

# **MORENO VALLEY COMMUNITY REDEVELOPMENT AGENCY**

## **ASSET TRANSFER REVIEW**

### Review Report

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



**JOHN CHIANG**  
California State Controller

December 2014



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

December 26, 2014

Michelle Dawson, City Manager  
Moreno Valley Community Redevelopment/Successor Agency  
14177 Frederick Street  
Moreno Valley, CA 92553

Dear Ms. Dawson:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Moreno Valley Community Redevelopment Agency (RDA) to the City of Moreno Valley (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 \$133,244,497 in assets after January 1, 2011, including an unallowable transfer to the City totaling \$298,513, or 0.002% of transferred assets. These assets must be turned over to the Successor Agency.

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: Dena Heald, Financial Operations Division Manager  
City of Moreno Valley  
Glenn Moss, Chair of the Oversight Board  
Moreno Valley Community Redevelopment/Successor Agency  
Paul Angulo, Auditor-Controller  
Riverside County  
Richard Teichert, Chief Financial Officer  
City of Moreno Valley  
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  
Betty Moya, Audit Manager  
Division of Audits, State Controller's Office  
Margaux Clark, Auditor-in-Charge  
Division of Audits, State Controller's Office  
Tuan Tran, 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 Moreno Valley 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 \$133,244,497 in assets after January 1, 2011, including an unallowable transfer to the City of Moreno Valley (City) totaling \$298,513, or 0.002% of transferred assets. The 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 Code (H&S Code) beginning with section 34161.

H&S Code section 34167.5, states, in part, ". . .the Controller is required to 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 RDA, the City, 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 Moreno Valley Community Redevelopment Agency transferred \$133,244,497 in assets after January 1, 2011, including an unallowable transfer to the City of Moreno Valley totaling \$298,513, or 0.002% 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 September 23, 2014. Richard Teichert, Chief Financial Officer, responded by letter dated October 1, 2014. 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 Successor Agency, the Oversight Board, the City of Moreno Valley, 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

December 26, 2014

# Finding and Order of the Controller

**FINDING—  
Unallowable asset  
transfers to the  
City of Moreno  
Valley**

The Moreno Valley Community Redevelopment Agency made an unallowable asset transfer of \$298,513 to the City of Moreno Valley. The transfer occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

On June 29, 2011, the RDA transferred \$298,513 in cash to the City of Moreno Valley. The transfer was an interest payment for the Conference and Recreation Center promissory note. The RDA purchased the Conference and Recreation Center from the City on April 26, 2005.

## Order of the Controller

Pursuant to Health and Safety (H&S) Code section 34167.5, the City is ordered to reverse the transfer totaling \$298,513 and turn over the assets to the Successor Agency.

## City's Response

The City disagrees with the finding and states that the interest payment was an allowable transfer based on Oversight Board approval ratifying the interest payments, their interpretation of ABX1 26, as well as the fact that the payment was not a new engagement of business by the RDA.

See attachment for the City's complete response.

## SCO's Comment

A recent Superior Court ruling (Successor Agency to the *Brea Redevelopment Agency, et al. v. Matosantos, et al.*) states:

The redevelopment dissolution laws established oversight boards to supervise the actions of successor agencies, but not to supervise or ratify (after the fact) the actions of former redevelopment agencies. Conversely, the Court has not located any provision of the redevelopment laws that requires or authorizes an oversight board retrospectively to review or ratify an action of a redevelopment agency taken before its dissolution. The Oversight Board thus appears to have no legal authority or mandate to review actions of the RDA.

As such, the Oversight Board did not have legal authority to retroactively approve the transfers.

The SCO's authority under H&S Code section 34167.5 extends to all assets transferred after January 1, 2011, by the RDA to the city or county, or city and county that created the RDA or any other public agency. This responsibility is not limited by the other provisions of the RDA dissolution legislation.

On May 24, 2013, the Successor Agency received a Finding of Completion from the Department of Finance. Pursuant to H&S Code section 34191.4, the Successor Agency may place payments for loan agreements between the RDA and the City on the Recognized Obligation Payment Schedule as an enforceable obligation, provided that the Oversight Board finds that the loans were for legitimate redevelopment purpose.

The Finding and Order of the Controller remain as stated.



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

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14177 FREDERICK STREET  
P.O. Box 88005  
MORENO VALLEY, CA 92552-0805

October 1, 2014

CERTIFIED MAIL

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

Dear Ms. Gonzalez:

We are in receipt of your letter dated September 23, 2014 in regards to the unallowable transfer to the City of Moreno Valley from the Moreno Valley Community Redevelopment / Successor Agency in the amount of \$298,513. As instructed in your letter, we are submitting this letter within 10 calendar days after receipt as we would like to have the following comments added to the final report.

The sale of the property was approved in 2005 through Resolution 2005-39 and RDA Resolution 2005-04, which allowed for the purchase/sale of the property along with the terms of the payments. The interest payments made were the result of a contractual obligation entered into in 2005, prior to the dissolution of the Community Redevelopment Agency of the City of Moreno Valley (RDA). Per the terms of the Agreement, the RDA had completed scheduled payments to the City through February 1, 2012. Following the dissolution of the RDA on February 1, 2012, all future payments were delayed until payments could be confirmed and identified as part of the Enforceable Obligation Payment Schedule.

As part of the Oversight Board review of the Amended Recognized Obligation Payment Schedule for the period January 1, 2012 through June 30, 2012, the Board took action on May 9, 2012 to "voluntarily" remove the future payments of the note from the payment schedule. Since the property was to be used for governmental purposes, the ownership of the parcel would be later addressed as part of the Long Range Property Management Plan to revert ownership back to the City and to cancel the loan due to the dissolution of the RDA.

FINANCIAL & MANAGEMENT SERVICES DEPARTMENT

Elizabeth Gonzalez  
October 1, 2014  
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On December 11, 2013, the Oversight Board approved Resolution OB 2013-13 which ratified and approved the said interest payments of \$298,513 as an enforceable obligation for a valid loan that remained intact through February 1, 2012.

As part of the review by the State Controller's Office, it was determined that one interest payment of \$298,513 made on June 29, 2011 per the terms of the Agreement was unallowable. Based on these details, our interpretation of ABX1 26, and the fact that this was not an engagement of new business by the RDA, it is our stance that this interest payment was an allowable transfer.

Please take these details into consideration prior to finalizing the report. Should you continue to classify this as an unallowable transfer, please include the comments in the above paragraphs in your final report. Thank you in advance for your time and consideration to this matter.

Sincerely,



Richard Teichert  
Chief Financial Officer

RT/djh

c: Michelle Dawson, City Manager, City of Moreno Valley  
Suzanne Bryant, City Attorney, City of Moreno Valley

**State Controller's Office  
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