

**City of Garden Grove**

**INTER-DEPARTMENT MEMORANDUM**

To:	Matthew Fertal	From:	Economic Development
Dept:	City Manager		
Subject:	RESOLUTION DECLINING TO ASSUME HOUSING ASSETS AND FUNCTIONS OF FORMER GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT AND DESIGNATING GARDEN GROVE HOUSING AUTHORITY TO SERVE AS SUCCESSOR HOUSING AGENCY	Date:	January 17, 2012

**OBJECTIVE**

The purpose of this report is to request that the City Council of the City of Garden Grove ("City Council") adopt a resolution declining to assume the housing assets and functions of the Garden Grove Agency for Community Development ("Agency") and designating that such housing functions and assets be assumed by the Garden Grove Housing Authority ("Housing Authority") pursuant to Health & Safety Code Section 34176.

**BACKGROUND/DISCUSSION**

On December 29, 2011, the California Supreme Court upheld AB X1 26, which dissolves all of the redevelopment agencies in California, and invalidated AB X1 27, which would have allowed redevelopment agencies to remain in existence should the agency opted in to the "Voluntary Alternative Redevelopment Program" created by AB X1 27 ("Program"). The City previously opted into the Program by Ordinance No. 2796 soon after the passage of AB X1 26 and AB X1 27. Because the constitutionality of both AB X1 26 and AB X1 27 was in doubt, the City also, by Resolution No. 9072-11, affirmatively elected to serve as the successor agency to the Agency pursuant to Health & Safety Code Section 34173(d)(1).

Pursuant to new Health and Safety Code Section 34176, added by AB X1 26, a city could also have elect to retain the "housing assets and functions previously performed by the redevelopment agency." Should a city elect to retain the responsibility, then "all rights, powers, duties, and obligations, [but] excluding any amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred to the [C]ity ...".

Should a city not elect to retain the responsibility for performing housing functions, then all such rights, powers, assets, liabilities, duties, and obligations associated

RESOLUTION DECLINING TO ASSUME HOUSING ASSETS AND FUNCTIONS OF  
FORMER GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT AND  
DESIGNATING GARDEN GROVE HOUSING AUTHORITY TO SERVE AS SUCCESSOR  
HOUSING AGENCY

January 17, 2012

Page 2

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 X1 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, an entity 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 would not be exposed to uncertain legal and financial responsibilities, although these issues do not now have clear answers. The City Attorney and special counsel recommend that the City Council decline, i.e., that the City not assume the Agency's housing functions, but recommend that the Housing Authority assume the housing assets and functions of the former Agency. Alternatively, the City Council could recommend that the Orange County Housing Authority 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"). This 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 would also 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 was

RESOLUTION DECLINING TO ASSUME HOUSING ASSETS AND FUNCTIONS OF  
FORMER GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT AND  
DESIGNATING GARDEN GROVE HOUSING AUTHORITY TO SERVE AS SUCCESSOR  
HOUSING AGENCY

January 17, 2012

Page 3

scheduled to be heard in the Senate Transportation and Housing Committee on  
January 10, 2012.

**FISCAL IMPACT**

By taking on the housing functions of the former Agency, the Housing Authority could incur obligations relating to the development and/or monitoring of affordable housing units; however, the Housing Authority would also be expected to receive certain housing assets of the Agency. The law is unclear as to the full extent of the obligations that could be imposed on the Housing Authority should it assume the housing functions and assets of the Agency, and the character of the assets that would be transferred to the Housing Authority.

**RECOMMENDATION**

It is recommended that the City Council:

- Adopt the attached Resolution declining to assume the housing assets and functions of the Agency and designating the Housing Authority as successor housing agency assuming such assets and functions.

It is recommended that the Housing Authority, by minute order:

- Accepts the designation as Successor Housing Agency and assumes the housing assets and functions of the former Agency.

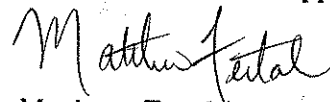


JIM DELLALONGA

Sr. Project Manager/Dept. Administrative Officer

Attachment 1: Resolution

**Recommended for Approval**



**Matthew Fertal**  
City Manager

GARDEN GROVE CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DECLINING THAT THE CITY ASSUME THE HOUSING ASSETS AND FUNCTIONS OF THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT AND RECOMMENDING THAT THE GARDEN GROVE HOUSING AUTHORITY ASSUME THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE AGENCY PURSUANT TO HEALTH & SAFETY CODE SECTION 34176

WHEREAS, the Garden Grove Agency for Community Development ("Agency") was formed to execute and implement the Redevelopment Plans for the Garden Grove Community Project and the Buena Clinton Project, pursuant to the provisions of the California Community Redevelopment Law, Health & Safety Code Section 33000, et seq. ("CRL");

WHEREAS, the City of Garden Grove is a municipal corporation of the State of California ("City");

WHEREAS, on December 29, 2011, in California Redevelopment Association v. Matosantos, Case No. S194861, the California Supreme Court upheld AB X1 26, which dissolves all of the redevelopment agencies in California, and invalidated AB X1 27, which would have allowed redevelopment agencies to remain in existence if they opted in to the "Voluntary Alternative Redevelopment Program" ("Program");

WHEREAS, the City opted into the Program by Ordinance soon after the passage of AB X1 26;

WHEREAS, because the constitutionality of both AB X1 26 and AB XI 27 was in doubt, the City also, by Resolution, affirmatively elected to serve as the successor agency to the Agency pursuant to CRL Section 34173(d)(1);

WHEREAS, pursuant to CRL Section 34176, the City may elect to assume the housing assets and functions previously performed by the Agency or may allow transfer of those assets and functions to the Garden Grove Housing Authority; and

WHEREAS, the City Council declines to assume such housing assets and functions and states its desire that the Garden Grove Housing Authority assume all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the former Agency.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GARDEN GROVE:

Section 1. The above recitals are true and correct, are a substantive part of this Resolution, and are adopted as the findings of the City Council.

Section 2. Pursuant to CRL Section 34176, enacted by AB X1 26, the City Council hereby declines to assume the housing assets and functions of the Agency

and designates the Garden Grove Housing Authority to assume the housing assets and functions previously performed by the Agency, including all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the former Agency.

Section 3. The City Manager is hereby authorized and directed to take such other and further actions, and sign such other and further documents, as are necessary and proper in order to implement this Resolution on behalf of the City.

Section 4. The City Clerk shall certify to the adoption of this Resolution.