

LAKEPORT REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

November 2013



JOHN CHIANG
California State Controller

November 7, 2013

Daniel Buffalo, Finance Director
Lakeport Redevelopment/Successor Agency
225 Park Place
Lakeport, CA 954253

Dear Mr. Buffalo:

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

Our review found that the RDA transferred \$4,748,147 in assets after January 1, 2011, including unallowable transfers totaling \$3,188,773 (\$2,303,060 to the City and \$885,713 to the Successor Housing Authority), or 67.16% of the total assets. These assets must be turned over to the Successor Agency.

If you have any questions, please contact Steven Mar, Bureau Chief, Local Government Audits Bureau by phone at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/kw

Attachment

cc: Cathy Saderlund, Auditor-Controller
County of Lake
Stacey Mattina, Oversight Board Chairman
c/o Lakeport Redevelopment Successor Agency
David Botelho, Program Budget Manager
State
of Finance
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Steven Mar, Bureau Chief
Division of Audits, State Controller's Office
Betty Moya, Audit Manager
Division of Audits, State Controller's Office
Cecilia Michaels, Auditor-in-Charge
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 Lakeport 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 \$4,748,147 in assets after January 1, 2011, including unallowable transfers totaling \$3,188,773 (\$2,303,060 to the City of Lakeport and \$885,713 to the Successor Housing Authority), or 67.16% of the total assets. These assets 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 Lakeport City Council, the Lakeport Successor Agency, the Oversight Board, and the Lakeport Successor Housing Authority.
- 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 RDA transferred \$4,748,147 in assets after January 1, 2011, including unallowable transfers totaling \$3,188,773 (\$2,303,060 to the City and \$885,713 to the Successor Housing Authority), or 67.16% of the total assets. These assets 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.

Views of Responsible Officials

We issued a draft report on August 21, 2013. The City had no additional comments to the draft report or review results.

Restricted Use

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

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

November 7, 2013

Findings and Orders of the Controller

FINDING 1— Unallowable asset transfers to the City of Lakeport

The Lakeport Redevelopment Agency (RDA) transferred \$2,303,060 in assets to the City of Lakeport (City). All of the asset transfers to the City 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 June 16, 2011, the RDA transferred \$1,895,096 in cash from the bond reserve account to the City's joint checking account with the RDA. The funds remain in the joint checking account and were identified in the financial statements for the City.
- On September 15, 2011, the RDA transferred \$407,964 in property held for resale to the City. The City Council Resolution number 2412 (2011) approved this transfer.

Pursuant to Health & 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(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 is ordered to turn over the assets described in Schedule 1, in the amount of \$2,303,060, to the Successor Agency.

The Successor Agency is directed to properly dispose of those assets in accordance with H&S Code sections 34177(e) and 34181(a).

Lakeport's Response

The City did not provide additional comments.

SCO's Comments

The finding and Order of the Controller remains as stated.

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

The RDA made an unallowable asset transfer in the amount of \$885,713 to the Successor Housing Authority (SHA). The asset transfer to the SHA 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:

- The RDA transferred \$395,956 in unencumbered cash to the SHA on February 1, 2012, without Oversight Board approval.
- The RDA transferred \$489,757 in loan receivables to the SHA on February 1, 2012, without Oversight Board approval.

Pursuant to 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 the H&S Code section 34177(d) and (e).

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 transfer housing assets pursuant to Section 34176.

Also, pursuant to H&S Code section 34177(d), the Successor Agency is to, “Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency...for allocation and distribution...[in accordance with]...Section 34188.”

Order of the Controller

Based on H&S Code section 34167.5, the SHA is ordered to reverse the transfer of the above assets, described in Schedule 2, in the amount of \$885,713, and turn them 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).

Lakeport’s Response

The City did not provide additional comments.

SCO’s Comments

The finding and Order of the Controller remains as stated.

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

Unallowable Transfers to the City of Lakeport

Current assets	
Unencumbered cash	\$ 1,895,096
Capital assets	
Land held for resale	<u>407,964</u>
Total unallowable transfers to the City of Lakeport	<u>\$ 2,303,060</u> ¹

¹ See the Findings and Orders of the Controller section.

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

Unallowable Transfers to the Successor Housing Authority

Current assets	
Unencumbered cash	\$ 395,956
Notes receivable	<u>489,757</u>
Total unallowable transfers to the Successor Housing Authority	<u>\$ 885,713</u> ¹

¹ See the Findings and Orders of the Controller section.

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