

BELL COMMUNITY REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

May 2014



JOHN CHIANG
California State Controller

May 19, 2014

Doug Willmore, City Manager
City of Bell
6330 Pine Avenue
Bell, CA 90201

Dear Mr. Willmore:

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

Our review found that the RDA transferred \$23,865,807 in assets after January 1, 2011, including unallowable transfers to the City, totaling \$500,000, or 2.10% 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/sk

cc: Josh Betta, Finance Director
City of Bell
Anna Maria Quintana, Oversight Board Chair
Oversight Board of Successor Agency to Bell Community Redevelopment Agency
Wendy Watanabe, Auditor-Controller
County of Los Angeles
David Botelho, Program Budget Manager
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Bell Community 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 \$23,865,807 in assets after January 1, 2011, including unallowable transfers to the City of Bell (City), totaling \$500,000, or 2.10% 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 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 has 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 Successor Agency, the Oversight Board, the RDA, and the City.
- 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 Bell Community Redevelopment Agency transferred \$23,865,807 in assets after January 1, 2011, including unallowable transfers to the City of Bell, totaling \$500,000, or 2.10% of transferred assets. These assets must be turned over to the Successor Agency.

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

Views of Responsible Official

We issued a draft review report on January 28, 2014. Doug Willmore, City Manager, responded by letter dated February 12, 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, 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

May 19, 2014

Finding and Order of the Controller

**FINDING—
Payment to the
City of Bell for
prior-year retained
pension tax**

The Bell Community Redevelopment Agency (RDA) made unallowable asset transfers of \$500,000 to the City of Bell (City). The transfers occurred after January 1, 2011, and were not contractually committed to a third party prior to June 28, 2011.

Our review found that on June 30, 2011, two journal entries (#13187 and #13188) were posted by the former City Finance Director, transferring \$500,000 to the City's retirement fund.

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, that were not contractually committed to a third party prior to June 28, 2011.

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

Pursuant to H&S Code section 34167.5, the City is ordered to return \$500,000 from the City's retirement fund to the Successor Agency. The Successor Agency is directed to properly dispose of the assets in accordance with H&S Code section 34177(d) and 34181(a).

City's Response to Draft Report

The City responded that the \$500,000 in transfers to the City's retirement fund on June 30, 2011, was to satisfy a loan repayment specifically related to the payment of bonded debt issued in 2005 by the Bell Public Financing Authority, pursuant to a loan agreement between the City and the RDA and requested that the transfer be reclassified as an allowable transfer that should not be returned to the Successor Agency for distribution by the Los Angeles County Auditor-Controller. (See Attachment 1).

SCO Comment

The transfer of \$500,000 represents a repayment to the RDA tax levies that were collected before the 2005 bond issuance and was not contractually committed to a third party. Loan repayments made to the City that formed the Agency after January 1, 2011, and not contractually committed to a third party, are not allowed. As such, the transfer must be returned to the Successor Agency for disposition in accordance with H&S Code section 34177(e).

The finding and Order of the Controller remain as stated except for modification to the original H&S Code section referencing 34177(d), now referencing H&S Code section 34177(e) for disposition.

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

Unallowable RDA asset transfers:	
Tax Increment Fund (#21) payments to retirement fund on advance	\$ 500,000
Total assets transferred to the City of Bell	<u>\$ 500,000</u>

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

City of Bell
6330 Pine Avenue
Bell, California 90201
383-588-6211
383-771-9473 (fax)



Violeta Alvarez, Mayor
Ana Maria Quintana, Mayor Pro Tem
Alicia Romero, Council Member
Ali Saleh, Council Member
Nestor E. Valencia, Council Member

February 12, 2014

Elizabeth Gonzalez
Chief, Local Government Compliance Bureau
State Controller's Office, Division of Audits
PO Box 942850, Sacramento CA 94250-5874

Dear Ms. Gonzalez,

On February 3, 2014, the City of Bell received a letter from the State Controller's Office ("SCO") regarding the review of asset transfers made by the Bell Community Redevelopment Agency to the City of Bell ("City of Bell") or other public agencies post January 1, 2011 pursuant to Health and Safety Code Section 34167.5. As the letter states, the SCO review determined that there were "unallowable transfers totaling \$500,000, or 2.14% of transferred assets" and that these transfers "must be turned over to the Successor Agency." The Successor Agency to the former Bell Community Redevelopment Agency ("Successor Agency") respectfully disagrees with the State Controller's Office's initial determination and requests further review of this item prior to issuing a final determination letter and report. The Successor Agency believes that further evidence and documentation will help clarify and support the fact that the \$500,000 should be reclassified as an allowable transfer and should not be returned to the Successor Agency for distribution by the Los Angeles County Auditor Controller.

The Successor Agency maintains that the \$500,000 in transfers to the City's Retirement Fund on June 30, 2011 was to satisfy a "loan repayment," specifically related to the payment of bonded debt issued by the Public Financing Authority, which is comprised of the former Bell Community Redevelopment Agency and the City of Bell and was established under a joint exercise of powers agreement, dated August 5, 1991 (Attachment No. 1). On December 6, 2005, the Bell Public Financing Authority issued the 2005 Taxable Pension Override Revenue Bonds ("Bonds"). The proceeds of the Bonds were for the funding of the retirement benefits for the City's safety employees and to pay the related cost of issuance for the bonds. The Official Statement (Attachment No. 2) specifically states that the Bonds are "payable solely from loan payments from the City to the Authority ("Financing Authority") pursuant to a loan agreement (Attachment No. 3)."

The loan agreement between the City and Financing Authority (Including the former Bell Community Redevelopment Agency) is to be paid, as stated in the agreement, from "the proceeds of the levy and

Ms. Elizabeth Gonzalez
February 12, 2014

collection of an ad valorem tax on all non-exempt real property within the boundaries of the City, which was approved and adopted by the City's electorate on November 13, 1944" for the purpose of funding the City's retirement obligations ("Retirement Tax"). Prior to the enactment of ABx1 26, the former Bell Community Redevelopment Agency was the recipient of any Retirement Tax monies generated solely within its adopted redevelopment project areas and the City would collect any amount generated in the remaining areas within its boundaries.

In 2005, the former Bell Community Redevelopment Agency adopted Resolution No. 2005-14, which formalized that all Retirement Tax levy proceeds collected within its redevelopment project areas would be, upon receipt, transferred to the City's retirement fund. Therefore, it is the Successor Agency's position that the transfer of Retirement Tax monies (\$500K), generated by the voter approved levy, from the former Bell Community Redevelopment Agency to the City's retirement fund in June 2011 was for the purpose of satisfying a pre-existing loan agreement and that these monies are legally pledged to the payment of bond debt service. Attachment Nos. 4 and 5 to this letter are excerpts from the City's audited financials in 2005 and 2009, which provide some additional background documentation for your review.

Without the Successor Agency's ability to transfer these voter approved Retirement Tax monies to the City for the purpose of satisfying bond debt service obligations (via the loan agreement), the City would be faced with a reduction in the amount of revenues available to pay debt service on the Bonds, which could further weaken the credit of the outstanding bonds. We trust that this letter will satisfy the ten day comment period requirement, as provided in your letter on February 3, 2014, and hope that it provides further clarity with respect to the purpose of the subject transfer.

If there are any questions, need for additional information, or you would like to discuss this matter in greater detail, then please do not hesitate to contact me.

Thank you,



Doug Willmore
City Manager

Attachments:

1. Public Finance Authority Joint Powers Agreement
2. Bell PFA 2005 OS
3. Loan Agreement City and PFA
4. Bell 2005 Audited Financials
5. Bell 2009 Audited Financials

**State Controller's Office
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