

Latest Developments In Financial and Legal Matters Pertaining to Successor Agencies

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Jack Nagle
Goldfarb & Lipman LLP
1300 Clay Street, 11th Floor
Oakland, CA 94612
510.836.6336
jnagle@goldfarblipman.com

SOME KEY LEGAL ISSUES FOR SUCCESSOR AGENCIES (SAs)

- Enforceable Obligations and ROPS Issues
- Due Diligence Reviews (DDR)
- Housing Asset Determinations and Housing Successor Issues
- July 12, 2012 True-Up Payment Issues
- Property and Other Asset Clawbacks
- Bond-Related Matters

SOME KEY LEGAL ISSUES FOR SUCCESSOR AGENCIES

- Findings of Completion
- Repayment of Host Community Loans
- Property Disposition/Long-Range Property Management Plan
- Pending and Decided Litigation On Redevelopment Unwind Matters
- SA Termination Procedures
- Post-Redevelopment Community Economic Development Opportunities

Enforceable Obligations and ROPS Issues – ROPS III (January – June 2012)

- Department of Finance (DOF) Became More Systematic/Thorough In Review and Denial of Items On ROPS III

SOME OFTEN DENIED ROPS ITEMS BY DOF

- Housing Enforceable Obligations
 - Loan Commitment Letters
 - Continued Payments Under Enforceable Obligations on Housing Asset List
 - Housing Successor Administrative Costs

SOME OFTEN DENIED ROPS ITEMS BY DOF

- Re-entered Host Community Public Improvement Agreements
- Host Community Loan Agreements
- Bond Proceeds Expenditures
- COPS Reimbursement Obligations Of RDA To Host Community

SOME OFTEN DENIED ROPS ITEMS BY DOF

- Post 6/27/11 Agreements To Perform Pre-6/28/11 Enforceable Obligations
- Reformation/Rescission of Enforceable Obligations:
 - Deemed Void By DOF If Counter Party Has Any Non-Timely Performance
 - Amendments Or Assignments Of Existing Enforceable Obligations Not Permitted by DOF

SOME OFTEN DENIED ROPS ITEMS BY DOF

- Unfunded Pension Liabilities/Benefits For Former Staff to RDA
- Property Management Costs and Predisposition Carrying Costs
- Third-Party Unwind Services Contracts As Payable Other Than From Administrative Cost Allowance

Enforceable Obligations and ROPS Issues – ROPS III (January-June 2013)

- 239 ROPS III Meet and Confer Sessions With DOF. Only Limited Reversals By DOF
- Mounting Number of Lawsuits Related To Enforceable Obligation Denials

ROPS 13-14A Issues (July-December 2013)

- Oversight Board-Approved ROPS 13-14A Due For Submittal By March 1, 2013
- DOF “Pre-Populated” Template Issues
- New Includable Enforceable Obligation Types
 - SERAF Reimbursements To Housing Asset Fund
 - Host Community Loan Repayments (With Finding of Completion)
 - Pre-2011 Non-Housing Excess Bond Proceeds Expenditures (With Finding of Completion)

Other ROPS Issues

- Final and Conclusive Determination By DOF
 - For Periodic Irrevocable Enforceable Obligations
 - DOF Has Made 7 Final and Conclusive Determinations To-Date
 - Determination Does Not Assure Specific Future Payment Amounts and Does Not Cover Any Future Amendments

Housing DDR Issues

- Process Completed and Unobligated Housing Fund Payments Due Late Fall 2012
- DOF Made Nearly \$1.0 Billion of Upward “Adjustments” To Payment Amounts Due From SAs
- 185 Meet and Confer Sessions With DOF. Limited Downward Revisions By DOF

Housing DDR Issues

- Some Lingering Disputes Over Housing DDR Balances Due
 - Some SAs Withheld Disputed Payments
 - Growing Number of Housing DDR Lawsuits Filed

Non-Housing DDR Issues

- Oversight Board-Approved Non-Housing DDRs Due To DOF By January 15, 2013
- DOF Has Until April 1, 2013 To Make Any “Adjustments”
 - DOF Routinely Requesting Basic Accounting Information As If To “Re-Do” Local Auditor Work
- Extensive Dispute/Meet and Confer Sessions With DOF Anticipated
- Non-Housing DDR Litigation Expected

Housing Asset Determinations and Housing Successor Issues

- Housing Assets and Liabilities Largely Transfer To Housing Successor, Not Successor Agency
- Exceptions For The Following That Transfer To Successor Agency:
 - Housing Fund Balance
 - Housing Enforceable Obligation Payments

Housing Asset Determinations and Housing Successor Issues

- Housing Asset Lists Submitted and Approved/
Modified By DOF in August 2012
 - 108 Meet and Confer Sessions With DOF On
Disputed Items Currently Nearing Completion
 - Some Disputed Housing Asset Items Are Now
Subject To Litigation; More Litigation Expected

Housing Asset Determinations and Housing Successor Issues

- Concerns About Method For “Transfer” of Housing Assets To Housing Successor
 - Automatically on February 1, 2013 Or Following Oversight Board Direction?
 - Title Company Issues Related to Real Property Housing Assets

July 12, 2012 True-Up Payment Issues

- AB 1484 Effort To Capture Unobligated December 2011 Tax Increment Installment Paid To RDAs Prior to Delayed Dissolution on February 1, 2012 (So-Called “True-Up Payment”)
- Exceedingly Rushed and Arbitrary DOF/Auditor-Controller Process To Determine and Make SAs Pay Required True-Up Amounts Between June 28, 2012 and July 12, 2012

July 12, 2012 True-Up Payment Issues

- 27 SAs Did Not Make Required True-Up Payment According To DOF
- Potential Statutory Sanctions Not Generally Imposed By State or County Auditor-Controllers
- Stipulated Judgment/Settlement Format Being Pursued By State and SAs To Settle Purported Payment Obligations, In Most Cases

Property and Other Asset Clawbacks

- State Controller's Office (SCO) Charged With Finding and Causing Reversal ("Clawback") of Assets (Property and Cash) "Impermissibly" Transferred to RDA's Host Community (City or County):
 - By RDA Between January 1, 2011 and February 1, 2012
 - By SA On or After February 1, 2012
- To Date, SCO Has Completed Clawback Audits For Only a Small Fraction of RDAs/SAs (13 of 400)

Property and Other Asset Clawbacks

- SCO Sent Blanket Clawback Order To SAs and Host Communities On April 20, 2012
- DDR Process Under AB 1484 Is Seen As An Indirect Method For DOF To Accelerate The Clawback Process
 - By Requiring Payment of Funds Under DDR Process Equivalent To Value Of Deemed Impermissible Asset Transfers to Host Community

Bond-Related Matters – Potentially Positive Aspects Of AB 1484

- More Feasible Authority For Bond Refunding To Reduce Debt Service Payments
- Method for Spending Unexpended Proceeds of Pre-2011 Housing Fund-Secured Bonds (Currently Available)
- Method For Spending Unexpended Proceeds of Pre-2011 Non-Housing Bonds (Following Finding of Completion)

Bond-Related Matters – Some Remaining Problems And Concerns

- Authority To Spend 2011 Bond Proceeds
- Making ROPS's Bond-Year Compliant
- Maintaining Bond Special Funds By Project Area (If Possible)
- Compliance With SEC Continuing Disclosure Obligations (Including RDA "Annual Report" Contents)

Finding of Completion – Conditions To Receipt

- DOF To Issue Finding of Completion When SA Has Satisfactorily Paid
 - July 12, 2012 “True-Up Payment”
- Housing DDR Unobligated Funds Payment
- Non-Housing DDR Unobligated Funds Payment

Finding of Completion – Potential Benefits

- Upon Receipt of Finding Of Completion, An SA Can:
 - Seek Expenditure As An Enforceable Obligation On a Future ROPS of Unencumbered Proceeds of Pre-2011 Non-Housing Bonds
 - Seek Repayment of Previously Invalidated Host Community Loans To RDA
 - Seek Approval For Long-Range Property Management Plan To Dispose of Former RDA Real Property

Repayment of Host Community Loans

- Host Community Loan Repayments Generally Invalidated by ABx1 26
- AB 1484 Allows Such Loans To Become Repayable Upon:
 - SA Receipt of DOF Finding of Completion
 - Oversight Board Finding That Host Community Loan Was For “Legitimate Redevelopment Purpose”
 - Inclusion of Loan Repayment on Future ROPS

Repayment of Host Community Loans

- Host Community Loan Repayment Is Subject To Strict Limits
 - Accumulated Interest On Outstanding Loan Balance Is Recalculated At LAIF Interest Rates
 - Future Interest Limited To LAIF Rate
 - Repayments Cannot Begin Until 2013-14
 - Repayments Are Made According To A Defined Schedule Over a “Reasonable” Period, With Maximum Periodic Payments Limited To Tight Statutory Formula

Repayment of Host Community Loans

- Host Community Loan Repayment Is Subject To Strict Limits (Continued)
 - Repayments Of Host Community Loan Are Subordinated To Prior Repayment of Low and Moderate Income Housing Fund Borrowings
 - An Additional Amount Equal To 20% of the Periodic Loan Repayment Is Deposited in Housing Successor's Affordable Housing Asset Fund

Property Disposition/Long-Range Property Management Plan

- DOF Position: AB 1484 Placed Moratorium On Most SA Property Disposition Until:
 - DOF Issues Finding of Completion, and
 - Oversight Board and DOF Approve Long-Range Property Management Plan (PMP)

Property Disposition/Long-Range Property Management Plan

- Exceptions To Property Disposition Moratorium
 - Housing Asset Property That Has Transferred To Housing Successor
 - Property Subject To Disposition Under An Enforceable Obligation
 - Governmental Purpose Property Approved For Disposition By Oversight Board (and Not Disapproved By DOF)

Property Disposition/Long-Range Property Management Plan

- PMP Must:
 - Be Submitted To Oversight Board and DOF Within 6 Months After Receipt of DOF Finding of Completion
 - Contain For Each RDA/SA Property (1) An Inventory of Specified Property Information, and (2) A Proposed Disposition/Use (See Accompanying Chart)

Permitted Uses/Disposition of Successor Agency Real Property Under a Long-Range Property Management Plan (Health and Safety Code Section 34191.5)

Plan Category	Use/Disposition Purpose of Property	Property Transferee
Enforceable Obligation	Use consistent with Enforceable Obligation Terms	Designated Enforceable Obligation Recipient
Governmental	Governmental Use in Accordance with Section 34181(a)	Appropriate Public Jurisdiction
Approved Redevelopment Plan Project	Direct Use, or Liquidation and Use of Proceeds, for Project Identified in Approved Redevelopment Plan	Host Community (City or County)
Other Liquidation	Distribution of Sale Proceeds as Property Taxes to Affected Taxing Entities	Approved Purchaser

Pending and Decided Litigation On Redevelopment Unwind Matters

- Over 50 Lawsuits Filed To-Date; More Anticipated
- Major Litigation Categories:
 - Facial Challenges To AB 1484 (Illegal Remedies Against Cities/Counties; Unlawful Delegation of Legislative Authority to DOF; Improper DOF Regulatory Rule Making)
 - Impairment of Bond Covenants/Security

Pending and Decided Litigation On Redevelopment Unwind Matters

- Major Litigation Categories (Continued):
 - July 12, 2012 True-Up Payment Stipulated Judgments
 - ROPS/Enforceable Obligation Disputes
 - DDR Payment Obligation Disputes
 - Housing Asset List Disputes

Pending and Decided Litigation On Redevelopment Unwind Matters

- Outcomes To-Date
 - Trial Courts Have Ruled In SA/Housing Successor Favor In At Least Two Cases; Against SA In One Case
 - Several Others Have Been Settled or Withdrawn To SA Satisfaction

Successor Agency Termination Procedures

- SA Terminates Upon:
 - Payment of All Enforceable Obligations
 - Disposition of All Assets (To Be Completed Within One Year After All Obligations Paid)

Successor Agency Termination Procedures

- Upon SA Termination:
 - Pass-Through Payments Terminate
 - RPTTF System Terminates and Former RDA Tax Increment Is All Treated As Normal Property Taxes
- 17 SAs Have Terminated To-Date

Post-Redevelopment Community Economic Development Funding Opportunities

- Use of General Fund Receipts Of Share Of Former RDA Liquid Assets and Semi-Annual RPTTF Residual Balances (So-Called “Boomerang Funds”)
- Other Federal, State, Local and Private Funding Sources
- Potential State Legislation To Create Additional Funding Alternatives