

LYNWOOD REDEVELOPMENT AGENCY

Review Report

ASSET TRANSFER REVIEW

January 1, 2011, through January 31, 2012



BETTY T. YEE
California State Controller

June 2015



BETTY T. YEE
California State Controller

June 30, 2015

J. Arnaldo Beltran, City Manager
Lynwood Redevelopment/Successor Agency
11330 Bullis Road
Lynwood, CA 90267

Dear Mr. Beltran:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Lynwood Redevelopment Agency (RDA) to the City of Lynwood (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 \$40,337,531 in assets after January 1, 2011, including unallowable transfers to the City totaling \$2,435,080, or 6.04% of transferred assets. These assets must be turned over to the Successor Agency.

If you have any questions, please contact Ms. González by telephone at (916) 324-0622 or by email at egonzalez@sco.ca.gov.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/as

Attachment

cc: Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Elizabeth González, Bureau Chief
Division of Audits, State Controller's Office
Reginald F. Nidoy
Division of Audits, State Controller's Office
Nesha Neycheva
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 Lynwood 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 \$40,337,531 in assets after January 1, 2011, including unallowable transfers to the City of Lynwood (City) totaling \$2,435,080, or 6.04% of transferred assets.

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 Lynwood Redevelopment Agency transferred \$40,337,531 in assets after January 1, 2011, including unallowable transfers to the City of Lynwood totaling \$2,435,080, or 6.04% of transferred assets.

Details of our finding are described in the Finding and Order of the Controller section of this report.

Views of Responsible Officials

We issued a draft review report on December 30, 2014. Amanda Hall, Finance Director, responded by letter dated February 19, 2015. The City's and the Successor Agency'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 Lynwood, 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

June 30, 2015

Finding and Order of the Controller

FINDING 1— Unallowable asset transfers to the City of Lynwood

The Lynwood Redevelopment Agency (RDA) made unallowable asset transfers of \$2,435,080 to the City of Lynwood (City). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Unallowable asset transfers were as follows:

- On March 10, 2011, the RDA transferred \$352,235 in land to the City. Based on Resolution 2011.056, the City and RDA approved an agreement conveying certain RDA-owned properties to the City.
- On June 30, 2011, the RDA transferred \$1,982,745 in cash to the City. The transfer was for a loan payment between the City and RDA based on Resolution 2010.021, dated May 4, 2010.
- On September 20, 2011, the RDA transferred \$100,100 in cash to the City. The transfer was for a loan payment based on a Cooperation Agreement between the City and RDA dated September 7, 1999.

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).

Some of these assets also may be subject to the provisions of H&S Code section 34181(a), which states:

The oversight board shall direct the successor agency to do all of the following:

- (a) Dispose of all assets and properties of the former redevelopment agency; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, and local agency administrative buildings, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset. . . .

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfers totaling \$2,435,080 and turn over the assets to the Successor Agency.

City's Response

The City and the Successor Agency object to the Finding on the following bases:

1. The Report improperly and untimely challenges actions to enforceable obligations that are beyond the reach of Health & Safety Code sections 33500(b) and 33500(c).
2. The Report is incorrect and premature and the City and Successor Agency respectfully request the California State Controller cease issuance of the Report and Finding due to the *Emeryville* decision, or in the alternative consider taking the following two actions: (a) defer the Report until the *City of Brentwood vs. California Department of Finance* legal action (Sacramento Superior Court Case No. 34-2013-80001568 CUWMGDS and Court of Appeal Third Appellate District Case No. C076343) is fully litigated and final following appeals and (b) revise the Finding to reflect the Oversight Board to the Successor Agency intends on taking up the required California Health & Safety Code section 34181(a) ratification of the actions in the Finding after the *Brentwood* case is full litigated and final following appeals.
3. The enlargement of the statute of limitations period for validation actions under Health & Safety Code section 33501 does not apply to the Finding; as a result, the resolutions in the Finding are final and Conclusive and beyond the reach of the State Controller.

See Attachment for the City's complete response.

SCO's Comment

The City describes the September 20, 2011 cash transfer of \$100,100 as being made under a Loan Guarantee Assistance contract under Section 108 of Title I of the Housing and Community Development Act of 1974 entered into on August 8, 2002. However; the contract under which the cash transfer was made was pursuant to a Cooperation Agreement between the City and the RDA entered into on September 7, 1999.

The SCO's authority for the asset transfer review is codified in H&S Code section 34167.5, and extends to all assets transferred after January 1, 2011, by the RDA to the City or County, or City and County that created the RDA or any other public agency. As a result, the asset transfers made by the RDA to the City during the period of January 1, 2011, through January 31, 2012, are unallowable.

The City states that the *City of Emeryville vs. Michael Cohen* decision makes the report improper and untimely and challenges the actions relating to enforceable obligations that are beyond H&S Code section 33500 and its subdivisions. However, the *City of Emeryville vs. Michael Cohen* decision does not mitigate the findings because the findings contradict H&S Code section 34167.5. The subject matter of this review is the nature of the transfers itself, not merely the resolutions and

agreements that formed the basis of the transfers. The fact that the resolutions and agreements were made prior to the scope of AB X1 26 is irrelevant to the SCO's authority and scope of the asset transfer review. H&S Code section 34167.5 does not contain a statute of limitations for the SCO's authority to order the transferred assets be turned over to the Successor Agency.

The Finding and Order of the Controller remain as stated.

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

Cash transfer to the City of Lynwood	
Loan payment to the City – June 30, 2011	\$ 1,982,745
Loan payment to the City – September 20, 2011	<u>100,100</u>
Total Cash transfers	2,082,845
Capital assets transferred to the City – March 10, 2011	
11409 Birch Street	<u>352,235</u>
Total Unallowable transfers to the City of Lynwood	<u>\$ 2,435,080</u>

**Attachment—
City of Lynwood and Lynwood Redevelopment Successor
Agency’s Response to
Draft Review Report**



City of
LYNWOOD
Incorporated 1921
11330 Bullis Road, Lynwood, CA 90262
(310) 603-0220 x 200

February 19, 2015

Jeffrey V. Brownfield, CPA, Chief of Division of Audits
Elizabeth González, Bureau Chief of Division of Audits
Local Government Compliance Bureau
State Controller's Office
Division of Audits
3301 C Street, Suite 700
Sacramento, CA 95816

Re: *Response of the City of Lynwood and Lynwood Redevelopment Successor Agency to the December 30, 2014 letter from California State Controller Division of Audits pursuant to Health & Safety Code § 34167.5*

Dear Ms. González and Mr. Brownfield:

This is the response of the City of Lynwood (the "City") and the Lynwood Redevelopment Successor Agency (the "Successor Agency") to the December 30, 2014 letter and attached December 2014 Review Report concerning the Lynwood Redevelopment Agency Asset Transfer Review for the period January 1, 2011 through January 31, 2012 (collectively the "Report"). The City and the Successor Agency reviewed the Report, including the conclusion, finding and order. The Report allegedly found the former Lynwood Redevelopment Agency transferred Forty Million Three Hundred Thirty-Seven Thousand Five Hundred Thirty-One Dollars (\$40,337,531) in assets after January 1, 2011, including unallowable transfers to the City totaling Two Million Four Hundred Thirty Five Thousand Eighty Dollars (\$2,435,080), or Six and Four Hundredths Percent (6.04%) of transferred assets (the "Finding"). Both the City and the Successor Agency disagree with the Finding for the reasons set out below.

The City and Successor Agency confirm a telephone conversation with Mr. Reginald F. Nidoy, Audit Manager and your authorized representative on January 15, 2015 at about 1:00 p.m., appreciate the e-mail exchanges on January 15, 2015 and February 6, 2015 permitting this response to be delivered on or before February 20, 2015, and thank you for the opportunity to comment and respond to the Report.

The City and the Successor Agency object to the Finding on the following bases:

1. The Report improperly and untimely challenges actions relating to enforceable obligations that are beyond the reach of Health & Safety Code sections 33500(b) and 33500(c).

Since the Finding relates to a finding and determination of the former Lynwood Redevelopment Agency ("Former Agency") made prior to January 1, 2011 along with a connected curative action on March 16, 2011, the Finding is beyond the reach of the State Controller.

The relevant portions of AB X1 26 concerning these actions and interpretation of these subdivisions in *City of Emeryville vs. Michael Cohen* (2015) [pending volume citation entry] Cal. App. 4th [pending page citation entry], 2015 Cal.App. Lexis 41 decided January 16, 2015 (concluding AB 1484 does not apply retrospectively) demonstrate the Report is improper and untimely. Subdivisions (b), (c), (d), and (e) of Health & Safety Code section 33500 read:

(b) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of any findings or determinations by the agency or the legislative body at any time within 90 days after the date on which the agency or the legislative body made those findings or determinations, if the findings or determinations occurred prior to January 1, 2011.

(c) Notwithstanding any other law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a redevelopment plan at any time within two years after the date of the adoption of the ordinance adopting or amending the plan, if the adoption of the ordinance occurred after January 1, 2011.

(d) Notwithstanding any other law, including Section 33501, an action may be brought to review the validity of any findings or determinations by the agency or the legislative body at any time within two years after the date on which the agency or the legislative body made those findings or determinations, if the findings or determinations occurred after January 1, 2011.

(e) The time limit for bringing an action under subdivision (c) or (d) shall be tolled with respect to the adoptions, findings, and determinations of any former redevelopment agency or its legislative body until the Department of Finance has issued a finding of completion to the successor agency of that former redevelopment agency pursuant to Section 34179.7. Subdivisions (c) and (d) shall not apply to any adoption, finding, or determination of any former redevelopment agency or its legislative body after the department has issued a finding of completion to the successor agency of that former redevelopment agency pursuant to Section 34179.7.

Resolution 2010-093 dated May 4, 2010 relates to the Former Agency's receipt of loan proceeds from the City's water/sewer funds and corresponding contractual repayment obligation to the City (the "Water Fund Loan"). This resolution relates to the first cash transfer identified in Schedule 1 of the Report in the amount of One Million Nine Hundred Eighty Two Thousand Seven Hundred Forty Five Dollars (\$1,982,745) as the Former Agency's full repayment of the Water Fund Loan.

A loan agreement dated August 8, 2002, validated by operation of law, references a Contract for Loan Guarantee Assistance under Section 108 of Title I of the Housing and Community Development Act of 1974 (the "Section 108 Loan"). The Section 108 Loan relates to the second cash transfer identified in Schedule 1 of the Report in the amount of One Hundred Thousand One Hundred Dollars (\$100,100) as the Former Agency's full payment on the Section 108 Loan.

Resolution 2010-130 dated June 15, 2010 relates to the Former Agency's exchange of real property capital assets to facilitate a contemplated lease revenue bond transaction wherein the property at 11409 Birch Street with Youth Center Services Building under government-use would be deeded from the City to the Former Agency ("Youth Center Resolution"). As the necessity to transfer the property

changed, the property was deeded back to the City on March 16, 2011 ("Youth Center Deed Out"). The Youth Center Resolution and Youth Center Deed Out relate to the capital asset transfer of 11409 Birch Street booked at a valuation of Three Hundred Fifty Two Thousand Two Hundred Thirty Five Dollars (\$352,235).

The Water Fund Loan Section 108 Loan, and Youth Center Resolution predated January 1, 2011 and AB X1 26 and the time to challenge these actions passed under Health & Safety Code section 33500(b). Furthermore, even though the payments on the Water Fund Loan and Section 108 Loan, along with the Youth Center Deed Out occurred after January 1, 2011, over two years has passed and the time for the State Controller to challenge these actions has passed under Health & Safety Code sections 33500(c) and 33500(d).

While the two-year time period of Health & Safety Code section 33500(c) and 33500(d) appears to be tolled by Health & Safety Code section 33500(e), this section, added by AB 1484, has been found to *not* be retrospective. *City of Emeryville vs. Michael Cohen* (2015) [pending volume citation entry] Cal. App. 4th [pending page citation entry], 2015 Cal.App. Lexis 41 decided January 16, 2015. Therefore, the time periods for the State Controller to enforce the Report and Finding passed. In other words, since this decision eliminated the tolling aspect of Health & Safety Code section 33500(e), the State Controller may not challenge the Water Fund Loan, Section 108 Loan, along with the corresponding repayments of each as well as the Youth Center Deed Out. It would therefore be improper and untimely for the State Controller to move forward with the Finding and Order because there can be no legal actions filed against the City or Successor Agency concerning the Finding and Report under subdivisions (b), (c), (d), or (e) of Health & Safety Code section 33500.

2. The Report is incorrect and premature and the City and Successor Agency respectfully request the California State Controller cease issuance of the Report and Finding due to the Emeryville decision, or in the alternative consider taking the following two actions: (a) defer the Report until the City of Brentwood vs. California Department of Finance legal action (Sacramento Superior Court Case No. 34-2013-80001568 CUWGMGDS and Court of Appeal Third Appellate District Case No. C076343) is fully litigated and final following appeals and (b) revise the Finding to reflect the Oversight Board to the Successor Agency intends on taking up the required California Health & Safety Code section 34181(a) ratification of the actions in the Finding after the Brentwood case is fully litigated and final following appeals.

Should the Controller be unconvinced that the Report is improper and untimely under Health & Safety Code section 33500, the City and Successor Agency request a deferral of the Report and revision to the Finding.

The Finding contains the following recitation of unallowable asset transfers in three bullet points on page 3 which are transcribed below *verbatim*:

- On March 11, 2011, the RDA transferred \$352,235 in land to the City. Based on Resolution 2011.0576, the City and RDA approved an agreement conveying certain RDA-owned properties to the City.

- On June 30, 2011, the RDA transferred \$1,982,745 in cash to the City. The transfer was for a loan payment between the City and RDA based on Resolution 2010.021, dated May 4, 2010.
- On September 20, 2011, the RDA transferred \$100,100 in cash to the City. The transfer was for a loan payment based on the Cooperation Agreement between the City and RDA dated September 7, 1999.

The records of the City, Successor Agency, and former Redevelopment Agency of the City of Lynwood do not support the three bullet points on page 3 of the Report. The City and Successor Agency object as these statements are incorrect and not supported by the substantial evidence.

The three bullet points on page 3 of the Report should be reconsidered in light of the impact of the *City of Brentwood vs. California Department of Finance* legal action (Sacramento Superior Court Case No. 34-2013-80001568 CUWMGDS). The *Brentwood* case addresses actions like those in Water Fund Loan, its repayment, the Section 108 Loan, and the Youth Center Deed Out which predate the chaptering of AB X1 26 and its companion bill AB X1 27 on June 29, 2011. In other words, at the time the Water Fund Loan, its repayment, the Section 108 Loan, and Youth Center Deed Out were taken, the actions were legal and valid; however due to the chaptering of AB X1 26 and AB X1 27 and the decision in *California Redevelopment Association vs. Matosantos* (2011) 53 Cal.4th 231 on December 29, 2011, the actions are allegedly subject to challenge. The Oversight Board to the Successor Agency may take up the Health & Safety Code section 34181(a) ratification of aforesaid actions on the next regular meeting of the Oversight Board following the final decision, following all appeals, on the *Brentwood* case.

The decision in *City of Emeryville vs. Michael Cohen* (2015) [pending volume citation entry] Cal. App. 4th [pending page citation entry], 2015 Cal.App. Lexis 41 also further bolsters the lack of retroactive effect of AB 1484 which would further keep actions like those in Water Fund Loan, its repayment, the Section 108 Loan, its repayment, and the Youth Center Deed Out beyond the reach of the State Controller.

Should the State Controller be unconvinced by the January 16, 2015 ruling in *City of Emeryville vs. Michael Cohen* (2015) [pending volume citation entry] Cal. App. 4th [pending page citation entry], 2015 Cal.App. Lexis 41, then the Report should be deferred and held in abeyance until that time in the future a decision and all appeals are concluded in the *Brentwood* case. In addition, the Findings should be revised to clearly identify the Oversight Board may consider the ratification of the Water Fund Loan, Section 108 Loan, their repayments, and the Youth Center Deed Out which would construe them as not unallowable transfers—i.e. as expressly allowable; this action may be taken up after the *Brentwood* case is fully litigated and all appeals are final. We have not reached that point in time. Given these circumstances, it would also be proper for the California State Controller cease issuance of the Report and Finding due to the *Emeryville* case or to defer the Report and revise the Findings to reflect the future consideration of the ratification which would not require the Findings as stated in the Report.

3. The enlargement of the statute of limitations period for validation actions under Health & Safety Code section 33501 does not apply to the Finding; as a result, the resolutions in the Finding are final and conclusive and beyond the reach of the State Controller.

Brief background on the Water Fund Loan: Resolution 2010-093 dated May 4, 2010 relates to the Former Agency's receipt of loan proceeds from the City's water/sewer funds and corresponding contractual repayment obligation to the City. This transaction was legal and valid at the time Resolution 2010-093 was entered into on May 4, 2010. The June 30, 2011 repayment of \$1,982,745, was, under the legal scheme of AB X1 26 and AB X1 27, a supportable action by the Former Agency given the contractual repayment obligation under Resolution 2010-093.

Brief background on the Section 108 Loan: A loan agreement dated August 8, 2002, validated by operation of law, references a Contract for Loan Guarantee Assistance under Section 108 of Title I of the Housing and Community Development Act of 1974 (the "Section 108 Loan"). This transaction was legal and valid at the time the loan agreement on or about August 8, 2002. The repayment of \$100,100 on September 20, 2011 was, under the legal scheme of AB X1 26 and AB X1 27, a supportable action by the Former Agency given the contractual obligation under Section 108 Loan.

Brief background on the Youth Center: Resolution 2010-130 dated June 15, 2010 relates to the Former Agency's exchange of real property capital assets to facilitate a contemplated lease revenue bond transaction wherein the property at 11409 Birch Street with Youth Center Services Building under government-use would be deeded from the City to the Former Agency ("Youth Center Resolution"). As the necessity to transfer the property changed, the property was deeded back to the City on March 16, 2011 ("Youth Center Deed Out"). The reversal, if any, would unduly enrich the Successor Agency. The Youth Center Resolution and Youth Center Deed Out relate to the capital asset transfer of 11409 Birch Street booked at a valuation of Three Hundred Fifty Two Thousand Two Hundred Thirty Five Dollars (\$352,235). At the time of Resolution 2010-130 on June 15, 2010, the action was legal and valid; the Youth Center Deed Out, given the legal scheme of AB X1 26 and AB X1 27, was a supportable action by the Former Agency, particularly since the AB X1 26 and AB X1 27 were not even chaptered into law.

On March 16, 2011, at the time of the Youth Center Deed Out, June 30, 2011, at the time of repayment on the Water Fund Loan, and September 20, 2011, at the time of the repayment of the Section 108 Loan, any challenge to the Former Agency reimbursement or financial arrangement should have been commenced within Sixty (60) days, i.e. by May 16, 2011 for the Youth Center Deed Out or August 30, 2011 for the repayment of the Water Fund Loan, or November 20, 2011. Government Code section 53511. *City of Emeryville vs. Michael Cohen* (2015) [pending volume citation entry] Cal. App. 4th [pending page citation entry], 2015 Cal.App. Lexis 41 decided January 16, 2015 (eliminating the retroactive effect of AB 1484). Code of Civil Procedure section 860, *et seq. Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631, 646, 164 Cal.Rptr. 56, 64, *cert. denied* 449 U.S. 983, 101 S.Ct. 400, 66 L.Ed.2d 246 (1980). *See also* Government Code section 17700 which is analogous to Government Code section 53511. Therefore, the three actions, the Youth Center Deed Out, the repayment of the Water Fund Loan, and repayment of the Section 108 Loan are final and conclusive and beyond the reach of the State Controller.

It is relevant to point out one additional fact. At the time the Former Agency approved the Youth Center Deed Out, AB X1 26 was not substantively authored in the form it was chaptered. The ultimate law chaptered under AB X1 26 on June 29, 2011 only opens the statute of limitation for validation actions applicable to former redevelopment agencies under Health & Safety Code section 33501 for redevelopment plan adoptions and amendments; when it passed AB X1 26, the Legislature did not change Government Code section 53511 nor Code of Civil Procedure section 860, *et. seq.*—the statutes applicable to the Finding.

While AB X1 26 does enlarge a statute of limitation to a period of two years, the types of actions authorized under Health & Safety Code section 33501(a) are specifically inapplicable to the Finding. Subdivision (a) challenges can only concern the validity of:

- bonds and the redevelopment plan to be financed by the bonds, or
- a redevelopment plan and all proceedings taken for or in any way connected with the establishment of the agency, its authority to transact business and exercise its powers, the designation of the survey area, the selection of the project area, the formulation of the preliminary plan, the validity of the finding and determination that the project area is predominantly urbanized, and the validity of the adoption of the redevelopment plan, and also including the legality and validity of all proceedings theretofore taken and (as provided in the bond resolution) proposed to be taken for the authorization, issuance, sale, and delivery of the bonds, and for the payment of the principal thereof and interest thereon.

The portions of AB X1 26 that enlarge the statute of limitations do not enlarge the time period to challenge the validity of *warrants, contracts, obligations or evidences of indebtedness*. Emphasis added. See Government Code section 53511. Therefore, the larger statute of limitation for Health & Safety Code section 33501(a) do not apply to the Finding. Even if this enlarged statute of limitation were to apply to the City and Successor Agency, the Legislature confirmed a finding of completion further insulates the City and Successor Agency from a challenge by the State Controller per Health & Safety Code section 33501(c).¹

The response provided herein does not waive the right of the City and the Successor Agency to later provide additional information or statements as part of the review process. The City and the Successor Agency retain the right to raise new positions or material as required. These objections and responses are made without prejudice to, and are not a waiver of, the City's and the Successor Agency's right to rely on other documents, facts, information, or responses at a later proceeding or in the

¹ Any action that is commenced on or after January 1, 2011, which is brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity or legality of any issue, document, or action described in subdivision (a), may be brought within two years after any triggering event that occurred after January 1, 2011. The time limit for bringing an action under this subdivision shall be tolled with respect to the validity or legality of any issue, document, or action described in subdivision (a) of any former redevelopment agency or its legislative body until the Department of Finance has issued a finding of completion to the successor agency of that former redevelopment agency pursuant to Section 34179.7. This subdivision shall not apply to any adoption, finding, or determination of any former redevelopment agency or its legislative body after the department has issued a finding of completion to the successor agency of that former redevelopment agency pursuant to Section 34179.7.

California State Controller review process. By making the aforesaid objections and responses, the City and the Successor Agency do not waive, and hereby expressly reserve, their respective rights to assert any and all objections to the California State Controller statements and findings in this review, or in any other proceedings, on any and all grounds including, without limitation, scope, jurisdiction, relevancy, competency and materiality. In addition, the City and the Successor Agency make the responses herein without in any way implying that they each consider all of the State Controller's findings and statements to be within the scope of the Dissolution Act or legally valid, or material or relevant to the subject matter hereof. The City and the Successor Agency each reserve the right to clarify, supplement, correct or revise any and all of the statements and responses herein and to assert additional arguments or information, in one or more subsequent supplemental responses.

Should you desire additional information regarding the matters referenced above or the Successor Agency, please contact J. Arnoldo Beltran, City Manager at (310) 603-0220 Ext. 200.

Sincerely,

SUCCESSOR AGENCY OF THE
LYNWOOD REDEVELOPMENT AGENCY



Amanda Hall
Finance Director

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