

PARADISE REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

July 2013



JOHN CHIANG
California State Controller

July 23, 2013

Gina S. Will, Finance Director
Paradise Redevelopment/Successor Agency
5555 Skyway
Paradise, CA 95969-4931

Dear Ms. Will:

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

Our review found that the Paradise Redevelopment Agency transferred \$1,001,484 in assets after January 1, 2011, including unallowable transfers of assets totaling \$250,060, or 24.97% of the transferred assets. Pursuant to Health and Safety Code section 34167.5, the Town of Paradise would have been ordered to reverse all unallowable transfers identified in this report; however, the Town of Paradise provided documentation that only book entries were recorded for the cash transfers totaling \$195,060; therefore, these cash transfers did not occur. In addition, the Town of Paradise is required to reverse the transfer of the remaining cash assets in the amount of \$55,000 and turn over these assets to the 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/vb

cc: Steve "Woody" Culleton, Chairperson
Oversight Board of the Successor Agency to the Paradise Redevelopment Agency
Lauren Gill, Interim Town Manager
Town of Paradise
David A. Houser, Auditor-Controller
Butte County
Steven Szalay, Local Government Consultant
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Scott Freesmeier, Audit Manager
Division of Audits, State Controller's Office
Claudia Corona, Auditor-in-Charge
Division of Audits, State Controller's Office
Trisha Quiambao, Auditor
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 Paradise 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 Paradise Redevelopment Agency transferred \$1,001,484 in assets after January 1, 2011, including unallowable transfers of assets totaling \$250,060, or 24.97% of the transferred assets. Pursuant to Health and Safety Code section 34167.5, the Town of Paradise would have been ordered to reverse all unallowable transfers identified in this report; however, the Town of Paradise provided documentation that only book entries were recorded for the cash transfers totaling \$195,060; therefore, these cash transfers did not occur. In addition, the Town of Paradise is required to reverse the transfer of the remaining cash assets in the amount of \$55,000 and turn over these assets to the Successor Agency for disposition in accordance with ABX1 26.

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 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 Paradise Redevelopment Agency, and the Town of Paradise. 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 Town Council and the former Paradise Redevelopment Agency.
- 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 Paradise Redevelopment Agency transferred \$1,001,484 in assets after January 1, 2011, including unallowable transfers of assets totaling \$250,060, or 24.97% of the transferred assets. Pursuant to Health and Safety Code section 34167.5, the Town of Paradise would have been ordered to reverse all unallowable transfers identified in this report; however, the Town of Paradise provided documentation that only book entries were recorded for the cash transfers totaling \$195,060; therefore, these cash transfers did not occur. In addition, the Town of Paradise is required to reverse the transfer of the remaining cash assets in the amount of \$55,000 and turn over these assets to the Successor Agency for disposition in accordance with ABX1 26.

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

**Views of
Responsible
Official**

We issued a draft review report on March 19, 2013. Gina S. Will, Finance Director/Town Treasurer, responded by letter dated April 10, 2013, disagreeing with the review results. The Town of Paradise'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 Town of Paradise as the Successor Agency to the Paradise Redevelopment Agency, the Oversight Board of the Successor Agency to the Paradise Redevelopment Agency, the Town of Paradise, 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 23, 2013

Finding and Order of the Controller

**FINDING—
Unallowable asset
transfers to the
Town of Paradise**

The Paradise Redevelopment Agency (RDA) transferred \$250,060 in assets to the Town of Paradise. All of the asset 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 totaling \$250,060 are as follows:

- On March 21, 2011 the Agency transferred \$45,265 in cash assets for a loan repayment to the Town of Paradise, for 2011 dues against Loan No. 4, a loan agreement entered on March 27, 2007, between the RDA and the Town of Paradise.
- On July 1, 2011 the RDA transferred \$149,795 in cash assets for a loan repayment to the Town of Paradise, for 2011 dues against Loan No. 5, a loan agreement entered on March 9, 2010, between the RDA and the Town of Paradise.
- The RDA made a cash transfer of \$55,000 on January 27, 2012, to the Town of Paradise. Further research showed that this cash transfer was a loan repayment to the Town of Paradise for a temporary cash loan that occurred on November 9, 2011, from the Town of Paradise to the RDA. In discussing the item further with the auditee, it was stated that this was a temporary cash loan from the Town of Paradise Operating Account to offset balances falling short.

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).

Additionally, regarding the January 27, 2012 transfer of \$55,000, H&S Code Section 34163 (b) states:

(b) An agency shall not have the authority to do any of the following:

enter into contracts with, incur obligations, or make commitments to, any entity, whether governmental, tribal, or private, or any individual or groups of individuals for any purpose, including, but not limited to, loan agreements, pass-through agreements, regulatory agreements, services contracts, leases, disposition and development agreements, joint exercise of powers agreements, contracts for the purchase of capital equipment, agreements for redevelopment activities, including, but not limited to, agreements for planning, design, redesign, development, demolition, alteration, construction, reconstruction, rehabilitation, site remediation, site development or improvement, removal of graffiti, land clearance, and seismic retrofits.

Order of the Controller

Based on H&S Code section 34167.5 and 34163(b), the Town of Paradise is ordered to reverse the transfer of the assets described above, and in Schedule 1, in the amount of \$55,000, and return them to the Successor Agency.

The Successor Agency is directed to properly dispose of those assets in accordance with H&S Code sections 34177(d) and (e).

Town's Response

A copy of the Town of Paradise's response is attached.

SCO's Comment

Cash transfers

Loan No. 4 and No. 5 repayments

- **Response:** The SCO is in agreement with the Town of Paradise in that the RDA did not transfer cash in regard to loan No. 4 and No. 5 based on additional information provided.

The Town of Paradise provided additional documentation showing that the cash transfers totaling \$195,060 did not occur, as the RDA had no cash assets to transfer as of March 21, 2011, and July 1, 2011. It further stated in its response that a book entry was recorded, but no cash was transferred to the Town of Paradise; therefore, the SCO adjusted the Order of the Controller accordingly and no further action is required for these cash transfers.

Loan repayment on January 27, 2012

- **Response:** The SCO does not agree with the Town of Paradise's interpretation of H&S Code 34167.5; unallowable asset transfers by the RDA are those that occur after January 1, 2011.

H&S Code section 34167(a) states:

This part is intended to preserve, to the maximum extent possible, the revenues and assets of redevelopment agencies so that those assets and revenues that are not needed to pay for enforceable obligations may be used by local governments to fund core governmental services including police and fire protection services and schools. It is the intent of the Legislature that redevelopment agencies take no actions that would further deplete the corpus of the agencies' funds regardless of their original source. All provisions of this part shall be construed as broadly as possible to support this intent and to restrict the expenditure of funds to the fullest extent possible.

The intent of this section is to preserve, to the maximum extent possible, the assets of the RDA. The \$55,000 cash transfer occurred after January 1, 2011; therefore, it is subject to the provisions of H&S Code sections 34167.5 and 34167(a).

**Schedule 1—
RDA Assets Transferred to
the Town of Paradise
January 1, 2011, through January 31, 2012**

Unallowable Asset Transfers to the Town of Paradise

Current assets	
Cash	\$ 250,060 ¹
Less adjustment based on additional information provided	<u>(195,060)</u>
Total assets to be returned	<u>\$ 55,000</u>

¹ See the Finding and Order of the Controller section.

**Attachment—
Town of Paradise’s Response to
Draft Review Report**



TOWN OF PARADISE

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April 10, 2013

Mr. Steven Mar, Chief
Local Government Audits Bureau
State Controller's Office
Division of Audits
PO Box 942850
Sacramento, CA 94250-5874

Re: Paradise Redevelopment Agency Asset Transfer Review

Dear Mr. Mar

The Town of Paradise received the Paradise Redevelopment Agency Asset Transfer Review Report dated March of 2013 on April 1, 2013. While the letter is dated March 19, 2013, the package is postmarked March 29, 2013.

The Town disagrees with the findings noted in the report and will hereby comment on each finding below:

- *On March 21, 2011 the Agency transferred \$45,265 in cash assets for a loan repayment to the Town of Paradise, for 2011 dues against Loan No. 4, a loan agreement entered on March 27, 2007, between the Agency and the Town of Paradise.*

The Agency did not transfer \$45,265 to the Town of Paradise because it had no cash assets to transfer as of March 21, 2011. A book entry was recorded, but no cash was transferred to the Town of Paradise. In reality the entry merely increased the advance owed to the Town from the Agency.

The balance sheet dated March 20, 2011 reflects that the Town advanced cash to the Agency in the amount of \$612,251.20 in account 1010.101 and the Agency Revolving Loan Fund advanced cash to the Agency in the amount of \$10,392.06 in account 1010.105. On March 21, 2011 the balance sheet reflects that the Town has advanced to the Agency \$657,516.13 and that the Revolving Loan Fund has advanced the same \$10,392.06. The change in balance is the \$45,265 in question. The bank statements reflect that no cash was exchanged between the agencies.

Paradise Redevelopment Agency
Asset Transfer Review
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Further, review of Health and Safety Codes Sections 34161 – 34168 indicates that the Agency may not enter into new loans or agreements, enter any new projects, or amend the redevelopment plan, but that it can make payments on “enforceable obligations”. In section 34167 an enforceable obligation is defined as “contracts or agreements necessary for the continued administration or operation of the redevelopment agency to the extent permitted by this part, including, but not limited to, agreements to purchase or rent office space, equipment and supplies and pay related expenses pursuant to Section 33127 and for carrying insurance pursuant to Section 33134.” As a relatively young Agency, that was the purpose of this loan.

- *On July 1, 2011 the Agency transferred \$149,795 in cash assets for a loan repayment to the town of Paradise, for 2011 dues against Loan no. 5, a loan agreement entered on March 9, 2010, between the Agency and the Town of Paradise.*

The Agency did not transfer \$149,795 to the Town of Paradise because it had no cash assets to transfer as of July 1, 2011. A book entry was recorded, but no cash was transferred to the Town of Paradise. In reality the entry merely increased the advance owed to the Town from the Agency.

The balance sheet dated June 30, 2011 reflects that the Town advanced cash to the Agency in the amount of \$748,211.52 in account 1010.101 and the Agency Revolving Loan Fund advanced cash to the Agency in the amount of \$13,928.42 in account 1010.105. July 1, 2011 the balance sheet reflects that the Town has advanced to the Agency \$900,479.12 and that the Revolving Loan Fund has advanced the same \$13,928.42. The change in balance includes the \$149,795 in question. The bank statements reflect that no cash was exchanged between the agencies.

Further, review of Health and Safety Codes Sections 34161 – 34168 indicates that the Agency may not enter into new loans or agreements, enter any new projects, or amend the redevelopment plan, but that it can make payments on “enforceable obligations”. In section 34167 an enforceable obligation is defined as “contracts or agreements necessary for the continued administration or operation of the redevelopment agency to the extent permitted by this part, including, but not limited to, agreements to purchase or rent office space, equipment and supplies and pay related expenses pursuant to Section 33127 and for carrying insurance pursuant to Section 33134.” As a relatively young Agency, that was the purpose of this loan.

- *The Agency made a cash transfer of \$55,000 on January 27, 2012, to the Town of Paradise. Further research shows that this cash transfer was a loan repayment to the Town of Paradise for a temporary cash loan that occurred on November 9, 2011, from the Town of Paradise to the Agency. In discussing the item further with the auditee, it was stated that this was a temporary cash loan from the Town of Paradise Operating Account to offset balances falling short.*

Paradise Redevelopment Agency
Asset Transfer Review
April 10, 2013

As demonstrated above, the Agency was operating with no cash assets. The balance sheet of November 8, 2011 confirms that the Town advanced cash to the Agency in the amount of \$936,792.62 in account 1010.101. After issuing a check in the amount of \$163,245.10 from account 1010.105 for a debt service payment, the Agency had negative cash in the account of \$118,898.69. After the transfer of \$55,000 on November 9, 2011 the Agency still required an advance from the Revolving Loan Fund in the amount of \$63,898.69 in order to clear the check. Shortly after the tax increment payment was received from the County, the \$55,000 was transferred back to the Town of Paradise on January 27, 2012 which was prior to the official dissolution date of January 31, 2012. The only alternative for the Town and the Agency was for the Agency to default on its loan and incur additional costs and penalties as a result.

Please consider these comments and correct the findings of the Paradise Redevelopment Agency Asset Transfer Review. Please don't hesitate to contact me if you have any questions or need additional information (530) 872-6212.

Respectfully,



Gina S. Will
Finance Director/Town Treasurer

cc: Lauren Gill, Interim Town Manager
Dwight Moore, Town Attorney

Enclosures

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>