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## LAW ALERT

# DON'T FORGET – HOUSING SUCCESSOR REPORTS DUE

Redevelopment agencies have been dissolved, however, obligations to report on housing activities by housing successors continue. Housing successors (those entities that assumed the housing assets and functions of the former redevelopment agency) must report annually on their housing activities. The reporting obligations differ from those previously required in the Department of Housing and Community Development ("HCD") annual report for redevelopment agencies. The required information includes:

- Independent financial audit of the Low and Moderate Income Housing Asset Fund ("Fund"), which may be included in the host jurisdiction's annual audit.
- Specified information that must be posted on the housing successor's web site. The housing successor must also post on its website the implementation plans of the dissolved redevelopment agency.
- If a jurisdiction is a city or county, the specified information must also be reported to HCD as part of the annual housing element report. If the jurisdiction is not a city or county, the jurisdiction must provide the information to its governing body.
- Charter cities are not required to submit an annual housing element report. It is unclear if the legislation was intended to require charter cities to submit the information to HCD. While the law is not clear, if the report is not submitted to HCD, it would be good practice to send

the report to the housing successor's governing body.

### Due Dates:

- Audit: The audit of the Fund must be provided to the housing successor's governing board within six months after the end of its fiscal year end. For most housing successors, this date is December 31st.
- Report of Required Information: For housing successors that are cities or counties, the report is due with any annual housing element report, which is due on April 1<sup>st</sup>. For housing successors that are not cities or counties or which are not required to submit an annual report, the law is not clear. The more conservative answer is that it is due on the same date the audit is due. However, arguably, for consistent treatment of all housing successors, that date should be April 1st.

### Required Information:

Health and Safety Code Section 34176.1(f) requires that the following information be included in the report:

1. Any amounts deposited into the Fund, with segregation of amounts deposited from payments pursuant to a Recognized Obligation Payment Schedule ("ROPS") from other sources.

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2. The balance in the Fund at the fiscal year end, with segregation of amounts held to meet obligations on a ROPS from other amounts.
3. A description of expenditures from the Fund by category for:
  - a. Monitoring and preserving the long-term affordability of units subject to affordability restrictions or covenants entered into by the redevelopment agency or the housing successor and administering permitted affordable housing activities. *The amount that can be spent on monitoring and administration is capped at 2% of the value of the assets in the Fund or \$200,000 whichever is greater.*
  - b. Homeless prevention and rapid rehousing services. *This amount is limited to \$250,000 annually.*
  - c. Development of housing affordable to households at or below 80% of area median income ("AMI").
4. The statutory value of real property owned by the housing successor, the value of loans and grants receivable, and the sum of these two amounts. *"Statutory value of real property" means the value of properties formerly held by the former redevelopment agency as listed on the housing asset transfer form approved by the Department of Finance ("DOF") and the purchase price of properties purchased by the housing successor.*
5. A description of any inter-jurisdictional transfers of monies from the Fund in the previous fiscal year as well as any transfer from prior fiscal years if the funds are still unencumbered and a description of and status update on any project for which transferred funds have been or will be expended if that project has not yet been placed in service.
6. A description of any project for which the housing successor receives or holds real property tax revenue pursuant to the ROPS and the status of that project.
7. For interests in real property acquired by the former redevelopment agency prior to February 1, 2012, a status update on compliance with the development of the property within five (5) years after the DOF approved the property as a housing asset, which would typically be the date of approval of the housing asset transfer list. For interests in real property acquired on or after February 1, 2012, a status update on the project.
8. A description of any outstanding replacement housing and housing production obligations that transferred to the housing successor on February 1, 2012, the housing successor's progress in meeting those obligations, and the housing successor's plans to meet the unmet obligations.
9. Reporting on income targeting requirements does not need to be included until December 31, 2019 for the period from January 1, 2014 through the end of the fiscal year covered by the report (June 30, 2019 for most housing successors), and every five years thereafter. However, it may be useful for housing successors to track this information on an annual basis to ensure the requirement is met every five years. *The required income targeting expenditures are that, over a five year period, the funds remaining after expenditures for monitoring and administration and rapid rehousing services, if any, must be expended for the development of housing affordable to and occupied by households earning 80% or less of the AMI, with at least 30% of the funds expended on the development of housing affordable to and occupied by households earning 30% or less of the AMI and not more than 20% of the funds expended on the development of housing affordable to and occupied by households earning between 60% and 80% of the AMI.*
10. The percentage of units of deed-restricted rental housing restricted to seniors and assisted individually or jointly by the housing successor, its former redevelopment agency, and its host jurisdiction within the previous 10 years in relation to the total number of units of

deed-restricted rental housing assisted individually or jointly by the housing successor, its former redevelopment agency, and its host jurisdiction within the same time period. *If the percentage of assisted senior rental housing is more than 50 percent of the total of all assisted rental housing, no additional senior rental housing can be assisted until the percentage falls to 50 percent or less.*

11. The amount of any excess surplus, the amount of time that the successor agency has had the excess surplus, and the housing successor's plan for eliminating the excess surplus. *The definition of excess surplus has been modified so that an "excess surplus" exists to the extent a housing successor holds unencumbered funds in its Fund in an amount that exceeds the greater of \$1,000,000 or the total amount of deposits into the Fund for the preceding four fiscal years. The housing successor is required to spend the excess surplus amount or transfer that amount to another jurisdiction as provided in Health and Safety Code Section 34176.1(c)(2) within three fiscal years. If not, the excess surplus amount must be transferred to HCD to use pursuant to the Multifamily Housing Program or the Joe Serna, Jr. Farmworker Housing Grant Program.*

**Report Format:**

HCD is no longer providing a form for reporting the required information. There are several example report forms circulating among housing successors but there is no required format. For agencies using a format generally available in the housing successor community, we suggest that each agency check any proposed form carefully to see that it includes all required information and revise the form as needed for its own use.

If you have any questions about housing successor agency reporting, please contact Lynn Hutchins, Karen Tiedemann, Barbara Kautz, Rafael Yaquian or any of the other attorneys at Goldfarb & Lipman.

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