

RESOLUTION NO. 13-02

**A RESOLUTION OF THE OVERSIGHT BOARD
FOR THE SUCCESSOR AGENCY TO THE CITY OF
MONTCLAIR REDEVELOPMENT AGENCY RETRO-
ACTIVELY APPROVING ACTIONS TAKEN BY THE
CITY OF MONTCLAIR REDEVELOPMENT AGENCY
AND THE MONTCLAIR HOUSING CORPORATION
AS REQUESTED BY THE STATE CONTROLLER'S
OFFICE**

WHEREAS, Assembly Bill 1X 26 (AB 26) was signed by the Governor on June 28, 2011 and upheld as constitutional by the California Supreme Court. On June 27, 2012, the Governor signed Assembly Bill 1484 (AB 1484). AB 26 and AB 1484 (together called the Dissolution Bills) eliminated California Redevelopment agencies statewide and established successor agencies to pay, perform, and effectuate the enforceable obligations of the former redevelopment agencies and to wind down the affairs of the former redevelopment agencies, and

WHEREAS, pursuant to Section 34167.5 of the Health and Safety Code, the State Controller was charged with conducting a review of the activities of each redevelopment agency in the state to determine whether an asset transfer occurred after January 1, 2011, between the city or county, or city and county that created a redevelopment agency or any other public agency, and the redevelopment agency; and

WHEREAS, if the State Controller concludes an asset transfer did occur during the period from January 1, 2011, and the date at which the redevelopment agency ceased on January 31, 2012, and the government agency that received the assets is not contractually committed to a third party for the expenditure or encumbrance of those assets, to the extent not prohibited by state and federal law, the Controller shall order the available assets be returned to the redevelopment agency or successor agency; and

WHEREAS, to meet the requirement of Health and Safety Code Section 34167.5, the State Controller's Office conducted a transferred asset review of the Successor Agency to the City of Montclair Redevelopment Agency and issued a draft report of the findings dated November 2012, and

WHEREAS, a portion of the State Controller's draft report indicated that on April 4, 2011, the City of Montclair Redevelopment Agency sold property to the Montclair Housing Corporation, a California Corporation, for \$12,141,000. The City of Montclair Redevelopment Agency accepted a promissory note for payment. Such sale occurred before the law eliminating redevelopment agencies was adopted and was accomplished between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation, and

WHEREAS, the State Controller's Office indicated in its finding that these properties must be returned to the Successor Agency for disposition in accordance with the Health and Safety Code, and

WHEREAS, the Montclair Housing Corporation administered the operation of 99 affordable rental housing units owned by the City of Montclair Redevelopment Agency prior to the sale of such units on April 4, 2011, and

WHEREAS, the 99 rental units contain 55-year affordability covenants restricting use of the properties to persons of Low and Moderate Income and approximately 80 percent of the 99 units are restricted to rental by persons with Very Low Income, and

WHEREAS, the rental units contain a tenant population of over 300 persons, and

WHEREAS, Successor Agency staff responded to the draft findings of the State Controller's Office and indicated disagreement with such finding indicating that the sale of the units to the Montclair Housing Corporation was a valid sale of the properties that preceded the law eliminating redevelopment agencies and that, in the opinion of the Successor Agency and its legal counsel, the validity of such a sale should be a recognized legal transaction, and

WHEREAS, after discussion with the State Controller's Office, the State Controller has indicated that the State Controller will not seek return of the housing assets to the Successor Agency if the Oversight Board retroactively approves the actions taken by the former City of Montclair Redevelopment Agency and the Montclair Housing Corporation in accomplishing the sale; and

WHEREAS, the Oversight Board to the Successor Agency of the City of Montclair Redevelopment Agency desires to recognize the prior action of the former City of Montclair Redevelopment Agency and Montclair Housing Corporation related to the sale of these housing assets, and

WHEREAS, pursuant Health and Safety Code Sections 34179(f) and 34181(f), notice of this action was posted on the City's website on January 24, 2013.

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board to the Successor Agency of the City of Montclair Redevelopment Agency does hereby find, determine, and order as follows

Section 1. The above recitals are true and correct and are a substantive part of this Resolution.

Section 2. This Resolution is adopted pursuant to Health and Safety Code Sections 34177(g) and 34181(c)

Section 3. As requested by the State Controller's Office, the Successor Agency retroactively approves the sale of housing properties to the Montclair Housing Corporation by the City of Montclair Redevelopment Agency which occurred on April 4, 2011.

Section 4. The staff of the Successor Agency is hereby directed to provide the Department of Finance and the State Controller's Office with written notice and information regarding the action taken by the Oversight Board pursuant to this Resolution. Such notice and information shall be provided by electronic means and in a manner acceptable to the Department of Finance

Section 5. The staff and the Board of the Successor Agency are hereby authorized and directed, jointly and severally, to execute and record such documents and instruments and to do any and all other things which may be deemed necessary or advisable to effectuate this Resolution.

APPROVED AND ADOPTED this 29th day of January, 2013.



Chairman

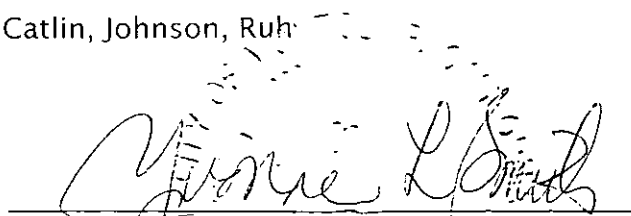
ATTEST:



Secretary

I, Yvonne L. Smith, Secretary of the Oversight Board for the Successor Agency to the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 13-02 was duly adopted by the Oversight Board of said successor agency and was approved by the Chairman of said Oversight Board at a special meeting thereof held on the 29th day of January, 2013, and that it was adopted by the following vote, to-wit:

AYES: Stallings, Kulbeck, Erickson, Catlin, Johnson, Ruh
NOES: None
ABSTAIN: None
ABSENT: Richardson



Yvonne L. Smith
Secretary