

RANCHO MIRAGE REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

August 2013



JOHN CHIANG
California State Controller

August 30, 2013

Randall K. Bynder, City Manager
Rancho Mirage Redevelopment/Successor Agency
69-825 Highway 111
Rancho Mirage, CA 92270

Dear Mr. Bynder:

Pursuant to Health and Safety (H&S) Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Rancho Mirage Redevelopment Agency (RDA) to the City of Rancho Mirage or any other public agency after January 1, 2011. This statutory provision states, "The Legislature hereby finds that a transfer of assets by a redevelopment agency during the period covered in this section is deemed not to be in furtherance of the Community Redevelopment Law and is thereby unauthorized." Therefore, our review included an assessment of whether each asset transfer was allowable and whether it should be turned over to the Rancho Mirage Redevelopment Successor Agency.

Our review applied to all assets including, but not limited to, real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights, and rights to payment of any kind. We also reviewed and determined whether any unallowable transfers of assets to the City of Rancho Mirage or any other public agencies have been reversed.

Our review found that the RDA transferred \$83,090,430 in assets to the Successor Agency, the City of Rancho Mirage (City), and the Rancho Mirage Housing Authority after January 1, 2011, including an unallowable transfer of \$2,441,866, or 2.94% of the transferred assets.

Our review also found that the RDA failed to transfer \$7,381,510 in assets to the Successor Agency on February 1, 2012. This amount is comprised of \$5,881,510 in cash retained for outstanding payables of the former RDA, and \$1,500,000 in land held for resale.

However, our review of supporting documents showed that the retained cash was for pass-through payments to various taxing entities, and that prior to dissolution, the former RDA made these payments. With regards to the land held for resale, Oversight Board resolution No. 2012-OB-01 directed the Successor Agency to move forward with the sale of this asset. We traced proceeds for the sale to the Successor Agency's cash account as of June 30, 2012.

If you have any questions, please contact Steven Mar, Bureau Chief, Local Government Audits Bureau by phone at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/kw

Attachment

cc: Paul Angulo, CPA, MA-Mgmt
Riverside County Auditor-Controller
Patrick M. Pratt, Chairperson
Oversight Board
Rancho Mirage Redevelopment/Successor Agency
Steven Szalay, Local Government Consultant
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Steven Mar, Bureau Chief
Division of Audits, State Controller's Office
Scott Freesmeier, Audit Manager
Division of Audits, State Controller's Office
Claudia Corona, Auditor-in-Charge
Division of Audits, State Controller's Office
Trisha Quiambao, Auditor
Division of Audits, State Controller's Office

Contents

Review Report

Summary	1
Background	1
Objective, Scope, and Methodology	2
Conclusion	2
Views of Responsible Official	3
Restricted Use	3
Findings and Orders of the Controller	4
Schedule 1—Unallowable RDA Assets Transferred to the City of Rancho Mirage Housing Authority	7
Schedule 2—Failure to Transfer RDA Assets to the Successor Agency	8
Attachment—City’s Response to Draft Review Report	

Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Rancho Mirage Redevelopment Agency (RDA) after January 1, 2011. Our review included, but was not limited to, real and personal property, cash funds, accounts receivable, deeds of trust and mortgages, contract rights, and rights to payments of any kind from any source.

Our review found that the RDA transferred \$83,090,430 in assets to the Successor Agency, the City of Rancho Mirage (City), and the Rancho Mirage Housing Authority after January 1, 2011, including an unallowable transfer of \$2,441,866, or 2.94% of the transferred assets.

Our review also found that the RDA failed to transfer \$7,381,510 in assets to the Successor Agency on February 1, 2012. This amount is comprised of \$5,881,510 in cash retained for outstanding payables of the former RDA in and \$1,500,000 in land held for resale.

However, our review of supporting documents showed that the retained cash was for pass-through payments to various taxing entities, and that prior to dissolution, the former RDA made these payments. With regards to the land held for resale, Oversight Board resolution No. 2012-OB-01 directed the Successor Agency to move forward with the sale of this asset. We traced proceeds for the sale to the Successor Agency's cash account as of June 30, 2012.

Background

In January of 2011, the Governor of the State of California proposed statewide elimination of redevelopment agencies (RDAs) beginning with the fiscal year (FY) 2011-12 State budget. The Governor's proposal was incorporated into Assembly Bill 26 (ABX1 26, Chapter 5, Statutes of 2011, First Extraordinary Session), which was passed by the Legislature, and signed into law by the Governor on June 28, 2011.

ABX1 26 prohibited RDAs from engaging in new business, established mechanisms and timelines for dissolution of the RDAs, and created RDA Successor Agencies to oversee dissolution of the RDAs and redistribution of RDA assets.

A California Supreme Court decision on December 28, 2011 (*California Redevelopment Association et al. v. Matosantos*), upheld ABX1 26 and the Legislature's constitutional authority to dissolve the RDAs.

ABX1 26 was codified in the Health and Safety Code beginning with section 34161.

In accordance with the requirements of H&S Code section 34167.5, the State Controller is required to review the activities of RDAs, "to determine whether an asset transfer has 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 the date on which the RDA ceases to operate, or January 31, 2012, whichever is earlier.

The SCO has identified transfers of assets that occurred after January 1, 2011, between the Rancho Mirage Redevelopment Agency, the City of Rancho Mirage, and/or other public agencies. By law, the SCO is required to order that such assets, except those that already had been committed to a third party prior to June 28, 2011, the effective date of ABX1 26, be turned over to the Successor Agency. In addition, the SCO may file a legal order to ensure compliance with this order.

Objective, Scope, and Methodology

Our review objective was to determine whether asset transfers that occurred after January 1, 2011, and the date upon which the RDA ceased to operate, or January 31, 2012, whichever was earlier, between the city or county, or city and county that created an RDA, or any other public agency, and the RDA, were appropriate.

We performed the following procedures:

- Interviewed Successor Agency personnel to gain an understanding of the Successor Agency operations and procedures.
- Reviewed meeting minutes, resolutions, and ordinances of the City of Rancho Mirage, Rancho Mirage Redevelopment Agency, Rancho Mirage Redevelopment Successor Agency, and Oversight Board.
- Reviewed accounting records relating to the recording of assets.
- Verified the accuracy of the Asset Transfer Assessment Form. This form was sent to all former RDAs to provide a list of all assets transferred between January 1, 2011, and January 31, 2012.
- Reviewed applicable financial reports to verify assets (capital, cash, property, etc.).

Conclusion

Our review found that the RDA transferred \$83,090,430 in assets to the Successor Agency, the City, and the Rancho Mirage Housing Authority after January 1, 2011, including an unallowable transfer of \$2,441,866, or 2.94% of the transferred assets.

Our review also found that the RDA failed to transfer \$7,381,510 in assets to the Successor Agency on February 1, 2012. This amount is comprised of \$5,881,510 in cash retained for outstanding payables of the former RDA, and \$1,500,000 in land held for resale.

However, our review of supporting documents showed that the retained cash was for pass-through payments to various taxing entities, and that prior to dissolution, the former RDA made these payments. With regards to the land held for resale, Oversight Board resolution No. 2012-OB-01 directed the Successor Agency to move forward with the sale of this asset. We traced proceeds for the sale to the Successor Agency's cash account as of June 30, 2012.

**Views of
Responsible
Official**

We issued a draft review report on July 15, 2013. Isaiah Hagerman, Finance Director, responded via email on July 23, 2013, agreeing with the review results. The City's response is included in this final review report as an attachment.

Restricted Use

This report is solely for the information and use of Rancho Mirage, the Rancho Mirage Housing Authority, the Successor Agency, the Oversight Board, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record when issued final.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

August 30, 2013

Findings and Orders of the Controller

**FINDING 1—
Unallowable
transfers to the
Rancho Mirage
Housing Authority**

The Rancho Mirage Redevelopment Agency (RDA) failed to transfer \$6,009,482 in Low-Mod Cash to the Successor Agency on February 1, 2012. This amount was transferred to the Rancho Mirage Housing Authority in June and July 2011.

After further review, we determined that the supporting documents provided during inquiry showed that retained cash in the amount of \$3,567,616 was for administrative expenses associated with minimum housing-related obligations that existed as of January 1, 2011. In regards to the remaining balance of \$2,441,866, on May 14, 2013, the city sent us an email and documentation supporting that a payment was made by the Housing Authority to the Riverside County Auditor-Controller. The Department of Finance issued a Finding of Completion letter on May 7, 2013, which confirms that a payment was made in amounts determined under H&S Code section 34179.6, subdivision (d) or (e) and H&S Code section 34183.5. Therefore no further action is required.

Health and Safety (H&S) Code section 34175(b) states:

All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on February 1, 2012, to the control of the successor agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of February 1, 2012.

H&S Code section 34177(d) states:

Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency...for allocation and distribution...[in accordance with]...Section 34188.

Order of the Controller

Based on H&S Code section 34175(b), the Rancho Mirage Housing Authority would have been ordered to ensure that the remaining RDA assets, described above and in Schedule 1, in the amount of \$6,009,482, be turned over to the Successor Agency. However, because the Housing Authority justified the need to retain \$3,567,616 and paid the balance of \$2,441,866 to the Riverside County Auditor-Controller, no further action is required.

City's Response

Isaiah Hagerman, Finance Director, and Curt Watts, Development Services Director agreed with the review result. The City, Housing Authority, and the Successor Agency already have taken action and no further action is needed.

SCO's Comments

The State Controller's Office is in agreement with the City of Rancho Mirage and acknowledges that corrective action was taken. The Finding and Order of the Controller remain as stated.

**FINDING 2—
Failure to transfer
assets to the
Successor Agency**

The RDA failed to transfer assets totaling \$7,381,510 to the Successor Agency on February 1, 2012. This amount includes \$5,881,510 in cash, and land held for resale valued at \$1,500,000.

However, our review of supporting documents showed that the retained cash was for pass-through payments to various taxing entities, and that prior to dissolution, the former RDA made these payments. With regards to the land held for resale, Oversight Board resolution No. 2012-OB-01 directed the Successor Agency to move forward with the sale of this asset. We traced proceeds of the sale to the Successor Agency's cash account as of June 30, 2012.

H&S Code section 34175(b) states:

All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on February 1, 2012, to the control of the successor agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of February 1, 2012.

Order of the Controller

Based on H&S Code section 34175(b), because the transfers occurred during the claw-back period, the City would have been ordered to ensure that the remaining RDA assets, described above and in Schedule 2, in the amount of \$7,381,510, be turned over to the Successor Agency. However, the land held for resale was sold to a third party per Oversight Board resolution No. 2012-OB-01, and the proceeds were traced to the Successor Agency's cash account as of June 30, 2012. Additionally, the supporting documents for the retained cash show that this amount was for pass-through payments to various taxing entities. These payments were made by the RDA prior to dissolution; therefore, no further action is required.

City's Response

Isaiah Hagerman, Finance Director, and Curt Watts, Development Services Director agreed with the review result. The City, Housing Authority, and the Successor Agency already have taken action and no further action is needed.

SCO's Comments

The City of Rancho Mirage is in agreement with the finding. The Finding and Order of the Controller remain as stated.

**Schedule 1—
Unallowable RDA Assets Transferred to
the Rancho Mirage Housing Authority**

Unallowable Transfer to the Housing Authority:

Current Assets

Unencumbered Cash	\$ 6,009,482
Cash approved by DOF for Housing Related Obligations	<u>(3,567,616)</u>
Total unallowable transfers	<u>\$ 2,441,866 ¹</u>

¹ See the Findings and Orders of the Controller section.

**Schedule 2—
Failure to Transfer RDA Assets to the Successor Agency**

Failure to Transfer RDA Assets to the Successor Agency

Current Assets	
Cash	\$ 5,881,510
Land Held for Resale	<u>1,500,000</u>
Total assets to be transferred	<u>\$ 7,381,510 ¹</u>

¹ See the Findings and Orders of the Controller section.

**Attachment—
City’s Response to
Draft Review Report**

From: Isaiah Hagerman [<mailto:isaiahh@RanchoMirageCA.gov>]
Sent: Tuesday, July 23, 2013 02:26 PM
To: Mar, Steven
Subject: RDA Asset Transfer Report Comments

Mr. Mar,

Attached to this email is our comments on the draft Rancho Mirage Redevelopment Agency Transfer Review. We have two comments. The first comment noted on the attached is on page 3 of the report. Where we provide our response for "Views of Responsible Officials". The second comment is on page 5 of the report. We note the payment was made from the Housing Authority not the City. If you have any questions regarding the attached, please don't hesitate to contact me. I also mailed you a paper copy of the attached. We look forward to receiving our final report.

Thank you,



Isaiah Hagerman, CPA

Finance Director

Phone: 760-770-3207 ext. 232

E-mail: isaiahh@RanchoMirageCA.gov

69825 Highway 111, Rancho Mirage, CA 92270

www.RanchoMirageCa.gov

Conclusion

Our review found that the RDA transferred \$83,090,430 in assets to the Successor Agency, the City, and the Rancho Mirage Housing Authority after January 1, 2011, including an unallowable transfer of \$2,441,866, or 2.94% of the transferred assets.

Our review also found that the RDA failed to transfer \$7,381,510 in assets to the Successor Agency on February 1, 2012. This amount is comprised of \$5,881,510 cash that was retained to pay for outstanding payables of the former RDA and \$1,500,000 in land held for resale.

However, our review of supporting documents showed that the retained cash was for pass-through payments to various taxing entities, and further research showed that prior to dissolution, the former RDA made these payments. With regards to the land held for resale, Oversight Board resolution No. 2012-OB-01 directed the Successor Agency to move forward with the sale of the land held for resale, which accounts for this asset transfer; we traced proceeds for the sale to the Successor Agency's Cash account as of June 30, 2012.

Pursuant to H&S Code sections 34167.5 and 34175(b), because the transfers occurred during the claw back period, the City would have been ordered to turn over the remaining assets to the Successor Agency for disposition in accordance with H&S Code sections 34177(d) and (e). However, supporting documents validate that the Successor Agency should retain the assets described in this report and in Schedule 2; therefore, no further action is needed. Additionally, the Rancho Mirage Housing Authority would have been ordered to turn over the remaining balance of \$2,441,866 to the Successor Agency. However, on May 14, 2013, the City sent us an email and documentation supporting that a payment was made by the City to the Riverside County Auditor-Controller. The Department of Finance issued a Finding of Completion letter on May 7, 2013, which confirms that a payment was made in amounts determined under H&S Code section 34179.6, subdivision (d) or (e) and H&S Code section 34183.5. Therefore no further action is required.

**Views of
Responsible
Officials**

At an exit conference on March 1, 2013, we discussed the review results with Isaiah Hagerman, Finance Director, and Curt Watts, Economic Development Director. At the exit conference, we stated that the final report will include the views of responsible officials.

[Insert response]

Isaiah Hagerman, Finance Director, and Curt Watts, Development Services Director agreed with the review result. The City, Housing Authority and the Successor Agency already have taken actions and no further action is needed.

X

Findings and Orders of the Controller

FINDING 1— Unallowable transfers to the Rancho Mirage Housing Authority

The Rancho Mirage Redevelopment Agency (RDA) failed to transfer \$6,009,482 in Low-Mod Cash to the Successor Agency on February 1, 2012. This amount was transferred to the Rancho Mirage Housing Authority in June and July 2011.

In reviewing this transfer further, we determined that the supporting documents provided during inquiry showed that retained cash in the amount of \$3,567,616 was for administrative expenses associated with minimum housing-related obligations that existed as of January 1, 2011. In regards to the remaining balance of \$2,441,866, on May 14, 2013, the City sent us an email and documentation supporting that a payment was made by the City to the Riverside County Auditor-Controller. The Department of Finance issued a Finding of Completion letter on May 7, 2013, which confirms that a payment was made in amounts determined under H&S Code section 34179.6, subdivision (d) or (e) and H&S Code section 34183.5. Therefore no further action is required.

Housing Authority

Health and Safety (H&S) Code section 34175(b) states:

All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on February 1, 2012, to the control of the successor agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of February 1, 2012.

H&S Code section 34177(d) states:

Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency...for allocation and distribution...[in accordance with]...Section 34188.

Order of the Controller

Based on H&S Code section 34175(b), Rancho Mirage Housing Authority would have been ordered to ensure that the remaining RDA assets, described above and in Schedule 1, in the amount of \$6,009,482, be turned over to the Successor Agency. However, because the Housing Authority justified the need to retain \$3,567,616 and paid the balance of \$2,441,866 to the Riverside County Auditor-Controller, no further action is required.

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