

HESPERIA 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 17, 2014

Steven Lantsberger, Economic Development Director
Hesperia Redevelopment/Successor Agency
9700 Seventh Avenue
Hesperia, CA 92345

Dear Mr. Lantsberger:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Hesperia Redevelopment Agency (RDA) to the City of Hesperia (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 \$143,811,096 in assets after January 1, 2011, including an unallowable transfer to the City totaling \$3,347,549, or 2.33% of transferred assets.

However, on June 30, 2012, and September 30, 2012, the City turned over a total of \$3,347,549 in cash 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/kw

cc: Mike Podegracz, City Manager
City of Hesperia
Paul R. Russ, Chair
Oversight Board of Hesperia Successor Agency
Larry Walker, Auditor-Controller
San Bernardino County
David Botelho, Program Budget Manager
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Hesperia 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 \$143,811,096 in assets after January 1, 2011, including an unallowable transfer to the City of Hesperia (City) totaling \$3,347,549, or 2.33% of transferred assets.

However, on June 30, 2012, and September 30, 2012, the City turned over a total of \$3,347,549 in cash 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 an asset transfer 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 Hesperia Redevelopment Agency transferred \$143,811,096 in assets after January 1, 2011, including an unallowable transfer to the City totaling \$3,347,549, or 2.33% of transferred assets.

However, on June 30, 2012, and September 30, 2012, the City turned over a total of \$3,347,549 in cash to the Successor Agency. Therefore, no further action is necessary.

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 November 13, 2014. Steven Lantsberger, Economic Development Director, responded on November 18, 2014, agreeing with the review results.

Restricted Use

This report is solely for the information and use of the City of Hesperia, 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

December 17, 2014

Finding and Order of the Controller

FINDING— Unallowable asset transfer to the City of Hesperia

The Hesperia Redevelopment Agency (RDA) made an unallowable asset transfer of \$3,347,549 to the City of Hesperia (City). The transfer occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

On March 21, 2011, the RDA transferred a total of \$3,347,549 in cash to the City for loans to fund Capital Projects.

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 City is ordered to reverse the transfer totaling \$3,347,549 and turn over the assets to the Successor Agency. However, on June 30, 2012, and September 30, 2012, the City transferred \$3,136,765 and \$210,784 respectively, in cash, to the Successor Agency; therefore, no further action is necessary.

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

RDA loan repayment on March 21, 2011	\$ 3,347,549
Total unallowable transfer to the City of Hesperia	3,347,549
Cash turned over to the Successor Agency on June 30, 2012	(3,136,765)
Cash turned over to the Successor Agency on September 30, 2012	<u>(210,784)</u>
Total transfer subject to Health and Safety Code section 34167.5	<u>\$ —</u>

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