

SCOTTS VALLEY REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

January 2014



JOHN CHIANG
California State Controller

January 22, 2014

Stephen Ando, Executive Director
Scotts Valley Redevelopment/Successor Agency
1 Civic Center Drive
Scotts Valley, CA 95066

Dear Mr. Ando:

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

Our review found that the RDA transferred \$26,787,305 in assets after January 1, 2011, including unallowable transfers totaling \$25,634,649 (\$14,680,042 to the City and \$10,954,607 to the Housing Authority), or 95.70% of transferred assets. However, on June 30, 2012, the Housing Authority turned over \$1,653,918 in current assets to the Successor Agency. Therefore, the remaining amount of unallowable transfers, totaling \$23,980,731, must be turned over to the Successor Agency.

If you have any questions, please contact Elizabeth Gonzalez, Bureau Chief, Local Government Compliance Bureau, by phone at (916) 324-0622.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/kw

cc: Dene Bustichi, Chair of Oversight Board
City of Scotts Valley Redevelopment/Successor Agency
Mary Jo Walker, Auditor-Controller
Santa Cruz County
David Botelho, Program Budget Manager
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Elizabeth Gonzalez, Bureau Chief
Division of Audits, State Controller's Office
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Contents

Review Report

Summary	1
Background	1
Objective, Scope, and Methodology	2
Conclusion	2
Views of Responsible Official	2
Restricted Use	3
Findings and Orders of the Controller	4
Schedule 1—Unallowable RDA Asset Transfers to the City of Scotts Valley	7
Schedule 2—Unallowable RDA Asset Transfers to the Housing Authority	8
Attachment—City’s Response to Draft Review Report	

Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Scotts Valley 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 \$26,787,305 in assets after January 1, 2011, including unallowable transfers totaling \$25,634,649 (\$14,680,042 to the City of Scotts Valley (City) and \$10,954,607 to the Housing Authority), or 95.70% of transferred assets. However, on June 30, 2012, the Housing Authority turned over \$1,653,918 in current assets to the Successor Agency. Therefore, the remaining amount of unallowable transfers, totaling \$23,980,731, 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 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 RDA, the City, 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 Scotts Valley City Council and the Scotts Valley 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 Scotts Valley Redevelopment Agency transferred \$26,787,305 in assets after January 1, 2011, including unallowable transfers totaling \$25,634,649 (\$14,680,042 to the City of Scotts Valley and \$10,954,607 to the Housing Authority), or 95.70% of transferred assets. However, on June 30, 2012, the Housing Authority turned over \$1,653,918 in current assets to the Successor Agency. Therefore, the remaining amount of unallowable transfers, totaling \$23,980,731, must be turned over to the Successor Agency.

Details of our findings are in the Findings and Orders of the Controller section of this report. We also have included a detailed schedule of assets to be turned over to, or transferred to, the Successor Agency.

Views of Responsible Official

We issued a draft review report on August 27, 2013. Stephen Ando, Executive Director of the Successor Agency, responded by letter dated September 12, 2013. The City's response is included as an attachment to this final review report.

Restricted Use

This report is solely for the information and use of the City, the Successor Agency, the Oversight Board, the 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 as final.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

January 22, 2014

Findings and Orders of the Controller

FINDING 1— Unallowable asset transfers to the City of Scotts Valley

The Scotts Valley Redevelopment Agency (RDA) made unallowable asset transfers of \$14,680,042 (land and buildings) to the City of Scotts Valley (City). On March 24, 2011, these transactions were made in accordance with Resolution Number CRA-103. 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.

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). However, it appears that some of those assets also may be subject to the provisions of H&S Code section 34181(a). H&S Code section 34181(a) 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 that were funded by tax increment revenues of the dissolved 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 government purpose, such as roads, school buildings, parks, and fire stations, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such as asset....”

Order of the Controller

Based on H&S Code section 34167.5, the City of Scotts Valley is ordered to reverse the transfers of the above assets, described in Schedule 1, in the amount of \$14,680,042, plus any interest earned, and turn the assets over 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) and 34181(a).

City’s Response

The Scotts Valley Redevelopment Successor Agency (Successor Agency) does not have any issues with the unallowable capital asset transfers on Schedule 1 totaling \$14,680,042. These capital assets can be transferred back to the Successor Agency.

SCO’s Response

The Finding and Order of the Controller remains as stated.

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

On February 1, 2012, the RDA made unallowable asset transfers of \$10,954,607 (\$6,518,090 in current assets and \$4,436,517 in capital assets) to the Housing Authority. On June 30, 2012, \$1,653,918 in cash was turned over to the Successor Agency and distributed to the Santa Cruz County Auditor-Controller. The asset transfers to the Housing Authority occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Pursuant to H&S Code section 34175(b), the RDA was required to transfer all assets, including housing assets, to the Successor Agency.

H&S Code section 34175(b) states that all assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on February 1, 2012, to the control of the successor agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of February 1, 2012.

Additionally, H&S Code section 34181(c) requires the Oversight Board to direct the Successor Agency to transfer housing assets pursuant to H&S Code section 34176.

Order of the Controller

Based on H&S Code section 34167.5, the Housing Authority is ordered to reverse the transfer of the above assets, described in Schedule 2, in the amount of \$9,300,689, and turn the assets over 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) and 34181(c).

City's Response

As for Schedule 2, the current assets of \$6,518,089 consist of cash and loans. Only "loans" is listed on Schedule 2. These assets remained in the accounting fund for the Affordable Housing Fund of the former Redevelopment Agency. For accounting ease, this fund was then used for accounting for the Successor Housing Agency. All of the cash has been returned to the County Auditor-Controller pursuant to the due diligence review of the low and moderate income funds.

The properties and loans listed on Schedule 2 were listed on the Housing Asset List. It is my understanding that the proceeds from the sale of the properties or the payments received on the loans would go to the Successor Housing Agency because the properties were purchased and the loans made with low and moderate income funds of the former Redevelopment Agency and were listed on the Housing Asset List.

SCO's Response

Schedule 2 has been modified to reflect the current assets as loans and cash. The schedule already shows the cash that was turned over to the Successor Agency and distributed to the County Auditor-Controller. This review identified unallowable transfers made during the period of January 1, 2011, through January 31, 2012. H&S Code section 34181(c) states that the Oversight Board shall direct the Successor Agency to transfer the housing assets pursuant to H&S Code section 34176.

The Finding and Order of the Controller remains as stated.

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

Unallowable Asset Transfers to the City of Scotts Valley

Capital assets—land and buildings	\$ <u>14,680,042</u>
Total unallowable transfers to the City of Scotts Valley ¹	\$ <u>14,680,042</u>

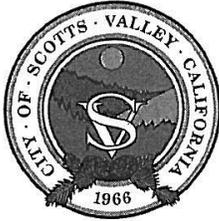
¹ See the Findings and Orders of the Controller section.

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

Current Assets		
Cash	\$	2,268,050
Advances to other funds		1,978,223
Note receivables		2,271,816
Capital assets – vacant land		
APN 022-211-36		1,021,755
APN 022-601-01		2,689,763
APN 022-048-01		<u>725,000</u>
Total unallowable transfers to the Housing Authority	\$	<u>10,954,607</u>
Cash turned over to the Successor Agency and distributed to the County Auditor-Controller		<u>(1,653,918)</u>
Total transfers subject to H&S Code section 34167.5 ¹	\$	<u>9,300,689</u>

¹ See the Findings and Orders of the Controller section.

**Attachment—
City's Response to
Draft Review Report**



CITY OF SCOTTS VALLEY

OFFICE OF THE CITY MANAGER

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September 12, 2013

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

RE: Asset Transfer Review
Scotts Valley Redevelopment Agency

Dear Mr. Mar:

We received your letter transmitting the draft Asset Transfer Review Report for the Scotts Valley Redevelopment Agency dated August 2013 on September 3, 2013. This response is within the 10 calendar day timeline specified in your letter.

The Scotts Valley Redevelopment Successor Agency (Successor Agency) does not have any issues with the unallowable capital asset transfers on Schedule 1 totaling \$14,680,042. These capital assets can be transferred back to the Successor Agency. The Successor Agency did receive its Notice of Completion (NOC) from the Department of Finance (DOF). The Successor Agency's Long-Range Property Management Plan (LRPMP) has been prepared and approved by the Board of the Successor Agency and the Oversight Board. The final approval will come from the DOF. Once the LRPMP is approved by the DOF, the Successor Agency will take the necessary steps to carry out the disposition of the capital assets.

As for Schedule 2, the current assets of \$6,518,089 consist of cash and loans. Only "loans" is listed on Schedule 2. These assets remained in the accounting fund for the Affordable Housing Fund of the former Redevelopment Agency. For accounting ease, this fund was then used for accounting for the Successor Housing Agency. All of the cash has been returned to the County Auditor-Controller pursuant to the due diligence review of the low and moderate income funds. The Successor Agency has properly transferred all cash to the County Auditor-Controller as evidenced by the receipt of the NOC from the DOF. Had we not made all of the necessary payments, we would not have received the NOC.

The properties and loans listed on Schedule 2 were listed on the Housing Asset List. It is my understanding that the proceeds from the sale of the properties or the payments received on the loans would go to the Successor Housing Agency because the properties were purchased and the loans made with low and moderate income funds of the former Redevelopment Agency and were listed on the Housing Asset List. Therefore, they would remain with the Successor Housing Agency.

I will be on vacation starting September 13. I will return on September 23. We are a small Agency, and I am the only one who can answer questions regarding the Successor Agency. If you need additional information, please contact me on September 23.

Sincerely,

Stephen H. Ando
Executive Director

**State Controller's Office
Division of Audits
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<http://www.sco.ca.gov>