those specifically required in an agreement with another party (enforceable obligation). Agoura Hills did not have any such agreements in place at the time of dissolution and is not authorized to enter into that type of agreement post AB 26.

RECOMMENDATION

Staff recommends the Board of Directors adopt Resolution No. SA12-10, repealing its Resolution No. SA12-05 and rescinding its election in connection with the retention of housing assets and functions and its determination that all of the rights, powers, assets, liabilities, duties, obligations, and housing assets associated with the housing activities of the Redevelopment Agency be transferred to the Housing Authority of the County of Los Angeles.

Attachment: Resolution No. SA12-10

RESOLUTION NO. SA12-10

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SUCCESSOR AGENCY FOR THE AGOURA HILLS REDEVELOPMENT AGENCY, RESCINDING ITS ELECTION IN CONNECTION WITH HOUSING ASSETS AND FUNCTIONS UNDER PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE AND TAKING CERTAIN ACTIONS IN CONNECTION THEREWITH, AND REPEALING RESOLUTION NO. SA12-05

RECITALS:

A. AB X1 26 and AB X1 27 were signed by the Governor of California on June 29, 2011, making certain changes to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) (the “Redevelopment Law”), including adding Part 1.8 (commencing with Section 34161) (“Part 1.8”) and Part 1.85 (commencing with Section 34170) (“Part 1.85”).

B. The California Redevelopment Association and League of California Cities filed a lawsuit in the Supreme Court of California (*California Redevelopment Association, et al. v. Matosantos, et al.* (Case No. S194861)) alleging that AB X1 26 and AB X1 27 are unconstitutional. On December 29, 2011, the Supreme Court issued its opinion in the *Matosantos* case, largely upholding AB X1 26, invalidating AB X1 27, and holding that AB X1 26 may be severed from AB X1 27 and enforced independently.

C. The Supreme Court generally revised the effective dates and deadlines for performance of obligations in Part 1.85 arising before May 1, 2012, to take effect four months later.

D. As a result of the Supreme Court’s decision, the Agoura Hills Redevelopment Agency (the “Redevelopment Agency”), a redevelopment agency in the City of Agoura Hills (the “City”), created pursuant to the Redevelopment Law, was dissolved pursuant to Part 1.85 on February 1, 2012.

E. Health and Safety Code Section 34176(a) authorizes a city that created a redevelopment agency to elect to retain the housing assets and functions previously performed by the redevelopment agency. Pursuant to Section 34176(a), if a city elects to retain the authority to perform housing functions previously performed by the redevelopment agency, all rights, powers, duties, and obligations, excluding any amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred to the City.

F. Health and Safety Code Section 34176(b) provides that if a city does not elect to retain the responsibility for performing housing functions previously performed by the redevelopment agency, all rights, powers, assets, liabilities, duties, obligations, and housing assets associated with the housing activities of the redevelopment agency, excluding any

amounts in the Low and Moderate Income Housing Fund and enforceable obligations retained by the successor agency, shall be transferred as follows: (1) where there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, to the Department of Housing and Community Development; (2) where there is one local housing authoring in the territorial jurisdiction of the former redevelopment agency, to that local housing authority; and (3) where there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, to the local housing authority selected by the city that authorized the creation of the redevelopment agency.

G. The Housing Authority of the County of Los Angeles is in the territorial jurisdiction of the former Redevelopment Agency.

H. On February 22, 2012, the Board of Directors of the Successor Agency for the Agoura Hills Redevelopment Agency (“Successor Agency Board of Directors”) adopted Resolution No. SA12-05, electing for the City not to retain the responsibility for performing housing functions previously performed by the Redevelopment Agency, and determining that all of the assets, as allowed by law, and all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Redevelopment Agency be transferred to the Housing Authority of the County of Los Angeles, pursuant to Health and Safety Code Section 34176.

I. On June 27, 2012, the Governor of California signed the redevelopment trailer bill AB 1484, which revised or clarified statutory language affecting housing assets and housing bond proceeds.

J. Given the changes set forth in the recently enacted AB 1484, the Successor Agency Board of Directors desires to adopt this resolution rescinding its determination and election made in Resolution No. SA12-05 and repealing Resolution No. SA12-05.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SUCCESSOR AGENCY FOR THE AGOURA HILLS REDEVELOPMENT AGENCY HEREBY FINDS, DETERMINES, RESOLVES, AND ORDERS AS FOLLOWS:

Section 1. The above recitals are true and correct and are a substantive part of this Resolution.

Section 2. The Successor Agency Board of Directors hereby rescinds its determination and election that all of the assets, as allowed by law, and all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Redevelopment Agency be transferred to the Housing Authority of the County of Los Angeles and hereby repeals Resolution No. SA 12-05.

Section 3. The officers and staff of the Successor Agency for the Agoura Hills Redevelopment Agency (“Successor Agency”) are hereby authorized and directed, jointly and severally, to make all notifications of the Successor Agency’s rescission, as set forth in Section 2 hereof, as deemed necessary or advisable and to execute all documents and take all actions which

they may deem necessary or advisable to effectuate this Resolution, and any such actions previously taken by such officers and staff are hereby ratified and confirmed.

Section 4. The adoption of this Resolution is not intended to and shall not constitute a waiver by the Successor Agency of any right the Successor Agency may have to challenge the legality of all or any portion of AB X1 26 or AB 1484 through administrative or judicial proceedings.

Section 5. This Resolution has been reviewed with respect to applicability of the California Environmental Quality Act (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*, hereafter the “Guidelines”), and the Successor Agency’s environmental guidelines. The Successor Agency has determined that this Resolution is not a “project” for purposes of CEQA, as that term is defined by Guidelines Section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment. (Guidelines Section 15378(b) (5)).

Section 6. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED this 23rd day of July, 2012 by the following vote to wit:

AYES: (0)
NOES: (0)
ABSTAIN: (0)
ABSENT: (0)

John M. Edelston, Chair

ATTEST:

Kimberly M. Rodrigues, Secretary