

Board Meeting of
July 18, 2012

SUPPLEMENTAL #2 TO ITEM 6B

Honorable Chair and Members
of the Torrance Oversight Board
City Hall
Torrance, California

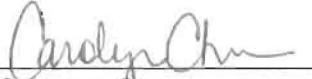
Members of the Board:

SUBJECT: Approve the transfer of property by the City, as successor to the dissolved Redevelopment Agency, to the City of Torrance, as Housing Successor Agency.


Correspondence was received from Jeffrey M. Oderman, Special Counsel to the City of Torrance, after Item 6B was prepared and is attached herewith for your consideration.

Respectfully submitted,

Brian Sunshine
Assistant to the City Manager

By 
Carolyn Chun
Senior Planning Associate

CONCUR:


Brian Sunshine
Assistant to the City Manager

NOTED:


LeRoy J. Jackson
City Manager

Attachment:

- A) Correspondence from Jeffrey M. Oderman

MEMORANDUM

TO: Brian Sunshine, Assistant to the City Manager, City of Torrance
FROM: Jeffrey M. Oderman, Rutan & Tucker LLP, Special Counsel to City of Torrance
DATE: July 18, 2012
FILE NO.: 062579-0070
RE: July 18, 2012, Oversight Board Meeting; Agenda Item 6B; Confirmation re City of Torrance, as Housing Successor to Former Torrance RDA, Having Title To Deal With Real Property Assets Acquired for Affordable Housing Purposes

I am writing at your request to confirm my opinion as to the justification for the City staff recommendation to the Torrance Oversight Board with respect to Item 6B on its agenda for today's 3 PM meeting.

As stated in the staff report, all of the real property assets identified in Exhibit "A" initially were acquired by the former Torrance RDA with 20% housing set-aside funds with the sole exception of 22520 Ocean Avenue, which was acquired with HUD Section 202 funds (which program similarly restricts use of that property to affordable housing purposes). If the Oversight Board needs further documentation to verify the factual accuracy of the City staff's representations in that regard I will have to leave it to you to provide such documentation but for purposes of this Memorandum I will accept the representations as true.

The City of Torrance timely elected to be the "housing successor" to the dissolved Torrance RDA and to "retain the housing assets and functions previously performed by the redevelopment agency," as it was entitled to do under Health & Safety Code Section 34176(a). Accordingly, under that provision of ABx1 26, "all rights, powers, duties, obligations, and housing assets, as defined in subdivision (e). . . shall be transferred to the city. . . ."

Under ABx1 26 there initially was much confusion as to precisely what qualified as a "housing asset." Much of that confusion and uncertainty has been resolved by the recently adopted AB 1484.

The parcels of real property owned by the housing successor (i.e., the City) clearly qualify as "housing assets" under Health & Safety Code Section 34176(e)(1), which covers "[a]ny real property, interest in, or restriction on the use of real property, whether improved or not. . . 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." The rents and revenues received by the City from the Coleman Court, Ocean Terrace, Residence Service Foundation, El Prado Apartments, and 1316 Cabrillo also qualify as housing assets under Section 34176(e)(4) and/or (e)(5), which cover, respectively, "[a]ny funds derived from rents or operation of properties acquired for low- and moderate-income housing purposes by other parties that were financed with any source of funds, including residual receipt payments from developers, conditional grant repayments, cost savings and proceeds from refinancing, and principal and interest payments from homebuyers subject to enforceable income limits," and "[a] stream of

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Manager, City of Torrance
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rents or other payments from housing tenants or operators of low- and moderate-income housing financed with any source of funds that are used to maintain, operate, and enforce the affordability of housing or for enforceable obligations associated with low- and moderate-income housing.”

The Oversight Board’s jurisdiction in this area is fairly limited. For one thing, there is no requirement in ABx1 26/1484 that the Oversight Board approve the successor agency’s determination that particular assets qualify as “housing assets” and no provision in ABx1 26/1484 that authorizes the Oversight Board to override the designation of the City as housing successor to the dissolved RDA or the City’s election to retain the dissolved RDA’s housing assets. (See Sections 34176 and 34180. In addition, compare Section 34176(g), which does require the successor agency to list “excess” housing bond proceeds on its semi-annual ROPS, which, of course, is subject to Oversight Board and Department of Finance approval.) By August 1, 2012, the housing successor must provide a list of all of its housing assets to DOF “that contains an explanation of how the assets meet the criteria specified in subdivision (e)” (Section 34176(a)(2)) but, significantly, the statute does *not* provide for that explanation to be provided to or approved by the Oversight Board. Under Section 34181(c), the Oversight Board is obligated to “direct” the City to “[t]ransfer housing assets pursuant to Section 34176,” which the City has already done but, once having performed that duty, ABx1 26/1484 does not grant to the Oversight Board continued supervisory or approval functions over the housing successor.

Notwithstanding the limited role of the Oversight Board in this particular field, title companies have expressed concern as to what entity actually holds title to properties cities have identified as housing assets—given (1) that the redevelopment agencies are dissolved and cannot execute grant deeds and (2) what the title companies believe to be ambiguities in ABx1 26/1484. We are aware that in other cities title companies have refused to issue title insurance policies for housing properties/assets unless and until the Oversight Board adopts a resolution confirming/approving transfer of title of housing assets to the designated housing successor. While we could take the position this is not necessary under ABx1 26/1484, the path of least resistance is to just go ahead and have the Oversight Board take the action that makes the title companies comfortable.

That is my explanation of the reason for Item 6.B on today’s Oversight Board agenda. Please let me know if I can provide any additional information or advice on this subject.

cc: Assistant City Attorney Patrick Sullivan