

CHICO REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

June 2013



JOHN CHIANG
California State Controller

June 24, 2013

Brian Nakamura, City Manager
City of Chico
P.O. Box 3420
Chico, CA 95927

Dear Mr. Nakamura:

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

Our review found that the Chico Redevelopment Agency (RDA) transferred \$91,848,859 in assets. This amount included unallowable transfers totaling \$4,228,838, or 4.60% that must be turned over to the Successor Agency. However, during the course of our review, the RDA reversed the transfer of \$2,493,402 in real property and \$1,665,224 in notes receivables. The remaining amount of unallowable transfers that are subject to H&S Code section 34167.5 is \$70,212, which must be turned over 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/kw

cc: Shawn Tillman, Senior Planner
City of Chico
Frank Fields, Accounting Manager
City of Chico
Scott Gruendl, Chair
Oversight Board to the Chico Redevelopment Successor Agency
David Houser, Auditor-Controller
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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Chico 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 Chico RDA transferred \$91,848,859 in assets to the Successor Agency and the City of Chico after January 1, 2011. This amount included an unallowable transfer of assets totaling \$4,228,838. However, during the course of our review, the Chico RDA reversed the transfer of \$2,493,402 in real property and \$1,665,224 in notes receivables. The remaining amount of unallowable transfers that are subject to Health and Safety (H&S) Code section 34167.5 is \$70,212, or 0.08% of total assets transferred; this amount should 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 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 Code (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 Chico Redevelopment Agency, the City of Chico, and/or other public agencies. 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 Agency, the Successor Agency, the Oversight Board, and the City of Chico.
- 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 Chico RDA transferred \$91,848,859 in assets to the Successor Agency and the City of Chico after January 1, 2011. This amount included an unallowable transfer of assets totaling \$4,228,838. However, during the course of our review, the Chico RDA reversed the transfer of \$2,493,402 in real property and \$1,665,224 in notes receivables. The remaining amount of unallowable transfers that are subject to H&S Code section 34167.5 is \$70,212, or 0.08% of total assets transferred; this amount should be turned over to the Successor Agency.

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

**Views of
Responsible
Officials**

We issued a draft review report on May 7, 2013. A follow-up email was sent to Jennifer Hennessy, Finance Director with the Successor Agency on May 30, 2013, to inquire about the auditee's response to the draft report. An additional email was sent to Ms. Hennessy on June 5, 2013, to inform the auditee that the draft report will be issued as final as no response was received within 10 days from the date of delivery of the draft report on May 13, 2013.

Restricted Use

This report is solely for the information and use of the Successor Agency, the Oversight Board, the City of Chico, 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 24, 2013

Finding and Order of the Controller

**FINDING—
Unallowable asset
transfers to the
City of Chico**

The Chico RDA made an unallowable asset transfer of \$4,228,838 to the City of Chico after January 1, 2011. The amount was not contractually committed to a third party prior to June 28, 2011, and includes \$2,493,402 in real property and \$1,735,436 in loan receivables.

On March 4, 2011, the Chico RDA passed resolution number RDA 03-11 authorizing the conveyance of various parcels of real property to the City of Chico. (See Schedule 1 for listing.)

On March 4, 2011, the Chico RDA passed resolution number RDA 04-11 and 05-11 authorizing the conveyance of agency's interest in various promissory notes and deeds of trust to the City of Chico. (See Schedule 1 for listing.)

On January 15, 2013, we spoke with City of Chico staff and concluded that the dollar values were reversed by the City and transferred back to the Successor Agency; however the real property and loan receivables titles were not. The loan receivables showed a variance of \$70,212. After following up with the City of Chico, we identified that the money was used to pay for General Fund expenditures during the time the loan was held in the City of Chico's General Fund.

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

Order of the Controller

Based on H&S Code section 34167.5, the City of Chico would have been ordered to reverse the asset transfer of \$4,228,838. However, because the City reversed the transfer of \$2,493,402 in real property and \$1,665,224 in loan receivables, only the remaining \$70,212 must be transferred to the Successor Agency.

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

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

Unallowable transfer of assets to the City of Chico

Current assets: (RDA 04-11 and 05-11)

Roth Trust Loan	\$ 4,910	
Pillai, et al Loan (Wester Travel Inn)	19,662	
Chico Diamond Hotel, LLC Loan	<u>1,710,864</u>	\$ 1,735,436

Capital assets:

CMA-Fortress/Airpark	64,200	
CMA-Piper to Lockheed	69,600	
CMA-Ryan/Marauder	585,205	
CMA-Ryan/Marauder/Cohasse	65,850	
North of Humboldt, El Monte	26,580	
Vacant lot-Bruce/Humboldt	90,605	
West Bruce/North Humboldt	304,920	
11301 Midway	1,200,000	
Comanche Creek ACQ	<u>86,442</u>	<u>2,493,402</u>

Total unallowable transfers to the City

4,228,838

Reversed transfer of City of Chico

(4,158,626)

Total Unallowable RDA assets transferred to City of Chico

\$ 70,212 ¹

¹ See the Finding and Order of the Controller section.

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