

VISTA COMMUNITY DEVELOPMENT COMMISSION

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



BETTY T. YEE
California State Controller

July 2015



BETTY T. YEE
California State Controller

July 17, 2015

Dale Nielsen, Finance Director
City of Vista
200 Civic Center Drive
Vista, CA 82084-6275

Dear Mr. Nielsen:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Vista Community Development Commission (RDA) to the City of Vista (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 agency have been reversed.

Our review found that the RDA transferred \$118,428,408 in assets after January 1, 2011, including unallowable transfers to the City totaling \$61,701,562, or 52.10% of transferred assets.

However, the following corrective actions have been taken:

- On January 19, 2011, the City returned \$19,267,671 in cash to the RDA to repay one 2008 loan and two 2010 loans from the City.
- On February 26, 2013, the City turned over \$10,800,384 in property and \$3,563,927 in cash to the Successor Agency.
- On December 13, 2013, \$26,414,318 in unrecorded land held for resale and \$1,655,262 in unrecorded fixed assets were noted on the books and records of 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/ljs

cc: Morris Vance,
Oversight Board Chairman
Tracy Sandoval, Auditor and Controller
County of San Diego
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
Reginald Nidoy, Audit Manager
Division of Audits, State Controller's Office
Cecilia Michaels, Auditor-in-Charge
Division of Audits, State Controller's Office

Contents

Review Report

Summary	1
Background	1
Objective, Scope, and Methodology	2
Conclusion	2
Views of Responsible Officials	3
Restricted Use	3
Finding and Order of the Controller	4
Schedule—Unallowable Asset Transfers to the City of Vista	6

Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Vista Community Development Commission (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 \$118,428,408 in assets after January 1, 2011, including unallowable transfers to the City totaling \$61,701,562, or 52.10% of transferred assets.

However, the following corrective actions have been taken:

- On January 19, 2011, the City returned \$19,267,671 in cash to the RDA to repay one 2008 loan and two 2010 loans from the City.
- On February 26, 2013, the City turned over \$10,800,384 in property and \$3,563,927 in cash to the Successor Agency.
- On December 13, 2013, \$26,414,318 in unrecorded land held for resale and \$1,655,262 in unrecorded fixed assets were noted on the books and records of 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 Vista Community Development Commission transferred \$118,428,408 in assets after January 1, 2011, including unallowable transfers to the City totaling \$61,701,562, or 52.10% of transferred assets.

However, the following corrective actions have been taken:

- On January 19, 2011, the City returned \$19,267,671 in cash to the RDA to repay one 2008 loan and two 2010 loans from the City.
- On February 26, 2013, the City turned over \$10,800,384 in property and \$3,563,927 in cash to the Successor Agency.
- On December 13, 2013, \$26,414,318 in unrecorded land held for resale and \$1,655,262 in unrecorded fixed assets were noted on the books and records of the Successor Agency.

Therefore, no further action is necessary.

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

**Views of
Responsible
Officials**

At an exit conference on September 19, 2014, and in a phone conversation on June 18, 2015, we discussed the review results with Dale Nielsen, Director of Finance; Patrick Johnson, City Manager; Darold Pieper, City Attorney; and John Meyer, Director of Redevelopment and Housing. Mr. Nielsen stated that a draft review report was not necessary and that the report could be issued as final.

Restricted Use

This report is solely for the information and use of the City of Vista, 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 17, 2015

Finding and Order of the Controller

FINDING— Unallowable asset transfers to the City of Vista

The Vista Community Development Commission/Successor Agency (RDA) made unallowable asset transfers of \$61,701,562 to the City of Vista (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 January 19, 2011, the RDA used JE 01-02 to transfer \$19,267,671 in cash for the repayment of one 2008 loan and two 2010 interest-bearing loans from the City.
- On February 22, 2011, the RDA entered into a new loan with the City for a total of \$19,410,280. The RDA repaid the City by transferring property and cash as follows:
 - On February 22, 2011, the RDA used JE 02-21 to record the sale of three properties (Ford, Sonic and BMW) to the City with a total value of \$5,900,000.
 - On February 22, 2011, the RDA used JE 02-22 to record the sale of the Paseo Santa Fe property to the City valued at \$972,169.
 - On February 22, 2011, the RDA used JE 02-23 to record the sale of the AP Property to the City valued at \$3,928,215.
 - On June 30, 2011, the RDA used JE 06-09 to transfer \$3,563,927 in cash for the repayment of a 2011 interest bearing loan from the City. The transaction also included a promissory note to the City in the amount of \$5,045,969.
- As of January 31, 2012, the RDA had unrecorded assets (\$26,414,318 in land held for resale and \$1,655,262 in fixed assets).

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. The assets must 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 \$61,701,562 and turn over the assets to the Successor Agency.

However, the following corrective actions have been taken:

- On January 19, 2011, the City returned \$19,267,671 in cash to the RDA to repay one 2008 loan and two 2010 loans from the City.
- On February 26, 2013, the City turned over \$10,800,384 in property and \$3,563,927 in cash to the Successor Agency. This transaction also reversed the \$5,045,969 promissory note to the City.
- On December 13, 2013, \$26,414,318 in unrecorded land held for resale and \$1,655,262 in unrecorded fixed assets were noted on the books and records of the Successor Agency.

Therefore, no further action is necessary.

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

Current Assets	
Cash (January 19, 2011)	\$ 19,267,671
Ford, Sonic and BMW properties (February 22, 2011)	5,900,000
Paseo Santa Fe property (February 22, 2011)	972,169
AP property (February 22, 2011)	3,928,215
Cash (June 30, 2011)	<u>3,563,927</u>
Total Current Assets transferred to the City	\$ 33,631,982
Capital Assets	
Unrecorded land held for resale (as of January 31, 2012)	26,414,318
Unrecorded fixed assets (as of January 31, 2012)	<u>1,655,262</u>
Total Capital Assets transferred to the City	<u>\$ 28,069,580</u>
Total Unallowable Asset Transfers	\$ 61,701,562
Less:	
On January 19, 2011, the City returned cash to the RDA used to repay a 2008 and two 2010 loans from the City	(19,267,671)
On February 26, 2013, the City turned over \$10,800,384 in property and \$3,563,927 in cash to the Successor Agency	(14,364,311)
On December 13, 2013, \$26,414,318 in unrecorded land held for resale and \$1,655,262 in unrecorded fixed assets were noted on the books and records of the Successor Agency	<u>(28,069,580)</u>
Total transfers subject to H&S Code section 34167.5	<u>\$ 0</u>

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

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