



County of Orange

County Executive Office

August 25, 2015

Honorable Glenda Sanders
Presiding Judge of the Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92701

Subject: Response to Grand Jury Report, "Mello-Roos: Perpetual Debt Accumulation and Tax Assessment Obligation"

Dear Judge Sanders:

Per your request, and in accordance with Penal Code 933, please find the County of Orange response to the subject report as approved by the Board of Supervisors. The respondents are the Orange County Board of Supervisors.

If you have any questions, please contact Jessica O'Hare of the County Executive Office at 714-834-7250.

Sincerely,

Frank Kim
County Executive Officer

Enclosure

cc: FY 2014-15 Orange County Grand Jury Foreman
Mark Denny, Chief Operating Officer, County Executive Office
Jessica O'Hare, Assistant to the COO, County Executive Office



Responses to Findings and Recommendations
2014-15 Grand Jury Report:

“Mello-Roos: Perpetual Debt Accumulation and Tax Assignment Obligation”

SUMMARY RESPONSE STATEMENT:

On June 29, 2015, the Grand Jury released a report entitled: “Mello-Roos: Perpetual Debt Accumulation and Tax Assignment Obligation.” This report directed responses to findings and recommendations to the Orange County Board of Supervisors, select City Mayors and City Councils, and select Public Agencies, which are included below.

FINDINGS AND RESPONSES:

F.1. **There is a lack of transparency to homeowners relative to how CFD funds are being used.**

Response: *Disagrees partially with the finding.* The prospective purchaser of a new home, in which a County of Orange, Community Facilities District (CFD) has been formed, is provided a *Notice of Special Tax*. The *Notice of Special Tax* provides information specific to each Assessor Parcel Number, Tract, Lot, and Unit. The amount of the tax, for the most recent tax year, the maximum annual increase of the tax, maximum term of the tax, and a list of the authorized facilities and capital improvements (i.e. transportation improvements, sewer and water improvements, fire station, sports park, bridge, etc.) is provided in the notice, along with a telephone number to call to receive additional information. Each prospective purchaser must sign an acknowledgement of receipt of the notice.

The County of Orange agrees that information should be transparent to homeowners relative to how CFD funds are spent.

F.2. There does not seem to be appropriate oversight and auditing of CFDs and special tax expenditures within the County of Orange.

Response: *Disagrees wholly with the finding.* There are multiple mechanisms of oversight and auditing of CFDs and special tax expenditures of County of Orange CFDs. The Orange County Board of Supervisors approves each CFD formation. CFD bond issuance and eligible facilities to be financed is reviewed and recommended by the Public Finance Advisory Committee (PFAC) prior to deliberation by the Board of Supervisors. PFAC is an advisory committee made up of five public members appointed by each Board of Supervisor member, the Auditor-Controller, Treasurer-Tax Collector, and County Executive Officer. All County of Orange bond debt issuance is considered by PFAC prior to the Board of Supervisors.

The County of Orange CFDs have been audited both internally and externally in the last five years. The County's Audit Oversight Committee directs audits and assessments to be performed as part of its annual audit plan. The Ladera Ranch CFDs (99-1, 00-1, 01-1, 02-1, 03-1, 04-1) were audited in 2010 and 2012. All County of Orange CFDs were audited for fiscal year 2012-13 to evaluate whether internal controls were in place to ensure special tax rates were calculated in accordance with pertinent governing documentation, bond proceeds were used for projects in compliance with pertinent governing documentation and the process was efficient and effective. The audit found controls and processes in place to ensure special tax rates and bond proceeds calculated and utilized in accordance with pertinent governing documentation.

The Internal Revenue Service (IRS) conducted an audit of CFDs 87-1, 87-3, 87-4, 87-5A, 87-5B, 87-5C, 87-5D, and 87-8 in 2011 and audited 99-1, 00-1, and 01-1 in 2012. The purpose of the audit was to determine compliance with federal tax requirements. Information provided to the IRS included the bond transcript (Official Statement, Trust Indenture, Tax Certificate) and list of authorized facilities and associated expenditures. The assigned IRS agent toured each CFD to confirm that authorized facilities with expenditures were constructed. Each audit was closed with no-change to the position that interest received by the beneficial owners of the bonds is excludable from gross income.