

PACIFICA 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 31, 2014

Lorie D. Tinfow, City Manager
City of Pacifica/Successor Agency
170 Santa Maria Avenue
Pacifica, CA 94044

Dear Ms. Tinfow:

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

Our review found that the RDA transferred \$2,349,663 in assets after January 1, 2011, including unallowable transfers totaling \$60,000 to the City, or 2.55% of transferred assets. However, in March 2013, the City turned over \$60,000 in cash to the Successor Agency. Therefore, no further action is necessary.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/kw

cc: Sandra McClellan, CPA, MPA
Acting Finance Director, City Of Pacifica
Steven Carmichael, Interim Administrative Services Director
City of Pacifica
Bob Adler, Controller
San Mateo County
Dave Holland, Oversight Board Chairperson
Pacifica Redevelopment Successor Agency
David Botelho, Program Budget Manager
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Elizábeth González, Bureau Chief
Division of Audits, State Controller's Office
Scott Freesmeier, Audit Manager
Division of Audits, State Controller's Office
Claudia Corona, Auditor-in-Charge
Division of Audits, State Controller's Office
Daniela Anechitoaie, Auditor
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 Pacifica 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 \$2,349,663 in assets after January 1, 2011, including unallowable transfers totaling \$60,000 to the City of Pacifica (City), or 2.55% of transferred assets. However, in March 2013, the City turned over \$60,000 in cash to the Successor Agency. Therefore, no further action is necessary.

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.

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 Pacifica Redevelopment Agency, 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 Successor Agency, the Oversight Board, and the RDA.
- 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 \$2,349,663 in assets after January 1, 2011, including unallowable transfers totaling \$60,000 to the City, or 2.55% of transferred assets. However, in March 2013, the City turned over \$60,000 in cash to the Successor Agency. Therefore, no further action is necessary.

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 8, 2014. Rafael Mandelman of Burke, Williams, and Sorensen, LLP responded by letter dated June 9, 2014, partially agreeing with the review results. The City's Response is included in this final review as an attachment.

Restricted Use

This report is solely for the information and use of the City of Pacifica, 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 31, 2014

Finding and Order of the Controller

FINDING — Unallowable asset transfers to the City of Pacifica

The Pacifica Redevelopment Agency (RDA) made unallowable asset transfers of \$60,000, described in Schedule 1, to the City of Pacifica (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 December 31, 2011, the RDA transferred cash to the City totaling \$60,000, as a loan interest payment. In reviewing the agreement entered into by and between the City and the RDA, and Resolution No. 69-85, we found that this obligation to repay the City dates back to November 25, 1985. In addition, this loan agreement authorized further amounts of money to be loaned to the RDA by the City. The loans bear interest from the date the loan funds are drawn by the RDA. The loan proceeds for these agreements were used for administrative costs and expenses, including, but not limited to, costs to the City for consulting services, legal services, staff time, and other related administrative expenses, and costs of certain public improvements, that were necessary to carry out the Redevelopment Plan for the Rockaway Beach Project Area.

However, the City reversed the \$60,000 transfer and paid back this amount on March 31, 2013. Therefore, no further action is necessary.

Pursuant to Health and Safety (H&S) Code section 34167.5, the RDA may not transfer assets to a city, county, or 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.

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the unallowable asset transfer described above, and in Schedule 1, in the amount of \$60,000. However, the City reversed the transfer in the amount of \$60,000. Therefore, no further action is necessary.

City's Response to Draft Report

(Attachment is a copy of the City's response).

In response to the SCO Finding stated in the draft report, the City provided additional documentation and submitted the following information:

1. That there was no interest payment to the City during the 2010-11 fiscal year, and all interest accrued during that year was added to the outstanding principal and interest on the City-RDA loan.
2. That a \$60,000 interest payment was made to the City in the second half of 2011, and was subsequently reversed back to the Successor Agency in March 2013.

SCO Comment

The SCO reviewed the additional documentation and revised the Finding and the Order of the Controller section. Therefore, no further action is necessary.

**Schedule 1—
Summary of Asset Transfers to
the City of Pacifica and the Successor Agency
after January 1, 2011**

Transfer Date	Description	Total	Allowable	Unallowable	Adjustments	Clawback
December 31, 2011	Cash transfer to City for interest payments	\$ 60,000	\$ —	\$ 60,000	\$ (60,000)	\$ —
February 1, 2012	Current assets transferred to Successor Agency	1,454,388	1,454,388 ¹	—	—	—
February 1, 2012	Properties transferred to Successor Agency	835,275	835,275	—	—	—
		<u>\$ 2,349,663</u>	<u>\$ 2,289,663</u>	<u>\$ 60,000</u>	<u>\$ (60,000)</u>	<u>\$ — ²</u>

¹ Assets transferred to the Successor Agency on June 30, 2012, including LMIH assets that have yet to transfer to the Entity Assuming the Housing Functions and responsibilities of the former RDA. No Housing Successor has been established as of the date of our review (November 4, 2013).

² See the Finding and Order of the Controller section.

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

DRAFT



1901 Harrison Street - Suite 900
Oakland, California 94612-3501
voice 510.273.8780 · fax 510.839.9104
www.bwslaw.com

Direct No.: 510.273.8716
Our File No.: 05612.0133
rmandelman@bwslaw.com

June 9, 2014

**VIA E-MAIL EGONZALEZ@SCO.CA.GOV AND
U.S. MAIL**

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

Re: State Controller's Office (SCO) Asset Transfer Review -
Pacifica Redevelopment Agency

Dear Ms. Gonzalez:

I am writing on behalf of our client the City of Pacifica to correct certain inaccuracies in the draft Asset Transfer Review Report ("Draft Report") received by the City on May 13, 2014. Thank you for extending our time to submit a formal response and for your willingness to work with us to correct the document.

The specific concern we have with the Draft Report arises from the statement on page 4 of the Draft Report that on June 30, 2011 and December 31, 2011, the RDA transferred cash to the City totaling \$325,396 as loan interest payments on loans previously made by the City to the former RDA. As I discussed with Scott Freesmeier last week, and as City staff have further confirmed to SCO staff since then, neither the City's own financial records nor the enclosed RDA audited financial statements dated June 30, 2011 and January 31, 2012 support this conclusion.

As you will note on page 22 of the June 30, 2011 audit document, there was no interest payment to the City during the 2010/11 fiscal year, and all interest accrued during that year was added to the outstanding principal and interest on the City-RDA loan. The January 31, 2012 audit document does show a \$60,000 interest payment to the City in the second half of 2011 (see page 18), but as the Draft Report indicates, and as City staff have further substantiated, that payment was reversed per order of the State Department of Finance as of March 31, 2013.

OAK #4824-7988-2011 v1



Ms. Elizabeth Gonzalez
Chief, Local Government Compliance Bureau
June 9, 2014
Page 2

Therefore, the Draft Report should be revised to state that the amount of unallowable transfers that must be turned over to the Successor Agency is \$0.

Thank you again for your consideration. Should you have any questions, please feel free to contact me.

Sincerely,

BURKE, WILLIAMS & SORENSEN, LLP

A handwritten signature in blue ink, appearing to read "Rafael M.", is positioned above the printed name.

Rafael Mandelman

Enclosures

cc: Lorie D. Tinfow, City Manager (via email)
Michelle Marchetta Kenyon, City Attorney (via email)
Steven Carmichael, Interim Administrative Services Director (via email)

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

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