COUNTY OF LOS ANGELES

CLAIMS BOARD

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

MEMBERS OF THE BOARD

Maria M. Oms
Auditor-Controller
John F. Krattli
Office of the County Counsel
Rocky Armfield
Chief Administrative Office

August 16, 2004

Honorable Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: **Compromise of City of Long Beach Tax Underpayment Claim**

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of $138,532.14.

2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Auditor-Controller.

Enclosed is the settlement request and a summary of the facts of the case.

Also enclosed, for your information, is the Corrective Action Report submitted by the Auditor-Controller.

Return the executed, adopted copy to Georgene Salisbury, Suite 648 Kenneth Hahn Hall of Administration, Extension 4-9910.

Very truly yours,

Maria M. Oms, Chairperson
Los Angeles County Claims Board

MMO/gs

Enclosures

MEMORANDUM

July 8, 2004

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: THOMAS M. TYRRELL
Principal Deputy County Counsel
Special Services Division

RE: **Compromise of City of Long Beach Tax Underpayment Claim**

DATE OF INCIDENT: September 25, 2001

AUTHORITY REQUESTED: $138,532.14

COUNTY DEPARTMENT: Auditor-Controller

CLAIMS BOARD ACTION:

☐ Approve ☐ Disapprove ☐ Recommend to Board of Supervisors for Approval

_____, Chief Administrative Office
ROCKY ARMFIELD

_____, County Counsel
JOHN F. KRATTLI

_____, Auditor-Controller
MARIA M. OMS

on _____, 2004

HOA.238763.4

SUMMARY

This is a recommendation to settle for $138,532.14 the City of Long Beach claim for $277,064.29 of statutory "pass through" revenues generated from its North Long Beach Redevelopment Project for fiscal year 2000-2001. Because the claim's legal merits are closely balanced and the issue obscure, we believe that compromising for half the amount is an appropriate resolution.

LEGAL PRINCIPLES

The Community Redevelopment Law ("CRL") uniquely requires cities (but not other taxing entities) to elect to receive a share of the statutory mitigation payment from annual tax increment of projects within their jurisdiction. They may elect their share "in any fiscal year in which the agency receives tax increments." The CRL does not define "fiscal year" for purposes of the required election, although it does contain limited-purpose definitions. Whether Long Beach is entitled to elect in its own "fiscal year", or must elect within the County fiscal year, is a question of first impression that determines whether Long Beach's claim is meritorious.

SUMMARY OF FACTS

Various provisions of state law charge the Los Angeles County Auditor-Controller with the proper allocation of property taxes. Among these are rules for apportionment of taxes to redevelopment projects established under the Community Redevelopment Law. Health & Safety Code, §33607.5, permits cities to claim, for redevelopment projects adopted after 1993, a share of the tax increment generated in the Project.

The North Long Beach Redevelopment Project was adopted in 1996 and the City of Long Beach expressly disclaimed receipt of its elective share of tax increment. On September 25, 2001, the City adopted a resolution to receive its statutory share of fiscal year 2000-2001 tax increment revenues. The adoption was within the City's (and Agency's) October 1 to September 30 fiscal year, but not within the County's July 1 to June 30 fiscal year.

Although the CRL contemplates that gross tax increment be first apportioned to redevelopment agencies, the Auditor-Controller apportions increment net of mitigation payments it considers that the County is entitled to receive. In allocating 2000-2001 tax increment to the Agency, the Auditor-Controller retained for the County $277,064.29 to which the City would have been entitled if its election was timely. The issue is confined to fiscal year 2000-2001 tax allocations and unlikely to recur.

DAMAGES

The amount of City's claim, $277,064.29, is prescribed by a statutory formula. The Auditor-Controller agrees that the amount is correctly calculated.

STATUS OF CASE

The City timely claimed the full amount in an April 16, 2002 letter. No legal proceedings are currently pending. We incurred attorneys fees of $1964.40 for the period January 1, 2003 through June 30, 2004 on this matter.

EVALUATION

It is difficult to predict how a court would decide the issue. The CRL's limited-purpose definitions favor the County's position, but the City argues that the statute may not be given such a strict construction as to render its operation impractical and unjust. The City's claim presents an obscure legal issue of no value to either side as precedent. Accordingly, we recommend this settlement, with which the Auditor-Controller concurs.

APPROVED:

LAWRENCE B. LAUNER
Assistant County Counsel
Special Services Division

LBL:er

attachment

County of Los Angeles Department of Auditor-Controller
CORRECTIVE ACTION PLAN

LAWSUIT: No Lawsuit

INCIDENT PERIOD: Fiscal Year (FY) 2000-01

INCIDENT LOCATION: City of Long Beach North Long Beach Redevelopment Project Area

RISK ISSUES: The Department of Auditor-Controller is responsible for apportioning property tax collections and distributing the property tax revenue to the County jurisdictions including Cities, County, Redevelopment Agencies and other affected taxing entities in accordance with State law. Compliance with State law provides the framework for equitable distribution and minimizes potential over/underpayments to the County jurisdictions. Errors can result in litigation that may negatively impact the County's financial status and/or reputation.

INVESTIGATION REVIEW: The City of Long Beach's North Long Beach Redevelopment Project was adopted in 1996. Under the Law, the community in which a project resides may elect to receive a portion of the mandatory property tax revenue (referred to as 25% pass-through) which is distributed back to the affected taxing entities after the adoption of a redevelopment project.

The City of Long Beach elected to receive their share of FY 2000-01 25% pass-through property tax revenue by Resolution No. C-27914, adopted by the City Council on September 25, 2001. The resolution was adopted during the City's 2000-01 fiscal year, which commenced on October 1, 2000, and ended on September 30, 2001.

The Auditor-Controller's tax revenue distribution procedure for redevelopment agencies is to retain the County's share of the 25% pass-through tax revenue and remit the balance to the redevelopment agency excluding the City's share, unless the City elects to receive the 25% pass-through revenue within the County's fiscal year. In the case of the City of Long Beach for fiscal year 2000-01, the Auditor-Controller remitted the tax revenue to the redevelopment agency excluding the City's share.

The City of Long Beach claimed the Auditor-Controller withheld its share of the 25% pass-through tax revenue from the North Long Beach Redevelopment Project in the amount of $277,064.29 during FY2000-01. The County disputes the City's right to receive the pass-through tax revenue for FY 2000-01. The

County position is that the election should have been made during the fiscal year in which the collection and allocation of the property tax revenues were generated within the project area. The County's 2000-01 fiscal year commenced on July 1, 2000 and ended on June 30, 2001. The County contends that fiscal year 2000-01 for which the City could elect to receive pass-through tax revenues had expired at the time the Resolution was adopted in September 25, 2001.

This disagreement between the City and County reflects a fundamental difference of opinion regarding the appropriate meaning of the term "fiscal year" contained in the Law. Without coming to an agreement regarding the appropriate meaning of the term "fiscal year", the parties have agreed to settle the City's claim to pass-through property tax revenues for FY2000-01. The Auditor-Controller will therefore allocate to the City $138,532.14, an amount equal to one half (1/2) of the amount originally claimed by the City.

POLICY ISSUES: California Law [Health and Safety Code Section 33607.5 (b)] provides that "...In any fiscal year in which the agency receives tax increments, the community that has adopted the redevelopment project area may elect to receive the amount authorized by this paragraph."

Common practice is the election period by the community, in this case the City, is the fiscal year commencing July 1 and ending June 30. Auditor-Controller policy is to determine the County General Fund share as if the City did not elect to receive its share of the 25% pass-through revenue if the election is not made by June 30.

CORRECTIVE ACTION: The Department of Auditor-Controller will annually request the Redevelopment Agencies to provide their fiscal year period information utilizing the annual Statement of Indebtedness (SOI) instruction package which is provided to all Redevelopment Agencies and filed with the County Auditor-Controller no later than October 1 of each fiscal year as required by Law. The County Auditor-Controller will request redevelopment agencies with different fiscal year periods to so indicate on their SOI. If it is determined that any other entity uses the federal fiscal year, the agency will be advised of the Auditor-Controller's policy and that a community election must be made within the July 1-June 30 fiscal year.

SJL/
08/09/2004