

# **DALY CITY REDEVELOPMENT AGENCY**

## **ASSET TRANSFER REVIEW**

### **Review Report**

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



**JOHN CHIANG**  
California State Controller

July 2014



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

July 7, 2014

Mike Wilson, Deputy Director of Finance  
City of Daly City  
330 90<sup>th</sup> Street  
Daly City, CA 94015

Dear Mr. Wilson:

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

Our review found that the RDA transferred \$29,223,556 in assets after January 1, 2011, including unallowable transfers to the City totaling \$5,750,000, or 19.68% of transferred assets. These assets must be turned over to the Successor Agency.

If you have any questions, please contact Elizabeth González, Bureau 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: Peggy Jensen, Board Chair  
Successor Agency  
Lawrence Chiu, Director of Finance  
City of Daly City  
Bob Adler, Auditor-Controller  
San Mateo County  
David Botelho, Program Budget Manager  
California Department of Finance  
Richard J. Chivaro, Chief Legal Counsel  
State Controller's Office  
Elizabeth González, 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

<b>Summary</b> .....	1
<b>Background</b> .....	1
<b>Objective, Scope, and Methodology</b> .....	2
<b>Conclusion</b> .....	2
<b>Views of Responsible Officials</b> .....	2
<b>Restricted Use</b> .....	2
<b>Finding and Order of the Controller</b> .....	3
<b>Schedule 1—Unallowable Asset Transfers to the City of Daly City</b> .....	4
<b>Attachment—City’s Response to Draft Review Report</b>	

# Asset Transfer Review Report

## Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Daly City 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 \$29,223,556 in assets after January 1, 2011, including unallowable transfers to the City of Daly City (City) totaling \$5,750,000, or 19.68% of transferred 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 and oversight boards 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 any other public agency. 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's 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 Daly City Redevelopment Agency transferred \$29,223,556 in assets after January 1, 2011, including unallowable transfers to the City of Daly City totaling \$5,750,000, or 19.68% of transferred assets. These assets must be turned over to the Successor Agency.

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

## **Views of Responsible Officials**

We issued a draft review report on May 9, 2014. Rose Zimmerman, City Attorney, responded by letter dated May 20, 2014, disagreeing with the review results. The City's response is included in this final review report as an attachment.

## **Restricted Use**

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

July 7, 2014

# Finding and Order of the Controller

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

The Daly City Redevelopment Agency (RDA) made unallowable asset transfers in the amount of \$5,750,000 to the City of Daly City (City). The transfers occurred after January 1, 2011, and were not contractually committed to a third party prior to June 28, 2011.

On various dates during 2011, the RDA transferred a total of \$3,750,000 in cash to the City for payments against the outstanding amount on an advance from the City. Additionally, on June 30, 2011, the RDA transferred \$2,000,000 in cash to the City's Water Utility Fund.

Pursuant to Health and Safety (H&S) Code section 34167.5, the RDA may not transfer any assets to a city, county, and city and county after January 1, 2011, unless the assets are contractually committed to a third party.

### Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to turn over the above assets, described in Schedule 1, in the amount of \$5,750,000 to the Successor Agency. The Successor Agency is directed to properly dispose of the assets in accordance with H&S Code section 34177(d).

### City's Response

The City does not agree with the finding that there was no contractual commitment to transfer funds but does not dispute the accuracy of the amounts cited in your findings, and reserves to right to any challenge which may invalidate the findings. The City no longer holds the \$5,750,000.00 that was repaid by the former Redevelopment Agency. . . . On March 3, 2014 the City proposed a payment plan for consideration by DOF, which was rejected on March 12, 2014. Successor Agency staff met with DOF and agreed to submit a revised Payment Plan.

### SCO's Comment

The State Controller's Office (SCO) acknowledges that the City has submitted, to the Department of Finance (DOF), a plan to repay the cash transferred over time, as the repayment of the entire \$5,750,000 on a single date is not feasible. The Finding and Order of the Controller remains as stated.

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

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Cash	
Repayment of advances	\$ 3,750,000
Transfer to Daly City Water Utility Fund	<u>2,000,000</u>
Total unallowable transfers – City of Daly City	<u>\$ 5,750,000</u>

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<sup>1</sup> See the Finding and Order of the Controller section.



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

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# CITY OF DALY CITY

DEPARTMENT OF FINANCE  
AND  
ADMINISTRATIVE SERVICES

May 20, 2014

VIA CERTIFIED MAIL

Jeffrey V. Brownfield  
Chief, Division of Audits  
Office of the California State Controller  
3301 C Street, Suite 700  
Sacramento CA 95816

Elizabeth Gonzalez  
Chief, Local Government Compliance Bureau  
Office of the State Controller's Office  
Division of Audits  
P.O. Box 942850  
Sacramento, California 94250-5874

Dear Mr. Brownfield and Ms. Gonzalez,

This is in response to your letter and draft Asset Transfer Review Report of May 9, 2014 for the Daly City Redevelopment Agency, which we received on May 15, 2014. The City does not agree with the finding that there was no contractual commitment to transfer funds but does not dispute the accuracy of the amounts cited in your findings, and reserves the right to any challenge which may invalidate the findings.

On March 3, 2014 the City of Daly City Successor Agency proposed an Installment Payment Plan ("Payment Plan") to the State Department of Finance ("DOF") for the \$5,750,000.00 noted in your Finding and Order.

Health and Safety Code section 34179.6(h)(3) authorizes the DOF to agree to a Payment Plan to satisfy outstanding DDR balances when it determines that full payment of such balances is not currently feasible or would jeopardize the ability of the Successor Agency to pay enforceable obligations in a timely manner.

On November 1, 2013, the City Manager of the City of Daly City submitted a letter to the DOF, disputing the DOF's determination regarding their findings. The City of Daly City's financial situation remains dire and the City does not have the financial resources to commit the funds to the DOF as part of the payment plan, as such funds are necessary for the continued operation of the City. The City no longer holds the \$5,750,000.00 that was repaid by the former Redevelopment Agency for outstanding loans and project improvements, as those funds were

Jeffrey V. Brownfield  
Elizabeth Gonzalez Office of the State Controller  
May 22, 2014  
Page 2

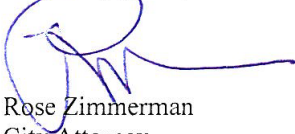
used for general City operations, and the construction of improvements to the City's water system.

On March 12, 2014, DOF rejected the Payment Plan and suggested the Agency submit a revised Payment Plan. On March 21, 2014, DOF met with the Successor Agency staff, Lawrence Chiu, Director of Finance, and Rose Zimmerman, City Attorney to discuss the submittal of a revised Payment in accordance to Health and Safety Code section 34179.6(h)(3). The successor agency agreeded to submit a revised Payment Plan for consideration by DOF.

The approval of the revised Payment Plan would confirm that upon timely payments as agreed, in which DOF would not proceed to implement, or implement, any measures authorized pursuant to Health and Safety Code Section 34179.6 (h) including ordering the State Board of Equalization to withhold sales and use taxes from the City of Daly City, or ordering the San Mateo County Auditor to withhold property taxes payable to Successor Agency.

Should you have any questions or wish to discuss further, please contact our office at your convenience.

Very truly yours,



Rose Zimmerman  
City Attorney  
City of Daly City/ Daly City Successor Agency



Lawrence Chiu  
Director of Finance  
City of Daly City/Daly City Successor Agency

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

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