
Housing Authority Special Meeting Agenda

Wednesday, April 1, 2015

10:00 a.m.

Indian Wells Golf Resort, Celebrity Ballroom
44-500 Indian Wells Lane, Indian Wells



Indian Wells Villas

WELCOME TO A SPECIAL MEETING OF THE HOUSING AUTHORITY. ALL PERSONS WISHING TO ADDRESS THE HOUSING AUTHORITY SHOULD FILL OUT A BLUE PUBLIC COMMENT FORM BEFORE THE MEETING BEGINS AND GIVE IT TO THE SECRETARY. WHEN THE CHAIR HAS RECOGNIZED YOU, PLEASE COME FORWARD TO THE PODIUM AND STATE YOUR NAME FOR THE RECORD. AUTHORITY POLICY IS A 3-MINUTE TIME LIMIT. PLEASE NOTE THAT YOU MAY ADDRESS THE HOUSING AUTHORITY ON AN AGENDA ITEM AT THE TIME IT IS DISCUSSED, BUT ONLY AFTER BEING RECOGNIZED BY THE CHAIR. ANY PUBLIC RECORD, RELATING TO AN OPEN SESSION AGENDA ITEM, THAT IS DISTRIBUTED WITHIN 72 HOURS PRIOR TO THE MEETING IS AVAILABLE FOR PUBLIC INSPECTION AT CITY HALL RECEPTION AREA 44-950 ELDORADO DRIVE, INDIAN WELLS DURING NORMAL BUSINESS HOURS.

1. CONVENE THE HOUSING AUTHORITY, PLEDGE OF ALLEGIANCE AND ROLL CALL

CHAIR TY PEABODY
VICE CHAIR DANA REED
COMMISSIONER RICHARD BALOCCO
COMMISSIONER DOUGLAS HANSON
COMMISSIONER TED J. MERTENS
COMMISSIONER BOBBI FLETCHER
COMMISSIONER BOB MITCHELL

2. APPROVAL OF THE FINAL AGENDA

3. PUBLIC COMMENTS

ALLOWED FOR ONLY THE LISTED ITEMS ON THE SPECIAL MEETING AGENDA

ALL PERSONS WISHING TO ADDRESS THE HOUSING AUTHORITY SHOULD FILL OUT A BLUE PUBLIC COMMENT FORM IN ADVANCE AND HAND IT TO THE AUTHORITY SECRETARY. PLEASE NOTE THAT YOU MAY ADDRESS THE HOUSING AUTHORITY ON AN AGENDA ITEM LISTED ON THE SPECIAL MEETING AGENDA ONLY, BUT ONLY AFTER BEING RECOGNIZED BY THE CHAIR. AT THE APPROPRIATE TIME, PLEASE COME FORWARD TO THE PODIUM AND STATE YOUR NAME FOR THE RECORD. AUTHORITY POLICY IS A THREE-MINUTE LIMIT. NOTWITHSTANDING THE FOREGOING, COMMISSIONERS AND STAFF MAY BRIEFLY RESPOND TO STATEMENTS MADE OR QUESTIONS POSED DURING PUBLIC COMMENTS, AS LONG AS SUCH RESPONSES DO NOT CONSTITUTE ANY DELIBERATION OF THE ITEM.

4. GENERAL BUSINESS

- A. Discussion and Direction Regarding Senate Bill 341 Requirements for Housing Authority Assets and Funding.

RECOMMENDED ACTION:

HOUSING AUTHORITY **DISCUSSES** SENATE BILL 341 AND PROVIDES **DIRECTION** TO STAFF.

ATTACHMENTS:

BB&K MEMORANDUM ON SENATE BILL 341
MAP

5. ADJOURNMENT

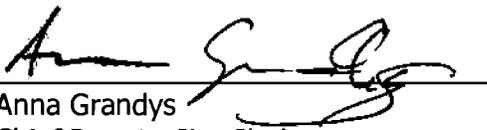
TO A SPECIAL MEETING OF THE INDIAN WELLS HOUSING AUTHORITY TO BE HELD AT 11:00 A.M. ON JUNE 18, 2015 IN THE CITY HALL COUNCIL CHAMBERS.

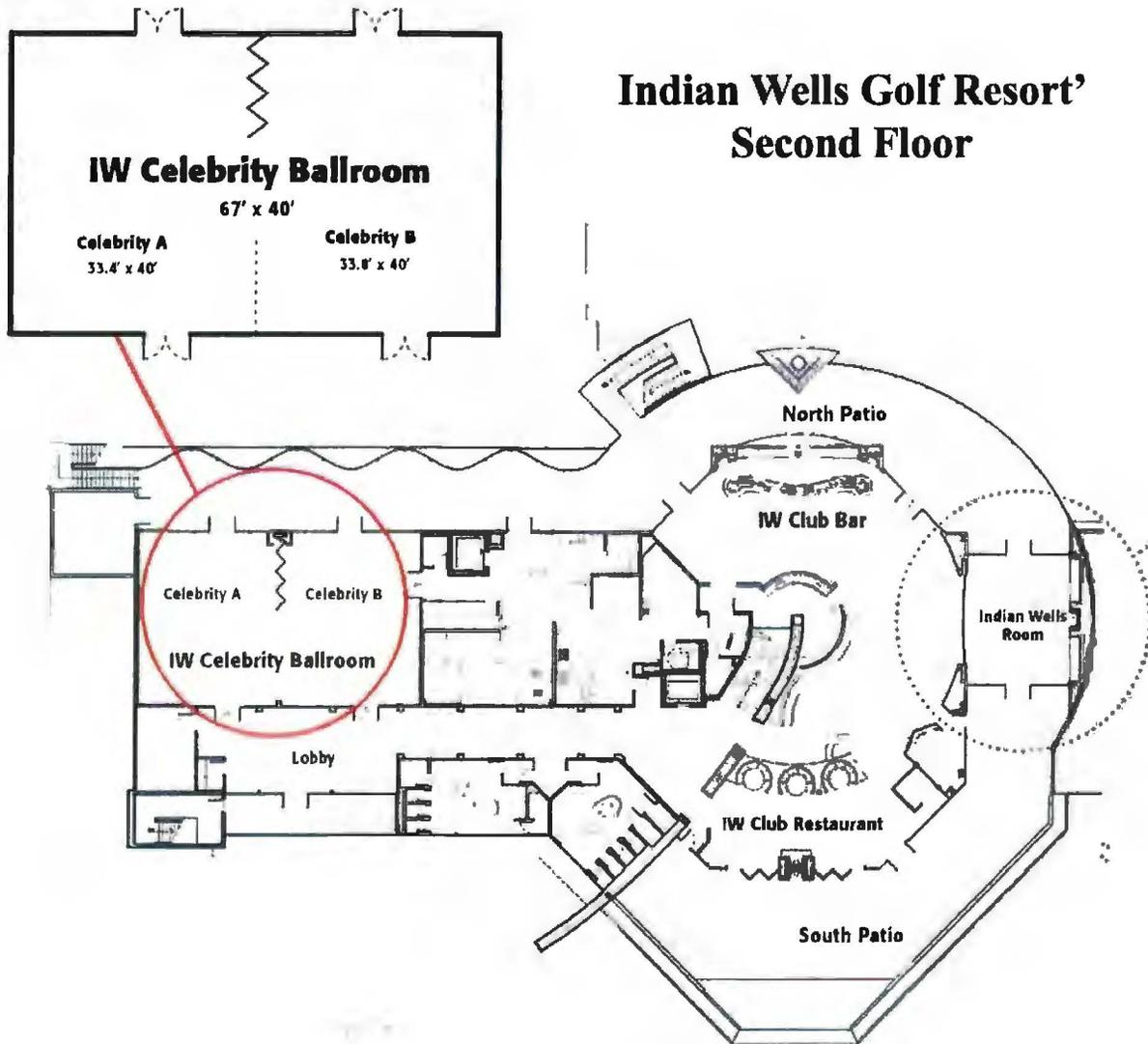
IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE CITY CLERK AT (760) 346-2489. NOTIFICATION 48 HOURS PRIOR TO THE MEETING WILL ENABLE THE CITY TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING. 128 CFR 35.102.35.104 ADA TITLE III

AFFIDAVIT OF POSTING

I, Anna Grandys, certify that on March 27, 2015, I caused to be posted and served upon all members of the Housing Authority, a notice of a Special Housing Authority Meeting to be held on Wednesday, April 1, 2015 at 10:00 a.m. at the Indian Wells Golf Resort, Celebrity Ballroom.

Notices were posted at Indian Wells Civic Center, Village 1 [Ralph's], and Indian Wells Plaza [Indian Wells Chamber of Commerce] and were delivered to all Housing Authority members.


Anna Grandys
Chief Deputy City Clerk



Sp
CC/HA ACTION _____ MTG. DATE: 4-1-15
APPROVED _____ DENIED _____ REC/FILE _____ CONT. _____
OTHER Consensus - obtain
NOTE: YES _____ NO _____ ABSTAIN _____

Indian Wells Housing Authority

Staff Report – Executive Director’s Office

*regulation OR DOJ Exception
April 1, 2015 & 2% CAP.*

and obtain construction costs for 65 units for mV Villas Phase II; obtain valuation of all HA vacant properties;

Discussion and Direction Regarding Senate Bill 341 Requirements for Housing Authority Assets and Funding

and bring back revenue & cost projections on best & worse case scenarios for (2) existing housing sites.

RECOMMENDED ACTIONS:

Housing Authority **DISCUSSES** Senate Bill 341 and provides **DIRECTION** to staff.

REPORT-IN-BRIEF:

This report provides analysis of Senate Bill 341 requirements, facts on existing assets, and fiscal analysis to help guide Housing Authority Board discussion on the future use of housing assets and proceeds. Senate Bill 341 substantially changes the landscape of Housing Authority operations. The formerly accepted redevelopment strategy of landbanking will no longer be permitted past 2017 for the Housing Authority. SB341 requires use of assets for certain eligible activities within strict timeframes.

Staff is seeking Housing Authority Board discussion to clarify and pursue viable actions in accordance with Senate Bill 341. Information presented can help guide Board discussion on future Staff analysis into strategy alternatives for Housing Authority assets.

DISCUSSION:

Summary:

Senate Bill 341 (“SB341”), adopted during the 2013-14 State Legislative Session, places strict requirements on the use of housing revenues and assets received from the former Redevelopment Agency. SB341 restricts the use of assets and funds, effectively forcing the Housing Authority to use assets for development of affordable housing or to sell assets and revert funds to the State of California. The legislation went into effect January 1, 2014.

Objective:

SB341 changes the environment for the future sustainability of the City of Indian Wells Housing Authority (“HA”). Information provided in this report is intended to raise

awareness to the impact that SB341 has on the HA and begin the discussion and decision making process to respond.

Staff's goal for this meeting is to present information to HA Board members, and answer any questions to help clarify Commissioners' understanding of the impact of SB341. The following targeted questions should be in mind when reading this report, and raised progressively throughout. At HA Board direction, Staff will bring back these questions to begin determining policy decisions to respond to SB341 requirements.

Targeted Objective Questions:

- A. Determine whether or not the Housing Authority desires to build additional income restricted housing in Indian Wells; and
- B. Determine if the Housing Authority desires to dispose of assets through sale and either (1) remit funds to State of California, or (2), partner with surrounding jurisdictions to utilize funds for allowable uses; and
- C. Determine if the Housing Authority desires continued ownership of existing affordable housing communities; and
- D. Determine if the Housing Authority desires to be a long-term entity.

Background:

Created in 2012, the City of Indian Wells Housing Authority is the housing successor agency performing the housing functions of the former Indian Wells Redevelopment Agency ("Agency"). The primary function of the HA is the preservation and development of housing for persons with very low, low, and moderate incomes.

As part of dissolution, the Agency transferred a number of assets from Agency to HA. SB341 went into effect January 1, 2014 forcing housing successor agencies with assets held, or purchased, for affordable housing to perform on those obligations or to sell those assets and transfer the funds to the State. The timeframes provided for in SB341 were made retroactive to the date of Department of Finance ("DOF") confirmation of assets. For Indian Wells, this retroactivity went back nearly a year and a half from SB341 adoption (Aug. 31, 2012).

SB341 has been under the radar of statewide groups such as the League of California Cities, legislative advocacy groups, and cities in general. Luckily, Housing Authority General Counsel brought SB341 to Staff's attention in mid-2014. Research into the topic revealed that no statewide group had produced guidance on the impacts of SB341. In late 2014, Counsel was instructed to draft a memorandum detailing the impacts of SB341 as it relates to HA (**Attachment 1**).

BB&K's memorandum now appears to be the leading piece of information on the impacts of SB341 in California. Staff has since shared it with the League legislative advocates, affordable housing law firms, consultants, and other cities.

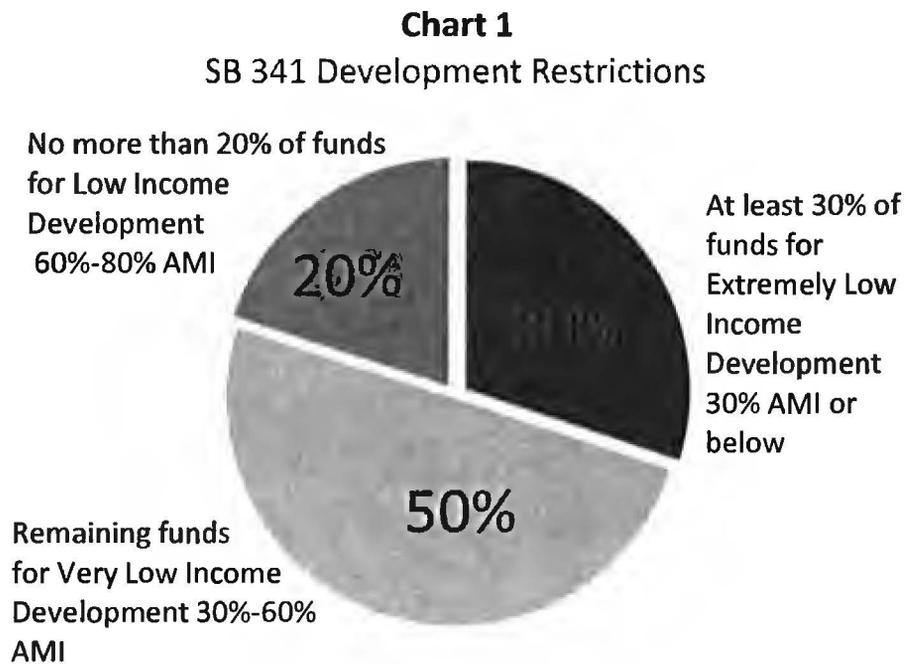
Given the number of assets held by the HA, SB341 is a substantially impactful piece of legislation. Understanding it, verifying the reality of what it mandates of the HA, and interpreting how to begin moving forward will be a substantial undertaking in coming months.

Analysis of SB341:

Attachment 1 prepared by HA Counsel describes the impact of SB341 on housing funds received through the Agency dissolution process. The following summarized points are critical to the discussion:

- Time limits on development or sale of property – HA must initiate development of housing on any HA properties within five (5) years of DOF confirmation of housing asset transfer. DOF confirmed HA's transfer on August 31, 2012. This requires all properties owned by HA (assets described in **Attachment 2**) initiate development, or be sold, by August 31, 2017.
- Expenditure of HA funds – HA may use existing funds and future revenues generated from assets on administrative costs, including for maintaining existing affordable housing units (up to 2% of total asset value), homeless services (capped at \$250,000/year), and the development of affordable housing. However, funds used for development of affordable housing have a number of restrictions:
 - Maximum 20% can be used for low income households - 60-80% area median income ("AMI");
 - Minimum 30% *must* be used for extremely low income households – 30% AMI or below;
 - Remaining funds may be used for very low income households – 30-60% AMI;
 - NO funds may be used for moderate income households or above – 80% AMI or more.

Chart 1 helps to visualize the limitations on use of HA funds for development of affordable housing. For comparison, the two senior affordable housing properties owned by the Housing Authority have incomes at very low income (50% AMI or below), low income (50%-80% AMI), and moderate income (80%-120% AMI). SB341 requires housing development targeted at the lowest income categories, which was not the Agency's prior strategy.



TARGETED OBJECTIVE QUESTION A:

Does HA desire to utilize funds for development of additional affordable housing in Indian Wells?

The lower the incomes targeted by a project are, the less operating revenues a property has. This challenge generally requires partnership with affordable housing development firms who specialize in seeking additional outside funding, such as low-income housing tax credits, to build moderate income and market rate units that can help to spread the operating costs and make a development sustainable. This would be a departure from prior Agency strategies of development using only Agency funds with limited private involvement.

- 2% Administrative Cost Cap – all revenues produced from housing assets must be placed into the housing fund, including rents collected from Indian Wells Villas (“IWV”) and Mountain View Villas (“MVV”). Current projection of IWV and MVV annual operating budgets are just over \$1.6 million. This accounts for the bulk of total allowable administrative expenditures, which includes maintaining affordability of existing housing.

This requirement may limit the HA’s ability to fund future capital replacement projects at the senior properties and severely limits the amount of funding available for staff oversight of HA activities. If the properties exceed the 2% cap, then the City General Fund would be required to subsidize HA operations.

- Transfer to Other Jurisdictions – HA may transfer funds to surrounding jurisdictions within fifteen (15) miles for a) affordable housing in transit priority projects, b) supportive housing for those with disabilities, c) housing for agricultural laborers, or d) special needs housing.
- Homeless Services – HA may fund homeless services up to an amount of \$250,000 per year if inclusionary housing requirements of the Agency were met. Staff does not believe Agency’s inclusionary housing requirements have been met, and would require additional legal investigation to determine if this option is viable.

Current Assets:

Table 1 provides an overview of the current assets owned by the HA, referencing lots identified on the map provided as **Attachment 2**.

Table 1
Housing Authority Owned Property

Lot (Identified On Map)	Lot Size	Project Name	Housing Covenants
O	10.36	Mountain View Villas Ph. II	65 units
N	2.47	Indian Wells Crossing Ph. II ¹	None
L	50.12	Miles Parking	0 ³
G	4.2	Warner Trail	None
TOTAL			65 ³

NOTES:

1. Lot N is subdivided as part of Brixton. The remaining acreage was intended as a buffer between Mountain View Villas Phase II and Indian Wells Crossing.
2. Miles Parking property only has approximately 27 developable acres. The remainder is in the Whitewater Wash. Assumed valuation based on developable acres, not total acres.
3. Miles Parking property has affordable housing restrictive covenants recorded against the property, but those covenants do not dedicate any specific unit count.

Lots O and L currently have recorded restrictive affordable housing covenants, which restrict the property to development of affordable housing. Removal of affordable housing covenants is possible through land sale or transfer but are generally intended to tie a property to use for affordable housing. The covenants currently recorded meet the goals identified in the currently adopted City Housing Element (discussed later in this report). HA could determine it desires to remove existing covenants, the last remaining in the City of Indian Wells, but exposes itself to some legal risk from housing advocacy groups.

TARGETED OBJECTIVE QUESTION B:

Does HA desire dispossession of existing assets and either (1) remit funds to the State, or (2), partner with neighboring jurisdictions to utilize funds for allowable uses?

Table 2 shows the two properties currently owned by the City, presented for informational purposes so as to not be confused with properties owned by the HA.

Table 2
City Owned Property

Lot (Identified On Map)	Lot Size	Project Name	Housing Covenants
F	3.13	Accent Homes	None
I	12.64	Warner Trail Parking Lot	None

Indian Wells Villas and Mountain View Villas

Not listed in Table 1 are IWV and MVV, 90 units and 128 units respectively. IWV and MVV are the only existing affordable housing stock owned by the HA. Each property has a regulatory agreement with restrictive covenants maintaining affordability of units through 2031 for IWV and 2039 for MVV.

The assumed value is difficult to estimate. Value is likely greater than the \$400,000 per acre used for vacant land assets due to improvements. However, affordable housing generally has lower real estate values than market given difficulty of purchasers to carry debt while maintaining affordability provisions (i.e. rents do not cover debt repayment costs).

As mentioned, the properties do produce revenues and have expenses counted against the two percent (2%) administrative cap. Staff is in conversation with DOF for an administrative ruling on the inclusion of existing properties in the cap. It appears HA’s situation was an unintended consequence of SB341, but no final administrative determination has been made. The HA may desire to pursue some legislative amendment to modify this provision of SB341.

TARGETED OBJECTIVE QUESTION C:

Does HA desire continued ownership of existing affordable housing communities?

This decision substantially affects future HA funding and expenditure requirements and sustainability. It is likely the City General Fund would require future subsidies to capital repairs to maintain IWV and MVV at current standards.

Senior Housing

SB341 prevents expenditure of HA funds for development of senior affordable housing if the Agency had developed more than fifty percent (50%) of housing as senior within the previous ten (10) years. Both IWV and MVV are senior affordable housing. However, construction completion of both properties was more than ten years ago. This means HA could build one additional senior affordable housing property under the income limits imposed by SB341.

Housing Element Considerations

Pursuant to State law, the City of Indian Wells developed, and had approved by the State, a 2013-2021 Housing Element of the General Plan. The Housing Element is a requirement of all General Plans intended to guide development and preservation of housing in a way that is consistent with the overall social and economic values of the community. The Housing Element also meets State law pertaining to the provision of housing opportunities for all income groups.

Through the Housing Element, the City of Indian Wells has made some commitments to attempt to develop additional future housing. The existing affordable covenants in place on Mountain View Villas Phase II (lot O) would represent nearly all of the commitments identified in the 2013-2021 Housing Element.

Nothing in State law specifically ties repercussions for not meeting Housing Element commitments. However, there is some legal risk by affordable housing industry advocates for not meeting the objectives laid out in the current Housing Element, despite capacity to do so.

FISCAL IMPACT:

HA's total asset picture includes the properties previously discussed, cash on hand, and ongoing revenue from a loan to the Agency prior to dissolution. **Table 3** details estimated Fiscal Year End 2014/2015 ("FY14/15") assets and liabilities comprising total funds balance.

Table 3 - Estimated FY14/15

	Housing Authority	Indian Wells Villas	Mountain View Villas	Total
Assets				
Cash	\$2,899,144	\$967,415	\$946,161	\$4,812,720
Management Cash		\$72,574	\$122,384	\$194,958
Loans Receivable	\$10,957,829	\$0	\$0	\$10,957,829
Accrued Interest	\$4,684	\$1,563	\$1,529	\$7,776
Accounts Receivable		\$4,049	\$7,936	\$11,985
Total Assets	\$13,861,657	\$1,045,601	\$1,078,010	\$15,985,268
Liabilities				
Accounts Payable	\$5,810	\$18,990	\$21,079	\$45,879
Security Deposits		\$29,600	\$52,845	\$82,445
Total Liabilities	\$5,810	\$48,590	\$73,924	\$128,324
Total Fund Balance	\$13,855,847	\$997,011	\$1,004,086	\$15,856,944
Assumed Property Value	\$17,612,000	\$10,293,966	\$36,191,583	\$64,097,549
Total Asset Value	\$31,467,847	\$11,290,977	\$37,195,669	\$79,954,493

SB341 requires the HA to perform on the development of affordable housing with existing assets, or sell. Table 3 highlights that the HA has considerable assets that could be utilized for affordable housing development, including nearly \$3 million in cash and considerable value in vacant land.

Unencumbered funds in excess of the greater of \$1,000,000, or the total amount of funds deposited in the previous four years, are considered excess surplus and must be spent within three (3) years. In March of 2014 HA deposited \$2.9 million in cash assets from the sale of property to Brixton. An additional \$2 million in reserves for IWV and MVV existed. Accounting for capital reserve funds at IWV and MVV, SB341 requires HA to encumber \$3.9 million for an eligible expense by 2017 or all funds are transferred to the State.

The Loan Receivable presented in Table 3 is from a loan made from the Agency's 20% housing set-aside funds to the Agency. The full amount of that loan was accepted as part of the Agency's Recognized Obligation Payments Schedule ("ROPS"). The loan will be repaid over time, generating approximately \$450,000 per year in cash flow to the HA until loan value is repaid.

Table 4 provides a preliminary rough estimate of the HA's FY15/16 budget numbers (formal presentation, discussion, and adoption of HA budget in May/June). This helps to highlight the operational revenues and expenditures of the HA, IWV, and MVV moving forward.

Table 4 - Projected FY15/16 Budgets

	Housing Authority	Indian Wells Villas	Mountain View Villas	Budget Total
Revenues				
Investment Earnings	\$40,000	\$5,000	\$5,000	\$50,000
ROPS Payment on SERAF Loan	\$452,000			\$452,000
Rental Income		\$621,000	\$996,000	\$1,617,000
Miscellaneous Revenues		\$5,000	\$2,000	\$7,000
Total Revenues	\$492,000	\$631,000	\$1,003,000	\$2,126,000
Expenditures				
Administration	\$217,000			\$217,000
Operating Cost	\$0	\$535,000	\$859,000	\$1,394,000
Capital Maintenance Building and Grounds Maintenance	\$0	\$86,000	\$100,000	\$186,000
	\$0			\$0
Total Expenditures	\$217,000	\$621,000	\$959,000	\$1,797,000
Budgeted Surplus/(Loss)	\$275,000	\$10,000	\$44,000	\$329,000

The annual ROPS loan repayment in Table 4 is subject to excess surplus expenditure timeframes. Depending on HA's future expenditures, it is likely that all funds deposited will have a three (3) year expenditure timeframe. The exception would be if the HA expends funds on an eligible expense and brings down the excess surplus to lower than \$1,000,000, or the total deposited over the prior four years, whichever is greater.

TARGETED OBJECTIVE QUESTION D:

Does HA desire to be a long-term entity?

ALTERNATIVES:

There are a multitude of alternatives the HA could pursue in response to SB341. This report was intended to provide enough information for the HA Board to start a discussion on direction, not as an end-game discussion on fully developed policy alternatives. However, given Staff's understanding of SB341 and the HA's current situation, a few high level alternatives present themselves for further discussion:

- The HA can utilize assets and funds to develop affordable housing within the limits of SB341 through a public/private partnership.
- The HA can dispose of all assets and revert all funds back to the State.
- The HA could wait to see if any additional changes emerge to the dissolution of redevelopment and the wind-down process that brought about legislation such as SB341.
- The HA could seek a legislative amendment to SB341 in order to loosen some requirements. Staff had discussions with Joe A. Gonsalves & Son (City's Sacramento legislative advocates) regarding a legislative amendment to SB341. Initial discussions indicate that minor tweaks may be possible if other cities are experiencing similar negative impacts, but major change to SB341 is probably not likely.

The most likely scenario would be a combination of alternatives that produce the preferred policy options for the HA. The HA Work Session on April 1st will help to provide Staff with the Board's input and direction into which options should be further pursued.

ATTACHMENTS:

1. BB&K Memorandum on Senate Bill 341
2. Map identifying Housing Authority and City owned property assets



BEST BEST & KRIEGER
ATTORNEYS AT LAW

Memorandum

To: Wade G. McKinney, Executive Director
Indian Wells Housing Authority

From: Best Best & Krieger, LLP, Authority Counsel

Date: January 9, 2015

Re: Senate Bill 341 and impact on the use of housing funds received through the Redevelopment Agency dissolution process

INTRODUCTION

During the last legislative session the State Legislature enacted Senate Bill 341 (“SB 341”), which imposed new requirements on housing successors to former redevelopment agencies. Specifically, SB 341 dictates the manner in which housing successors must spend funds that it receives from the former redevelopment agency’s assets, and established new reporting requirements on the use of those funds. The Indian Wells Housing Authority (the “Housing Authority”) serves as the housing successor to the former Redevelopment Agency of the City of Indian Wells. As a result, it has taken possession of the former redevelopment agency’s housing assets, and all future revenue generated from those assets will be deposited into a “low and moderate income housing asset fund” (“LMIHAF”) to be administered by the Housing Authority.

The revenues that will be deposited into the LMIHAF will include the repayment of the SERAF loan made by the Redevelopment Agency’s housing fund to make certain payments required by State law. The principal balance of that loan is currently \$11,514,773, and will be repaid into the LMIHAF over the next several years. Additionally, any funds recovered from the Promissory Note to be repaid by Miles Crossing Retail, LP (approximately \$2.2 million), in connection with the proposed Phase 1 retail portion of the Indian Wells Crossing development project, will also be deposited into the LMIHAF.

The enactment of SB 341 will directly impact the manner in which the Housing Authority may spend the funds that will be deposited into the LMIHAF. This memo summarizes the requirements of SB 341 and reviews the steps that the HA should take to ensure compliance with these new requirements.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

ANALYSIS

I. Requirements of SB 341

A. Expenditure of Funds

Under existing law, the housing successor to the redevelopment agency (in this case the Housing Authority) must establish the LMIHAF, and all funds generated from the former redevelopment agency's housing assets must be deposited in this fund. SB 341 dictates how these fund must be spent by the Housing Authority.

1. *Administrative Costs*

The Housing Authority can use funds deposited into the LMIHAF to pay administrative costs associated with monitoring and maintaining existing affordable housing and developing new affordable housing. However, the amount that can be spent on administrative costs in each fiscal year is capped at the greater of 2% of the total value of grant/loan receivables and real property owned by the Housing Authority, or \$200,000.

2. *Homeless Services*

If the Housing Successor has already met the inclusionary housing requirements that were imposed on the redevelopment agency pursuant to Health and Safety Code section 33413¹ then the Housing Authority can spend up to \$250,000 per year from the LMIHAF on homeless assistances and associated services to secure housing for homeless people and families.

3. *Requirements for Remaining Funds*

The remaining funds in the LMIHAF must be spent for the development of housing for households earning 80% of the area median income or less.² In other words, these funds cannot be used for moderate income housing (i.e., housing for families at 80-120% of area median income). At least 30% of these remaining funds (after use of funds for administrative costs and, if applicable, homeless assistance) must be spent on extremely low income housing, which is for households earning 30% or less of the area median income, and no more than 20% of this amount can be spent on households earning between 60% and 80% of area median income. The

¹ Section 33413 generally required that 15% of all housing developed in a redevelopment project area be affordable to low and moderate income households, with at least 40% of that housing being affordable to very-low income households.

² The Housing Authority can spend these funds on construction of new affordable housing, acquisition and rehabilitation of housing, substantial rehabilitation of existing units and acquisition of long term affordability covenants for existing units.



BEST BEST & KRIEGER
ATTORNEYS AT LAW

remainder of the funds must be spent on housing for households earning less than 60% of area median income.

If the Housing Authority spends more than 20% of the LMIHAF funds on housing for households between 60-80% of area median income over the course of a five year period, then the Housing Authority cannot spend any more money on housing for households at 60-80% of area median income until it spends funds on housing for the lower income levels to bring its spending back into the required proportions.

4. *Expenditures on Senior Housing*

If the number of affordable senior housing units developed by the former redevelopment agency or the Housing Authority in the previous 10 years exceeds 50% of the total affordable units developed during that time period, then the Housing Successor cannot spend any money to assist additional senior housing until the time when then number of senior affordable units assisted over the previous 10 years is less than 50% of the total affordable units developed by the redevelopment agency/housing authority.

B. Transfer of Funds to Other Jurisdictions

Under limited circumstances, the Housing Successor can transfer funds to another jurisdiction within the same county and within 15 miles of the housing Successor to assist with the development of (1) “transit priority projects” that call for affordable housing in close vicinity to transit stations, (2) permanent supportive housing for people with disabilities, (3) housing for agricultural laborers, or (4) special needs housing as defined by state law. Before housing funds may be transferred, both jurisdictions have to make specific findings related to the proposed housing development and each jurisdictions compliance with the inclusionary housing requirements imposed by Health and Safety Code section 33413.

C. Timing for Use of LMIHAF Funds

The new law also requires that funds deposited in the LMIHAF to be spent within a limited period of time. The new law essentially carries forward the “excess surplus” requirements established by the Community Redevelopment Law and declares that any unencumbered funds that are in excess of the greater of \$1,000,000 or the total amount deposited in the LMIHAF over the previous four fiscal years are considered “excess surplus.” The excess surplus funds must be spent within three years of the time that they are determined to be excess surplus. If the Housing Successor fails to use the excess surplus in that timeframe, the funds must be transferred to the State Department of Housing and Community Development, and will be used for the State’s Multifamily Housing Program or the Joe Serna Jr. Farmworker Housing Grant Program.



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D. Time Limits on Development or Sale of Property

Under the Community Redevelopment Law, redevelopment agencies were required to initiate development on any property acquired with affordable housing funds, or else sell the property and redeposit the funds into the low and moderate income housing fund. Now, the Housing Authority must initiate development on any property that was transferred from the redevelopment agency to the Housing Authority as a housing asset within five years of the date that DOF confirmed the property was a housing asset, or else sell the property and redeposit the money into the LMIHAF. There are no such limitations on property that is acquired by the Housing Authority with LMIHAF.

E. Reporting Requirements

The Housing Authority is not required to prepare an annual report to HCD (as was the case for the Redevelopment Agency), but it does have to prepare an annual audit of the LMIHAF within 6 months after the end of each fiscal year, and include detailed information on the amounts deposited into and spend from the LMIHAF each fiscal year, the purpose of any expenditures, and the Housing Authority's progress toward satisfying the requirements of SB 341, including the expenditure requirements for extremely low income households and the limitations on assistance for senior affordable housing.

II. Impact on Indian Wells

The Housing Authority will receive a significant amount of money into the LMIHAF in the coming years. This includes not only the repayment of the SERAF Loan and the proceeds from the sale of the Indian Wells Crossing Retail site, but additionally as the Successor Agency repays loans owed to the City, 20% of the amounts repaid are required to be deposited into the Housing Authority's LMIHAF. Any other revenues generated from the redevelopment agency housing assets that were transferred to the Housing Authority must also be deposited into the LMIHAF.

The Housing Authority will have to consider how it will use this money, given the new restrictions established by SB 341. First, the Housing Authority should determine (1) how many affordable units have been developed in the City over the past 10 years, and (2) how many of those units were senior housing units. This information will help the Housing Authority to determine how many senior housing units may be constructed in future years.

Further, the Housing Authority will not be able to spend any of the funds on moderate income housing (80% to 120% of area median income) and may only spend 20% of the total funds on low income housing. The remainder of the funds will have to be spent on households at less than 60% of area median income. This will be a significant departure from the types of affordable housing that has been developed in Indian Wells in the past, and the Housing



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ATTORNEYS AT LAW

Authority Board should consider how it wants to proceed with utilizing those funds in the near future.

If the Housing Authority does not spend the funds in the manner required by SB 341, its use of the funds will be even further constrained until it spends the proportionately required amounts, and eventually the funds will be turned over to HCD as excess surplus funds if not used in accordance with SB 341.

III. Conclusion

The Housing Authority should first determine the amount of senior affordable housing it has developed over the last 10 years, to determine the extent to which it is constrained in developing senior affordable housing in the future. The Housing Authority should then work to determine the flow of revenue that it expects to receive in the coming years, to determine how much it will have to spend on affordable housing at various income levels. Once that information is secured, the Housing Authority Board can develop a plan for how it will spend funds in a manner that is consistent with community goals and will not run afoul of the requirements of SB 341.

If you have any questions or concerns regarding this memorandum, please do not hesitate to contact me.

cc: David Gassaway, Assistant to the City Manager

STEPHEN P. DEITSCH
ETHAN WALSH



LEGEND

- City Boundary 
- City Property 
- Housing Authority Property 