

FULLERTON REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

August 2014



JOHN CHIANG
California State Controller

August 12, 2014

Ramona Castañeda
Fiscal Services Manager
City of Fullerton/Successor Agency
303 W. Commonwealth Avenue
Fullerton, CA 92832

Dear Ms. Castañeda:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Fullerton Redevelopment Agency (RDA) to the City of Fullerton (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 \$143,583,039 in assets after January 1, 2011, including unallowable transfers to the City totaling \$21,934,592, or 15.28% of transferred assets.

However, on September 17, 2013, and on January 21, 2014, the City turned over \$21,934,592 in current and capital assets 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/sk

cc: Craig Walker, Chairman

Fullerton Redevelopment Successor Agency Oversight Board

Jan E. Grimes, Auditor-Controller

Orange County

Charles G. Kovac, Housing and Neighborhood Services Manager

City of Fullerton

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

Kandy Liu, 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 Fullerton 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 \$143,583,039 in assets after January 1, 2011, including unallowable transfers to the City of Fullerton (City) totaling \$21,934,592, or 15.28% of transferred assets.

However, on September 17, 2013, and on January 21, 2014, the City turned over \$21,934,592 in current and capital assets 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 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 Fullerton Redevelopment Agency transferred \$143,583,039 in assets after January 1, 2011, including unallowable transfers to the City of Fullerton (City) totaling \$21,934,592, or 15.28% of transferred assets.

However, on September 17, 2013, and on January 21, 2014, the City turned over \$21,934,592 in current and capital assets 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 Official

We issued a draft review report on July 2, 2014. Ramona Castañeda, Fiscal Services Manager, indicated through email correspondence on July 22, 2014, that no response would be provided and that the report could be issued as final.

Restricted Use

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

August 12, 2014

Finding and Order of the Controller

FINDING— Unallowable asset transfers to the City of Fullerton

The Fullerton Redevelopment Agency (RDA) made unallowable asset transfers of \$21,934,592 to the City of Fullerton (City). The transfers occurred after January 1, 2011, and were not contractually committed to a third party prior to June 28, 2011.

Unallowable asset transfers were as follows:

- On March 15, 2011, the RDA transferred \$2,900,768 in land held for resale (Fund #82, Account #1401) to the City.
- On March 15, 2011, the RDA transferred \$19,033,824 in capital assets to the City.

Pursuant to Health and Safety (H&S) Code section 34167.5, any asset transfers by the RDA 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 must be turned over to the Successor Agency for disposition in accordance with H&S Code sections 34177 (d) and (e).

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfers of the above assets and turn them over to the Successor Agency. However, on September 17, 2013, and on January 21, 2014, the City turned over \$21,934,592 in current and capital assets to the Successor Agency. Therefore, no further action is necessary.

City's Response

The City stated that they will not be providing a response.

SCO Comments

The Finding and Order of the Controller remain as stated.

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

Description	Date	Amount
Land held for resale (Fund #82 Account #1401)	March 15, 2011	\$ 2,900,768
Capital assets – various properties from audited financial statements	March 15, 2011	19,033,824
Total unallowable transfers		21,934,592
Adjustments:		
City returned to Successor Agency	September 17, 2013	(2,900,768)
City returned to Successor Agency	January 21, 2014	(19,033,824)
Total adjustments		(21,934,592)
Total amount subject to H&S Code section 34167.5		\$ —

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

RE: Fullerton - Asset Transfer Approval

Ramona Castaneda <ramonac@ci.fullerton.ca.us>

 You replied to this message on 7/22/2014 1:30 PM

Sent: Tue 7/22/2014 12:12 PM

To: Liu, Kandy

Co: Charles G. Kovac

Hi Kandy,

Thanks for the follow up, we will not be providing a response so go ahead and finalize.

Take Care,
Ramona

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

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