

PORT HUENEME REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

December 2014



JOHN CHIANG
California State Controller

December 31, 2014

Robert Bravo, Finance Director
City of Port Hueneme/Successor Agency
250 North Ventura Road
Port Hueneme, CA 93041

Dear Mr. Bravo:

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

Our review found that the RDA transferred \$20,191,130 in assets after January 1, 2011, including unallowable transfers totaling \$5,686,721, or 28.16% of transferred assets. The unallowable transfers included \$5,338,388 to the City and \$348,333 to the Port Hueneme Housing Authority.

However, on May 9, 2013, the City remitted \$3,856,755 to the County Auditor-Controller. Therefore, the remaining \$1,829,966 in unallowable transfers must be turned over to the Successor Agency.

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/mh

cc: Jonathan Sharkey, Chair
 Successor Agency Oversight Board
Jeffery S. Burgh, Auditor-Controller
 Ventura County
David Botelho, Program Budget Manager
 California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
 State Controller's Office
Elizabeth González, Bureau Chief
 Division of Audits, State Controller's Office
Scott Freesmeier, Audit Manager
 Division of Audits, State Controller's Office
Kandy Liu, Auditor-in-Charge
 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 Port Hueneme 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 \$20,191,130 in assets after January 1, 2011, including unallowable transfers totaling \$5,686,721, or 28.16% of transferred assets. The unallowable transfers included \$5,338,388 to the City of Port Hueneme (City) and \$348,333 to the Port Hueneme Housing Authority.

However, on May 9, 2013, the City remitted \$3,856,755 to the County Auditor-Controller. Therefore, the remaining \$1,829,966 in unallowable transfers must be turned over to the 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 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 Port Hueneme Redevelopment Agency transferred \$20,191,130 in assets after January 1, 2011, including unallowable transfers totaling \$5,686,721, or 28.16% of transferred assets. The unallowable transfers included \$5,338,388 to the City of Port Hueneme (City) and \$348,333 to the Port Hueneme Housing Authority.

However, on May 9, 2013, the City remitted \$3,856,755 to the County Auditor-Controller. Therefore, the remaining \$1,829,966 in unallowable transfers must be turned over to the Successor Agency.

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

Views of Responsible Official

We issued a draft report on September 8, 2014. Alvin Burrell, Accounting/Revenue Manager, responded by email dated October 21, 2014. 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 the City of Port Hueneme, the Successor Agency, the Oversight Board, the Port Hueneme 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

December 31, 2014

Findings and Orders of the Controller

FINDING 1— Unallowable asset transfers to the City of Port Hueneme

The Port Hueneme Redevelopment Agency (RDA) made unallowable asset transfers of \$5,338,388 to the City of Port Hueneme (City). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

The transfers were as follows:

- On various dates, the RDA transferred a total of \$3,888,847 in cash to the City for promissory note principal and interest payments.
- On March 10, 2011, the RDA transferred a total of \$1,449,541 in real property to the City. The assets consisted of eight properties totaling \$1,449,541 and four landscaping/gazebo parcels with no dollar value assigned.

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 that were not contractually committed to a third party prior to June 28, 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 City is ordered to reverse the transfers of \$5,338,388 and turn over the assets to the Successor Agency. The Successor Agency is directed to properly dispose of these assets in accordance with H&S Code section 34177 (d) and (e).

However, on May 9, 2013, the City remitted \$3,856,755 to the County Auditor-Controller. Therefore, the remaining \$1,481,633 in unallowable transfers must be turned over to the Successor Agency.

City's Response

The breakdown of \$1,481,633 remaining in unallowable transfers is as follows:

- a) \$1,449,541 worth of properties that was transferred to the City of Port Hueneme on May 10, 2011 with a joint resolution #821/3980. City of Port Hueneme is in the process of transferring these properties back to the Successor Agency. However, since the Oversight Board approved these transfer and a Joint Resolution was executed, the City of Port Hueneme believes that the transfer can still be made by conveying these properties to the City of Port Hueneme.
- b) \$32,092 cash transfer on January 31, 2012 for principal and interest payment of a promissory note. City of Port Hueneme will transfer the \$32,092 back to the Successor Agency in which the Successor Agency will dispose of in accordance with H&S code section 24177(D) and (e).

SCO Comment

Once the assets are returned to the Successor Agency, no further action will be required.

**FINDING 2—
Unallowable asset
transfers to the Port
Hueneme Housing
Authority**

The RDA made unallowable asset transfers of \$348,333 to the Port Hueneme Housing Authority (Authority). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Cash totaling \$348,333 was transferred to the Authority for operating grants as follows:

- May 26, 2011 \$220,000
- September 30, 2011 \$55,000
- December 31, 2011 \$55,000
- January 31, 2012 \$18,333

Pursuant to 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, that were not contractually committed to a third party prior to June 28, 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 Authority is ordered to reverse the transfer of \$348,333 and turn over the assets to the Successor Agency. The Successor Agency is directed to properly dispose of the assets in accordance with H&S Code section 34177(d) and (e).

City's Response

Housing Authority will reverse the cash transfer and turn over the cash to the Successor Agency in which the Successor Agency will dispose of in accordance with H&S code section 24177(D) and (e).

SCO Comment

Once the assets are returned to the Successor Agency, no further action will be required.

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

Description	Date	Reference	Amount
Promissory note principal and interest payments	March 9, 2011	AJ# 02086	\$ 464,203
Promissory note principal and interest payments	March 11, 2011	AJ# 02113	3,200,000
Promissory note principal and interest payments	September 30, 2011	AJ# 00832	96,276
Promissory note principal and interest payments	December 31, 2011	AJ# 01636	96,276
Promissory note principal and interest payments	January 31, 2012	AJ# 01637	32,092
Subtotal			3,888,847
Land Held For Resale	March 10, 2011	Joint Resolution #821/3980	1,449,541
Landscape/Gazebo Parcels	March 10, 2011	Joint Resolution #821/3980	—
Subtotal			1,449,541
Total unallowable transfers			5,338,388
Less cash remitted to the County Auditor-Controller	May 9, 2013		(3,856,755)
Total transfers subject to H&S Code section 34167.5			<u>\$ 1,481,633</u>

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

Description	Date	Reference	Amount
Cash	May 26, 2011	AJ# 02783	\$ 220,000
Cash	September 30, 2011	AJ# 00832	55,000
Cash	December 31, 2011	AJ# 01636	55,000
Cash	January 31, 2012	AJ# 01637	18,333
Total transfers Subject to H&S Code section 34167.5			<u>\$ 348,333</u>

**Attachment—
City of Port Hueneme’s Response to
Draft Review Report**

From: Burrell, Al <ABurrell@ci.port-hueneme.ca.us>
Sent: Tuesday, October 21, 2014 2:21 PM
To: Gonzalez, Elizabeth; Alix, Tonie; Bravo, Robert
Cc: Liu, Kandy; Freesmeier, Scott
Subject: RE: SCO RDA Asset Transfer Review Draft Report Response - City of Port Hueneme
Attachments: Response to Findings and Orders of the Controller.docx

Ms. Gonzalez,

Thank you so much for granting us the extension of time to remit our response. Attached is the City's response and the hard copy will be mailed today.

Alvin Burrell
Accounting/Revenue Manager
City of Port Hueneme
250 N. Ventura Road
Port Hueneme, CA 93041
(805) 986-6529
aburrell@ci.port-hueneme.ca.us

Findings and Orders of the Controller

FINDING 1- Unallowable asset transfers to the City of Port Hueneme

The Port Hueneme Redevelopment Agency (RDA) made unallowable asset transfers of \$5,338,388 to the City of Port Hueneme (City). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

The transfers were as follows:

- On various dates, the RDA transferred a total of \$3,888,847 in cash to the City for promissory note principal and interest payments.
- On March 10, 2011, the RDA transferred a total of \$1,449,541 in real property to the City. The assets consisted of eight properties totaling \$1,449,541 and four landscaping/gazebo parcels with no dollar value assigned.

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 that were not contractually committed to a third party prior to June 28, 2011. The assets must be turned over to the Successor Agency for disposition in accordance with **H & S Code section 34177 (d) and (e)**.

Agency Response

The breakdown of \$1,481,633 remaining in unallowable transfers is as follows:

- a) \$1,449,541 worth of properties that was transferred to the City of Port Hueneme on May 10, 2011 with a joint resolution #821/3980. City of Port Hueneme is in the process of transferring these properties back to the Successor Agency. However, since the Oversight Board approved these transfer and a Joint Resolution was executed, the City of Port Hueneme believes that the transfer can still be made by conveying these properties to the City of Port Hueneme.
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FINDING 2-

Unallowable asset transfers to the Port Hueneme Housing Authority

The RDA made unallowable asset transfer of \$348,333 to the Port Hueneme Housing Authority (Authority). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Cash totaling \$348,333 was transferred to the Authority for operating grants as follows:

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Pursuant to 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, that were not contractually committed to a third party prior to June 28, 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 Authority is ordered to reverse the transfer of \$348,333 and turn over the assets to the Successor Agency. The Successor Agency is directed to properly dispose of the assets in accordance with H&S Code section 34177(d) and (e).

Agency Response

Housing Authority will reverse the cash transfer and turn over the cash to the Successor Agency in which the Successor Agency will dispose of in accordance with H&S code section 24177(D) and (e).

**State Controller's Office
Division of Audits
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