

CITY OF ESCONDIDO COMMUNITY DEVELOPMENT COMMISSION

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

Clay Phillips, City Manager
City Of Escondido/Successor Agency
201 North Broadway
Escondido, CA 92025

Dear Mr. Philips:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Escondido Community Development Commission (CDC) to the City of Escondido (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 Escondido 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 CDC transferred \$168,637,499 in assets after January 1, 2011, including unallowable transfers of assets totaling \$25,609,644, or 15.19%, to the City. However, on July 25, 2012, the City reversed \$5,609,644 in real property transfers and returned \$20,000,000 in cash to the Successor Agency. Therefore, no further action is required.

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/mh

cc: Gilbert Rojas, Director of Finance
City of Escondido
Tracy Sandoval, Auditor-Controller
County of San Diego
David Botelho, Program Budget Manager
Department of Finance
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Steven Mar, Bureau Chief
Division of Audits, State Controller's Office
Scott Freesmeier, Audit Manager
Division of Audits, State Controller's Office
Ernesto Pangilinan, Auditor-in-Charge
Division of Audits, State Controller's Office

Contents

Review Report

Summary	1
Background	1
Objective, Scope, and Methodology	2
Conclusion	2
Views of Responsible Official	3
Restricted Use	3
Finding and Order of the Controller	4
Schedule—Unallowable RDA Asset Transfers to the City of Escondido	6
Attachment—City of Escondido’s Response to Draft Review Report	7

Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the City of Escondido Community Development Commission (CDC) 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 CDC transferred \$168,637,499 in assets after January 1, 2011, including unallowable transfers of assets totaling \$25,609,644, or 15.19%, to the City of Escondido (City). However, on July 25, 2012, the City reversed \$5,609,644 in real property transfers and returned \$20,000,000 in cash to the Successor Agency. Therefore, no further action is required.

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 CDC 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 CDC ceased to operate, or January 31, 2012, whichever was earlier, between the city or county, or city and county that created an CDC, or any other public agency, and the CDC, 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 Escondido City Council, the CDC, Successor Agency, and 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 CDC transferred \$168,637,499 in assets after January 1, 2011, including unallowable transfers of assets totaling \$25,609,644, or 15.19%, to the City. However, on July 25, 2012, the City reversed \$5,609,644 in real property transfers and returned \$20,000,000 in cash to the Successor Agency. Therefore, no further action is required.

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

**Views of
Responsible
Official**

We issued a draft review report on August 23, 2013. Christina Holmes, Accountant II, responded via email on October 7, 2013, agreeing with the review results.

Restricted Use

This report is solely for the information and use of the City of Escondido, Successor Agency, 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

November 7, 2013

Finding and Order of the Controller

**FINDING—
Unallowable asset
transfer to the City
of Escondido**

The City of Escondido Community Development Commission (CDC) transferred \$25,609,644 in assets to the City of Escondido (City). The transfer consists of the following current and capital assets:

- On February 16, 2011, the CDC transferred \$20,000,000 in cash to the City in order to partially repay a loan between the CDC and the City.
- On February 16, 2011 the CDC transferred real properties, with book values totaling \$5,609,644 to the City. The transfer included the following real properties:

Description	Amount
480 N. Spruce Street - Land	\$ 2,700,000
480 N. Spruce Street - Building	2,302,067
314 E. Grand Ave	202,526
304 E. Grand Ave, 112-118 N Juniper	202,526
316 E. Grand Ave	202,525
Total	\$ 5,609,644

Pursuant to Health and Safety (H&S) Code section 34167.5, an 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; 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 governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, and local agency administrative buildings, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset. . . .

Order of the Controller

Based on H&S Code section 34167.5, the City would have been ordered to return the above assets, described in Schedule 1, in the amount of \$25,609,644, and return them to the Successor Agency. However, on July 27, 2012, the City returned \$20,000,000 in cash, and reversed the transfer of real properties and returned the assets to the Successor Agency. Therefore, no further action is required.

City's Response

The City agreed with the findings and conclusions in the draft Asset Transfer Review report.

SCO Comments

The SCO agrees with the city's response. No further action is required.

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

Unallowable transfers to the City of Escondido

Current assets	
Cash	\$ 20,000,000
Capital assets	
Land/building	5,609,644
	<hr/>
Total unallowable transfers	25,609,644
Cash returned to the Successor Agency on July 27, 2012	(20,000,000)
Land/building returned to the Successor Agency on July 27, 2012	(5,609,644)
	<hr/>
Total amount subject to Health and Safety Code section 34167.5	\$ —
	<hr/>

**Attachment—
City of Escondido’s Response to
Draft Review Report**

Freesmeier, Scott

From: Pangilinan, Ernesto
Sent: Wednesday, October 16, 2013 11:04 AM
To: Freesmeier, Scott
Subject: FW: Escondido Asset Transfer Review

Ernesto Pangilinan, Jr. | Office of the State Controller | Division of Audits
901 Corporate Center Drive, Suite 200 Monterey Park, CA 91754
Cell: (310) 956-2992 | Fax: (323) 981-6811/6812
epangilinan@sco.ca.gov

From: Christina Holmes [<mailto:Cholmes@ci.escondido.ca.us>]
Sent: Monday, October 07, 2013 2:09 PM
To: Pangilinan, Ernesto
Cc: Joan Ryan; Gil Rojas
Subject: Escondido Asset Transfer Review

Hello,

Per our conversation earlier, the City of Escondido agrees with the findings and conclusions in the draft Asset Transfer Review report dated August 23, 2013. We have no further comments regarding the report and agree that the report can be finalized.

Thank you,



Christina Holmes
City of Escondido – Finance
201 N. Broadway
Escondido, CA 92025
(760) 839-4620

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

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