

STAFF REPORT

City of Lancaster

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Date: January 24, 2012

To: Mayor Parris and City Council Members

From: Dave McEwen, City Attorney

Subject: **Assignment of Housing Functions to the Lancaster Housing Authority**

Recommendation:

Adopt **Resolution No. 12-08**, assigning the housing functions of the former Lancaster Redevelopment Agency to the Lancaster Housing Authority and making certain findings in connection therewith.

Fiscal Impact:

By taking on the housing functions of the former Lancaster Redevelopment Agency (“Agency”), the Lancaster Housing Authority (“Housing Authority”) may incur obligations relating to the development and/or monitoring of affordable housing units; however, the Housing Authority is also expected to receive certain housing assets of the Agency. The law is unclear as to the full extent of the obligations that may be imposed on the Housing Authority if it assumes the housing functions and assets of the Agency, and the character of the assets that will be transferred to the Housing Authority.

Background:

The purpose of this report is to request that the City Council of the City of Lancaster (“City Council”) adopt a resolution declining to assume the housing assets and functions of the Agency but confirming that such housing functions and assets be assumed by the Housing Authority pursuant to Health and Safety Code Section 34176.

On December 29, 2011, the California Supreme Court upheld AB 1X 26, which dissolves all of the redevelopment agencies in California, and invalidated AB 1X 27, which would have allowed redevelopment agencies to remain in existence if the agency opted in to the “Voluntary Alternative Redevelopment Program” created by AB 1X 27.

Pursuant to new Health and Safety Code Section 34176, added by AB 1X 26, the City may elect to retain the “housing assets and functions previously performed by the redevelopment agency.” If the City elects to retain the responsibility, then “all rights, powers, duties, and obligations, excluding any amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred to the [C]ity ...”.

If the City does not elect to retain the responsibility for performing housing functions then all such rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the former agency, again excluding the existing balances in the Housing Fund, must be transferred to: (1) the local housing authority, or (2) if there is more than one local housing authority in the jurisdiction, then to the housing authority selected by the City, or (3) if there is no

local housing authority then to State Department of Housing and Community Development (HCD).

AB 1X 26 is not clear about the scope of the housing responsibilities that would be imposed on the City, should the City elect to assume the Agency's housing functions and assets. For example, if a redevelopment agency had prior compliance issues and the City were required to carry out those prior housing duties, what funding source(s) would be available to the City? The City and its general fund should not be exposed to unforeseen financial and/or legal duties.

The City Council previously formed the Housing Authority, which entity is vested with the powers and duties under the California Housing Authorities Law, Health & Safety Code Section 34200, *et seq.* If designated as the housing successor agency by the City Council, the Housing Authority may assume the former Agency's housing assets and functions and the City and its general fund should not be exposed to uncertain legal and financial responsibilities, although these issues do not now have clear answers. The City Attorney recommends that the City Council decline, *i.e.*, that the City does not assume the Agency's housing functions, but recommend that the Housing Authority assumes the housing assets and functions of the former Agency. Alternatively, the City Council may designate the Housing Authority of the County of Los Angeles to assume the former Agency's housing assets and functions because there are two local housing authorities within the Agency's territorial jurisdiction.

With the Housing Authority assuming the Agency's housing assets and functions, then as of February 1, 2012, the Housing Authority may enforce affordability covenants and perform related activities pursuant to applicable provisions of the Community Redevelopment Law, Health & Safety Code Section 33000, *et seq.*, including, but not limited to, Section 33418.

The City Council should be aware that, on January 4, 2012, State Senator Steinberg amended Senate Bill 654 ("SB 654"), which draft bill includes, among other provisions, authority for the existing Low and Moderate Income Housing Fund balance(s) of dissolved redevelopment agencies to be transferred to the entity that assumes the housing assets and functions of the former redevelopment agency. SB 654 also would allow local housing authority(ies) to decline to assume the housing assets and functions of the former agency, causing the State Department of Housing and Community Development (HCD) to assume such housing assets and functions. As of the date of preparation of this agenda report, SB 654 had been heard in and passed by the Senate Transportation and Housing Committee on January 10, 2012 and was to be referred back to the Committee on Appropriations.

Attachment:

Resolution No. 12-08