

INDUSTRY URBAN-DEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

December 2014



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California State Controller

December 31, 2014

Kevin Radecki, City Manager
City of Industry
15625 E. Stafford Street, Suite 100
City of Industry, CA 91744

Dear Mr. Radecki:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Industry Urban-Development Agency (RDA) to the City of Industry (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 \$769,921,325 in assets after January 1, 2011, including unallowable transfers to the City totaling \$311,325,432, or 40.44% of transferred assets.

However, on June 30, 2012, the City turned over \$308,321,279 in cash and capital assets to the Successor Agency. Therefore, the remaining \$3,004,153 in unallowable transfers 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 or by email at egonzalez@sco.ca.gov.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/kw

cc: Santos Kreimann, Oversight Board Chairman
Successor Agency to the Industry Urban-Development Agency
Wendy Watanabe
Los Angeles County Auditor-Controller
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
Cecilia Michaels, 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 Industry Urban-Development 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 \$769,921,325 in assets after January 1, 2011, including unallowable transfers to the City of Industry (City) totaling \$311,325,432, or 40.44% of transferred assets.

However, on June 30, 2012, the City turned over \$308,321,279 in cash and capital assets to the Successor Agency. Therefore, the remaining \$3,004,153 in unallowable transfers 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 Industry Urban-Development Agency transferred \$769,921,325 in assets after January 1, 2011, including unallowable transfers to the City of Industry (City) totaling \$311,325,432, or 40.44% of transferred assets.

However, on June 30, 2012, the City turned over \$308,321,279 in cash and capital assets to the Successor Agency. Therefore, the remaining \$3,004,153 in unallowable transfers 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 November 12, 2014. The City stated in an email dated November 20, 2014 that they agreed with the amount owed and had no further comments.

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

December 31, 2014

Finding and Order of the Controller

FINDING— Unallowable asset transfers to the City of Industry

The Industry Urban-Development Agency (RDA) made unallowable asset transfers of \$311,325,432 to the City of Industry (City). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Unallowable asset transfers were as follows:

- On February 23, 2011, the RDA passed Resolution No. 2011-003 to transfer 126 parcels of land, construction in progress (CIP), buildings, improvements, fixed assets, and automobiles, with a total value of \$304,590,158. Various properties transferred included rental properties on which the RDA was collecting lease payments.
- When the RDA transferred properties to the City on February 23, 2011, some of the properties transferred included rental properties. The lease payments made by tenants were paid to the City and not to the RDA. For the review period, we noted that the City collected a total of \$3,731,121 in lease payments.
- On April 13, 2011, the RDA reimbursed the City \$2,385,000 for the property located at the northeast corner of Walnut Drive and Nogales (APN 8760-002-019 and APN 8760-002-001). The property was to be purchased by the City in relation to a 2006 Offer and Compromise with the developer, Gale Center LLC.
- The RDA reimbursed the City \$619,153 for sales tax payments the City made on a contract agreement with Fry's Electronics. In 2004, the RDA and the City signed a reimbursable agreement wherein the RDA would reimburse the City for payments of sales tax made to Fry's if the City found that it could not cover the liability. In 2011, the City was reimbursed a total of \$425,435, and on January 25, 2012 a final payment in the amount of \$193,718 was made.

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. Those assets should be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177(d) and (e). However, it appears that some of those assets also may be subject to the provisions of H&S Code section 34181(a).

H&S Code section 34181(a) states:

The oversight board shall direct the successor agency to do all of the following:

- (a) Dispose of all assets and properties of the former redevelopment agency; provided however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a government purpose, such as

roads, school buildings, parks, police and fire stations, libraries, and local agency administrative buildings, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such as asset.

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfers totaling \$311,325,432, and turn over the assets to the Successor Agency.

However, on June 30, 2012, the City turned over \$308,321,279 in cash and capital assets to the Successor Agency. Therefore, the remaining \$3,004,153 in unallowable transfers must be turned over to the Successor Agency.

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

On February 23, 2011, the RDA transferred all capital assets, including CIP and fixed assets	\$ 304,590,158
Lease payments received by the City on rental properties transferred on February 23, 2011	3,731,121
On April 13, 2011, the RDA reimbursed the City for the purchase of property located at the northeast corner of Walnut and Nogales (APNs 7960-002-019 and 8760-002-001).	2,385,000
Total reimbursements made to the City for Fry's sales tax payments	<u>619,153</u>
Total Unallowable Asset Transfers	<u>311,325,432</u>
Adjustments:	
Capital assets turned over to the Successor Agency on June 30, 2012	(304,590,158)
Cash turned over to the Successor Agency on June 30, 2012	<u>(3,731,121)</u>
Total Transfers Subject to H&S Code section 34167.5	<u>\$ 3,004,153</u>

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

Michaels, Cecilia

From: Dean Yamagata <dyamagata@frazerllp.com>
Sent: Thursday, November 20, 2014 11:34 AM
To: Michaels, Cecilia
Cc: Dean Yamagata
Subject: RE: Urban RDA (Draft)

Cecelia:

The City will not be filing a response and agrees to the \$3,004,153 amount owed.

Dean Yamagata
Partner
Brea Office Phone: 714-990-1040 ext. 110
Industry Office Phone: 626-330-8180
Fax: 714-671-2310
www.frazerllp.com



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From: CMichaels@sco.ca.gov [<mailto:CMichaels@sco.ca.gov>]
Sent: Thursday, November 20, 2014 10:59 AM
To: Dean Yamagata
Subject: RE: Urban RDA (Draft)

Hi Dean, did you speak with the City Manager? Do they want to send a response to the draft report?

From: Dean Yamagata [<mailto:dyamagata@frazerllp.com>]
Sent: Wednesday, November 19, 2014 4:37 PM
To: Michaels, Cecilia
Subject: RE: Urban RDA (Draft)

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

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