

HIGHLAND REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

August 2014



JOHN CHIANG
California State Controller

August 18, 2014

Chuck Dantuono, Director of
Administrative Services
City of Highland
27215 Base Line Street
Highland, CA 92346

Dear Mr. Dantuono:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Highland Redevelopment Agency (RDA) to the City of Highland (City) 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 the asset should be turned over to the 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 or any other public agency have been reversed.

Our review found that the RDA transferred \$66,210,970 in assets after January 1, 2011, including unallowable transfers totaling \$8,163,711, or 12.33% of transferred assets. The unallowable transfers included \$6,021,420 to the City and \$2,142,291 to the Housing Authority.

However, on November 11, 2012, and March 7, 2013, the City turned over \$3,655,904 and \$2,356,516, respectively, in cash to the Successor Agency.

In addition, on December 11, 2012, the City turned over \$2,142,291 in Housing Assets to the Successor Agency. Therefore, no further action is necessary.

If you have any questions, please contact Elizabeth González, Chief, Local Government Compliance Bureau, by telephone at (916) 324-0622.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/sk

cc: Larry McCallon, Chairman
Oversight Board
Joe Hughes, City Manager
City of Highland
Larry Walker, Auditor-Controller
County of San Bernardino
David Botelho, Program Budget Manager
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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Highland 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 \$66,210,970 in assets after January 1, 2011, including unallowable transfers totaling \$8,163,711, or 12.33% of transferred assets. The unallowable transfers included \$6,021,420 to the City of Highland (City) and \$2,142,291 to the Housing Authority.

However, on November 11, 2012, and March 7, 2013, the City turned over \$3,655,904 and \$2,365,516, respectively, in cash to the Successor Agency.

In addition, on December 11, 2012, the City turned over \$2,142,291 in Housing Assets to the Successor Agency. Therefore, no further action is necessary.

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 and oversight boards 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 (H&S) Code beginning with section 34161.

H&S Code section 34167.5 states in part, ". . . the Controller shall review the activities of redevelopment agencies in the state 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."

The SCO identified asset transfers that occurred after January 1, 2011, between the RDA, the City and/or any other public agency. 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 action 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's operations and procedures.
- Reviewed meeting minutes, resolutions, and ordinances of the City, the RDA, the Successor Agency, and the 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 Highland Redevelopment Agency transferred \$66,210,970 in assets after January 1, 2011, including unallowable transfers totaling \$8,163,711, or 12.33% of transferred assets. The unallowable transfers included \$6,021,420 to the City of Highland (City) and \$2,142,291 to the Housing Authority.

However, on November 11, 2012, and March 7, 2013, the City turned over \$3,655,904 and \$2,365,516, respectively, in cash to the Successor Agency.

In addition, on December 11, 2012, the City turned over \$2,142,291 in Housing Assets to the Successor Agency. Therefore, no further action is necessary.

Details of our findings are described in the Findings and Orders of the Controller section of this report.

**Views of
Responsible
Official**

At an exit conference on February 21, 2014, we discussed the review results with Chuck Dantuono, Director of Administrative Services, who agreed with the review results. Mr. Dantuono further agreed that a draft review report was not necessary and that the report could be issued as final.

Restricted Use

This report is solely for the information and use of the City of Highland, the Successor Agency, the Oversight Board, the Housing Authority, 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 18, 2014

Findings and Orders of the Controller

FINDING 1— Unallowable asset transfer to the City of Highland

The Highland Redevelopment Agency (RDA) made unallowable asset transfers of \$6,021,420 to the City of Highland (City). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party.

The RDA performed eight unallowable transfers of cash totaling \$6,021,420 to the City for payments against loans between the RDA and City.

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. The assets must be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177(d) and (e).

However, the City returned the cash via two transactions: \$3,655,904 was turned over to the Successor Agency on November 11, 2012, and the remaining \$2,365,516 was turned over to the Successor Agency on March 7, 2013.

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the cash transfers in the amount of \$6,021,420 and turn them over to the Successor Agency. However, on various dates, \$6,021,420 in cash was turned over to the Successor Agency and remitted to the San Bernardino Auditor-Controller for distribution in accordance with H&S Code section 34177(d). Therefore, no further action is necessary.

FINDING 2— Unallowable asset transfers to the Housing Authority

The Highland Redevelopment Agency (RDA) made unallowable asset transfers of \$2,142,291 to the Housing Authority. The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Unallowable assets transfers were as follows:

- On January 27, 2012, the RDA transferred various capital assets (land and buildings) with book values totaling \$1,446,563 to the Housing Authority.
- On January 27, 2012, the RDA transferred loans receivable with a book value totaling \$695,728 to the Housing Authority.

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. The assets must be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177(d) and (e).

Order of the Controller

Pursuant to H&S Code section 34167.5, the Housing Authority is ordered to return the above assets, described in Schedule 2, in the amount of \$2,142,291, and turn them over to the Successor Agency to be disposed of in accordance with H&S Code section 34177(d) and (e). However, on December 11, 2012, the City turned over \$2,142,291 in Housing Assets to the Successor Agency. Therefore, no further action is necessary.

**Schedule 1—
Unallowable Asset Transfers to the City of Highland
January 1, 2011, through January 31, 2012**

Payments against loans made with the City

<u>Purpose</u>	<u>Date</u>	<u>Total</u>
Repayment of principal on loan from the city	01/14/2011	\$ 200,000
Repayment of principal on loan from the city	01/14/2011	150,000
Repayment of principal on loan from the city	01/14/2011	600,000
Repayment of principal on loan from the city	01/14/2011	1,300,000
Payment of accrued interest on loan from the city	01/14/2011	946,087
Payment of accrued interest on loan from the city	01/14/2011	656,949
Payment of accrued interest on loan from the city	01/14/2011	1,102,868
Payment of accrued interest on loan from the city	01/14/2011	<u>1,065,516</u>
Total unallowable transfers		<u>6,021,420</u> ¹
Cash returned to the Successor Agency	11/11/2012	(3,655,904)
Cash returned to the Successor Agency	03/07/2012	<u>(2,365,516)</u>
Total cash returned to the Successor Agency		<u>(6,021,420)</u>
Total unallowable transfers subject to H&S Code section 34167.5		<u>\$ —</u>

¹ See the Findings and Orders of the Controller section.

**Schedule 2—
Unallowable Asset Transfers to the Housing Authority
January 1, 2011, through January 31, 2012**

Capital assets

<u>Address</u>	<u>APN</u>	<u>Date</u>	<u>Fund Asset Total</u>
7367 Central Avenue	1192-411-42	01/27/2012	\$ 1,300,000
Central Avenue	1192-431-05	01/27/2012	101,570
Lillian Lane	1192-571-40	01/27/2012	3,461
Lillian Lane	1192-571-41	01/27/2012	3,461
Lillian Lane	1192-571-42	01/27/2012	3,461
Lillian Lane	1192-571-43	01/27/2012	3,461
Lillian Lane	1192-571-44	01/27/2012	3,461
Lillian Lane	1192-571-45	01/27/2012	3,461
Lillian Lane	1192-571-46	01/27/2012	3,461
Lillian Lane	1192-591-04	01/27/2012	3,461
Lillian Lane	1192-591-05	01/27/2012	3,461
Lillian Lane	1192-591-06	01/27/2012	3,461
Lillian Lane	1192-591-07	01/27/2012	3,461
Lillian Lane	1192-591-08	01/27/2012	3,461
Lillian Lane	1192-591-09	01/27/2012	3,461
Total unallowable capital asset transfers			<u>\$ 1,446,563</u>

Loans Receivable

Description

Transfer of loans receivable from the LMIHF	01/27/2012	<u>\$ 695,728</u>
Total unallowable transfers to the Housing Authority		2,142,291 ¹
Total assets turned over to the Successor Agency	12/11/2012	<u>(2,142,291)</u>
Total unallowable transfers subject to H&S Code section 34167.5		<u>\$ —</u>

¹ See the Findings and Orders of the Controller section.

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