

# **SANGER REDEVELOPMENT AGENCY**

## **ASSET TRANSFER REVIEW**

### Review Report

*January 1, 2011, through January 31, 2012*



**JOHN CHIANG**  
California State Controller

October 2014



**JOHN CHIANG**  
**California State Controller**

October 6, 2014

Brian Haddix, City Manager  
Sanger Redevelopment/Successor Agency  
1700 7<sup>th</sup> Street  
Sanger, CA 93657

Dear Mr. Haddix:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office reviewed all asset transfers made by the Sanger Redevelopment Agency (RDA) to the City of Sanger (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 \$4,573,471 in assets after January 1, 2011, including unallowable transfers totaling \$842,000 (\$130,000 to the City and \$712,000 to the Housing Authority), or 18.41% of transferred assets.

However, on June 30, 2012, the City reversed the transfer of two parcels totaling \$130,000. Therefore, the remaining \$712,000 in unallowable transfers must be turned over to the Successor Agency.

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

Sincerely,

*Original signed by*

**JEFFREY V. BROWNFIELD, CPA**  
Chief, Division of Audits

JVB/mh

cc: Joshua Mitchell, Chair of the Oversight Board  
City of Sanger  
Debby Sultan, Finance Director  
City of Sanger  
Vicki Crow, Auditor-Controller  
Fresno 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  
Betty Moya, Audit Manager  
Division of Audits, State Controller's Office  
Venus Sharifi, 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 Sanger 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 \$4,573,471 in assets after January 1, 2011, including unallowable transfers totaling \$842,000 (\$130,000 to the City of Sanger [City] and \$712,000 to the Housing Authority), or 18.41% of transferred assets.

However, on June 30, 2012, the City reversed the transfer of two parcels totaling \$130,000. Therefore, the remaining \$712,000 in unallowable transfers 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 (H&S) Code beginning with section 34161.

H&S Code section 34167.5 states in part, ". . . the Controller shall review the activities of redevelopment agencies in the state 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."

The SCO identified asset transfers 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 action 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 City, the RDA, the Successor Agency, and the 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 Sanger Redevelopment Agency transferred \$4,573,471 in assets after January 1, 2011, including unallowable transfers totaling \$842,000 (\$130,000 to the City of Sanger [City], and \$712,000 to the Housing Authority), or 18.41% of transferred assets.

However, on June 30, 2012, the City reversed the transfer of two parcels totaling \$130,000. Therefore, the remaining \$712,000 in unallowable transfers 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 Official**

We issued a draft review report on November 8, 2013. Brian Haddix, City Manager, responded by letter dated December 5, 2013, disagreeing with the review results. The City's response is included in the final review report as an attachment.

Please note that the City's response references a finding related to the housing assets. This finding was adjusted due to a subsequent court ruling.

**Restricted Use**

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

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

October 6, 2014

# Findings and Orders of the Controller

## **FINDING 1— Unallowable asset transfers to the City of Sanger**

On June 30, 2011, the Sanger Redevelopment Agency (RDA) transferred two parcels of land totaling \$130,000 to the City of Sanger (City) under Resolution No. 11-04. The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011. The parcels of land are as follows:

1. Brehler Park: .34 acres at 7<sup>th</sup> and N Streets, APN No. 317-103-07T, (\$0 Value)
2. Parking Lot: .34 acres at 7<sup>th</sup> and P Streets, APN No. 317-102-07T, (\$130,000)

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. The assets must be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177(e).

### Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfers and turn over the assets to the Successor Agency. However, on June 30, 2012, the City reversed the transfer of the two parcels (Journal Entry 313). Therefore, no further action is necessary.

### City's Response

The City had no response for Finding 1.

### SCO's Comment

The Finding and Order of the Controller remain as stated.

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

The RDA made unallowable asset transfers of \$712,000 to the Housing Authority. The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011. Those assets consisted of current assets.

On March 17, 2011, the Low and Moderate Income Housing Fund (LMIHF), Fund 132, parcels APN 325-090-07 and APN 325-030-03, valued at \$712,000, were transferred to the Housing Authority.

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. The assets must be turned over to the Successor Agency for disposition in accordance with H&S Code sections 34177(e).



Order of the Controller

Pursuant to H&S Code section 34167.5, the Housing Authority is ordered to reverse the transfer of assets, totaling \$712,000, and turn over the assets to the Successor Agency. The Successor Agency is directed to properly dispose of the assets in accordance with H&S Code section 34177(e).

City's Response

The City disagrees with the finding and states that the housing assets should not be transferred to the Successor Agency, pursuant to various H&S Code sections cited. (See the Attachment for the City's complete response.)

SCO's Comment

The SCO disagrees with the City's response.

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. H&S Code section 34167.5 requires the SCO to order the return of any asset transferred to a public agency after January 1, 2011, back to the Successor Agency.

The Finding and Order of the Controller remain as stated.

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

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Land held for redevelopment transferred on June 30, 2011 (Brehler Park)	\$ —
Land held for redevelopment transferred on June 30, 2011 (parking lot)	<u>130,000</u>
Total unallowable asset transfers	130,000
City returned land (Brehler Park) on June 30, 2012	—
City returned land (parking lot) on June 30, 2012	<u>(130,000)</u>
Total unallowable transfers subject to H&S Code section 34167.5	<u><u>\$ —</u></u>

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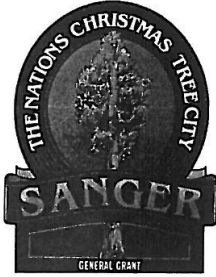
**Schedule 2—  
Unallowable RDA Asset Transfers to  
the Housing Authority  
January 1, 2011, through January 31, 2012**

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Land held for redevelopment (two parcels) transferred on March 17, 2011	<u>\$ 712,000</u>
Total unallowable asset transfers	<u>\$ 712,000</u>

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

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# City of Sanger, California

## *“A Community of Caring”*

1700 7th Street  
Sanger, California 93657  
(559) 876-6303  
FAX (559) 875-6727

VIA CERTIFIED MAIL –RETURN RECEIPT REQUESTED

December 5, 2013

Elizabeth Gonzalez  
Local Government Compliance Bureau  
State Controller's Office  
Division of Audits  
PO Box 942850  
Sacramento, CA. 942850

Dear Ms. Gonzalez:

I am writing in response to the SCO's Draft Asset Transfer Review Report received by the City of Sanger on November 15, 2013 to the Sanger Success Agency regarding asset transfers made by the former Sanger Redevelopment Agency to the Sanger Housing Authority after January 1, 2011. The following are the Successor Agency comments to the Draft Report.

Summary (page 1) and Conclusion (page 2)

For the reasons more fully set forth in response to Finding 2, we dispute the finding that there was an unallowable transfer of assets totaling \$2,155,018 or 47.12% that must be turned over to the City of Sanger Successor Agency. Specifically we dispute Finding 2 as to the parcels APN 325-090-07 and APN 325-030-03 and loans and receivables of \$1,892,404. Those assets were properly transferred to the Sanger Housing Authority as the Housing Successor.

Finding 2

The City disputes the Finding 2 and believes the parcels of land valued at \$712,000 and the loans and receivables in the amount of \$1,892,404 should not be transferred to the Successor Agency. The SCO report cites Health and Safety Code sections 34175(b) and 34177(d) and (e) as authority for ordering the transfer of the land and loans and receivables to the Successor Agency. It ignores the clear language of Health and Safety Code section 34176, which provides in relevant part as follows:

“(a)

(1) The city, county or city and county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency. If a city, county or city and county elects to retain the authority to perform housing functions previously performed by a redevelopment agency, all rights, powers, duties, obligations, and housing assets, as defined in subdivision (e), excluding any amounts on deposit in the Low and Moderate Income Housing Fund and enforceable obligations retained by the successor agency shall be transferred to the city, county or city and county.

(2) The entity assuming the housing functions of the former redevelopment agency shall submit to the Department of Finance by August 1, 2012, a list of all housing assets that contains an explanation of how the assets meet the criteria specified by subdivision (e). The Department of

Finance shall prescribe the format for the submission of the list. The list shall include assets transferred between February 1, 2012 and the date upon which the list is created. The department shall have up to 30 days from the date of receipt of the list to object to any of the assets or transfers of assets identified on the list. If the Department of Finance objects to assets on the list, the entity assuming the housing function of the former redevelopment agency may request a meet and confer process within five business days of receiving the department objection. If the transferred asset is deemed not to be a housing asset as defined in subdivision (e), it shall be returned to the successor agency and the provision of Section 34178.8 may apply. If a housing asset has been previously pledged to pay for bond indebtedness, the successor agency shall maintain control of the asset in order to pay for the bond debt....

(c) Commencing on the operative date of this part, the entity that assumes the housing function of the former redevelopment agency and receives the transferred housing assets may enforce affordability covenants and perform related activities pursuant to applicable provision of the Community Redevelopment Law (Part 1(commencing with Section 33000)), including but not limited to Section 33418

(d) Except as specifically provided in Section 34191.4, any funds transferred to the city, county or city and county or designated entity pursuant to this section together with any funds generated from housing assets, as defined in subdivision (e) shall be maintained in a separate Low and Moderate Income Housing Asset Fund which is hereby created in the accounts of the entity assuming the housing functions pursuant to this section. Funds in this account shall be used in accordance with applicable housing-related provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(e) For purposes of this part "housing asset" includes all of the following:

(1) Any real property, interest in, or restriction on the use of real property, whether improved or not, and any personal property provided in residences, including furniture and appliances, all housing-related files and loan documents, office supplies, software licenses and mapping programs, that were acquired for low and moderate-income housing purposes either by purchase or through a loan in whole or in part, with any source of funds.

(2) Any funds that are encumbered by an enforceable obligation to build or acquire low- and moderate- income housing as defined by the Community Redevelopment Law (Part 1 (commencing with Section 33000)) unless required in the bond covenants to be used for repayment purposes of the bond.

(3) Any loan or grant receivable funded from the Low and Moderate Income Housing Fund, from homebuyers, homeowners, non profit or for-profit developers and other parties that require occupancy by person of low or moderate income as defined by the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(4) Any funds derived from rents or operation of properties acquired for low- and moderate-income housing purposes by other parties that were financed with any source of funds, including residual receipt payments from developers, conditional grant repayments, cost savings and proceeds from refinancing, and principal and interest payments from homebuyers subject to enforceable income limits.

(5) A stream of rents or other payments from housing tenants or operators of low- and moderate-income housing financed with any source of funds that are used to maintain, operate, and enforce the affordability of housing or the enforceable obligations associated with low- and moderate- income housing.

In accordance with subsection (a) (2) above, the City of Sanger completed the Housing Asset Transfer form issued by the Department of Finance and received approval of the transfer of all the parcels and loans and receivables. A copy of the Department of Finance August 29, 2012 letter is enclosed. The parcels of land and the outstanding loans and receivables that were transferred to the Sanger Housing Authority as the Housing Successor fall with the definition of "housing asset" and are properly being held by the Sanger Housing Authority as the Housing Successor. The loans were all made to first-time homebuyers or to assist with the rehabilitation of affordable housing and the real property was acquired

for low- and moderate-income housing purposes. Therefore, the Sanger Housing Authority requests a reassessment of your findings.

Sincerely,

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

C. Brian Haddix  
City Manager

Encl.

Cc: Jenell Van Bindsbergen, Lozano & Smith LLP

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

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