

SAN RAFAEL REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

July 2013



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California State Controller

July 29, 2013

Nancy Mackle, City Manager
City Of San Rafael
1400 Fifth Avenue, Room 203
P.O. Box 151560
San Rafael, CA 94915

Dear Ms. Mackle:

Pursuant to Health and Safety (H&S) Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the San Rafael Redevelopment Agency to the City of San Rafael 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 San Rafael 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 San Rafael or any other public agencies have been reversed.

Our review found that the San Rafael Redevelopment Agency transferred \$4,657,704 in assets, which included unallowable transfers of housing assets totaling \$56,381, or 1.21%, that should have been turned over to the Successor Agency. However, on August 20, 2012, the San Rafael Successor Agency Oversight Board approved the transfer of \$56,381 in housing assets under H&S Code 34176. Therefore, no further action is needed by the San Rafael Redevelopment Successor Agency.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/kw

cc: Roy Given, Treasurer-Tax Collector
County of Marin
Matthew H. Hymel, Chair
San Rafael Redevelopment Successor Agency Oversight Board
Stephanie Lovette, Economic Development Manager
City of Rafael
Steven Szalay, Local Government Consultant
Department of Finance
Richard J. Chivaro, Chief Legal Counsel
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Division of Audits, State Controller's Office

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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the San Rafael Redevelopment Agency 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 San Rafael Redevelopment Agency transferred \$4,657,704 in assets, which included unallowable transfers of housing assets totaling \$56,381, or 1.21%, that should have been turned over to the Successor Agency. However, on August 20, 2012, the San Rafael Successor Agency Oversight Board approved the transfer of \$56,381 in housing assets under H&S Code 34176. Therefore, no further action is needed by the San Rafael Redevelopment Successor Agency.

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 (H&S 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 San Rafael Redevelopment Agency, the City of San Rafael, 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 San Rafael Redevelopment Agency, the Successor Agency, and the San Rafael Redevelopment Successor Agency 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 San Rafael Redevelopment Agency transferred \$4,657,704 in assets, which included unallowable transfers of housing assets totaling \$56,381, or 1.21%, that should have been turned over to the Successor Agency. However, on August 20, 2012, the San Rafael Successor Agency Oversight Board approved the transfer of \$56,381 in housing assets under H&S Code 34176. Therefore, no further action is needed by the San Rafael Redevelopment Successor Agency.

Views of Responsible Officials

At an exit conference on May 17, 2013, we discussed the review results with Stephanie Lovette, Economic Development Manager; Mark Moses, Interim Finance Manager; and Helen Yu, Accountant, who agreed with the review results. They further agreed that a draft review report was not necessary and that we could issue the review report as final.

Restricted Use

This report is solely for the information and use of the San Rafael Redevelopment Agency, the Successor Agency, the City of San Rafael, the San Rafael Redevelopment Successor 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

July 29, 2013

Finding and Order of the Controller

**FINDING 1—
Unallowable asset
transfers to the
entity assuming
housing functions**

The San Rafael Redevelopment Agency (RDA) made unallowable transfers of housing assets totaling \$56,381, to the entity assuming the housing functions. The asset transfers occurred during the period of January 1, 2011, through January 31, 2012, and the assets were not contractually committed to a third party prior to June 28, 2011.

On February 1, 2012, the San Rafael Redevelopment Agency transferred Housing Assets of \$39,000 in land and \$17,381 in equipment to the entity assuming the housing functions.

Pursuant to Health and Safety (H&S) Code section 34167.5, the RDA may not transfer assets to a city, county, city and county, or any other public agency after January 1, 2011. Those assets should be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177 (d) and (e).

H&S Code section 34175(b) states that 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. Pursuant to H&S Code section 34175(b) the RDA was required to transfer all assets, including housing assets, to the Successor Agency.

H&S Code section 34177(e) states that the Successor Agency is to dispose of all former RDA assets. . .As directed by the oversight board. . . Also, pursuant to H&S Code section 34177(g), the Successor Agency is to effectuate transfer of housing functions and assets to the appropriate entity designated pursuant to Section 34176. However, H&S Code section 34181(c) requires the oversight board to direct the Successor Agency to transfer housing assets to the appropriate entity pursuant to Section 34176.

On August 20, 2012, the San Rafael Successor Agency Oversight Board approved the Housing Asset Transfer (HAT) report that was prepared in accordance with California Health and Safety Code Section 34176 in the City's capacity as the entity assuming the housing functions of the San Rafael RDA. The Oversight Board approval of the HAT report that contained information about the original transfers is, in essence, retroactive approval.

Additionally, on July 27, 2012, the Successor Agency submitted the HAT form to the Department of Finance (DOF). Per letter dated August 27, 2012, the DOF reviewed the HAT report without objecting to any assets or transfers of assets listed on the report. However, information in the HAT report was intended to be limited to transfers made by the Successor Agency.

Order of the Controller

Based on H&S Code section 34167.5, the entity assuming the housing functions would have been ordered to reverse the transfer of the above assets, in the amount of \$56,381, under H & S Code section 34177 (e) with approval by the Oversight Board pursuant to H&S Code section 34181 (c). However, as the Oversight Board has already approved the transfer of the housing assets under H&S Code 34176, no further action is necessary in relation to the transfer of the asset finding.

However, we recommend that the Successor Agency contact the DOF to ensure that it agrees with this transfer, as the DOF's lack of objection to this transfer as stated in the HAT report may not constitute approval.

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