

SAN JUAN CAPISTRANO COMMUNITY REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

November 2014



JOHN CHIANG
California State Controller

November 26, 2014

Karen Brust, City Manager
San Juan Capistrano Community Redevelopment/Successor Agency
32400 Paseo Adelanto
San Juan Capistrano, CA 92675

Dear Ms. Brust:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the San Juan Capistrano Community Redevelopment Agency (RDA) to the City of San Juan Capistrano (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 \$46,306,691 in assets after January 1, 2011, including unallowable transfers to the City totaling \$800,000, or 1.72% of transferred assets.

However, on November 5, 2013, the City turned over \$800,000 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: Cynthia Russell, Chief Financial Officer
San Juan Capistrano Community Redevelopment/Successor Agency
Larry Kramer, Chair of the Oversight Board
San Juan Capistrano Community Redevelopment/Successor Agency
Jan E. Grimes, Auditor-Controller
Orange County
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
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Kevin Kanemasu, 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 San Juan Capistrano 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 \$46,306,691 in assets after January 1, 2011, including unallowable transfers to the City of San Juan Capistrano (City) totaling \$800,000, or 1.73% of transferred assets.

However, on November 5, 2013, the City turned over \$800,000 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 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 San Juan Capistrano Community Redevelopment Agency transferred \$46,306,691 in assets after January 1, 2011, including unallowable transfers to the City of San Juan Capistrano totaling \$800,000, or 1.73% of transferred assets.

However, on November 5, 2013, the City turned over \$800,000 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

At an exit conference on August 26, 2014, we discussed the review results with Cynthia Russell, CFO, who agreed with the review results. Ms. Russell further agreed 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 San Juan Capistrano, 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

November 26, 2014

Finding and Order of the Controller

**FINDING—
Unallowable asset
transfers to the
City of San Juan
Capistrano**

The San Juan Capistrano Community Redevelopment Agency (RDA) made unallowable asset transfers of \$800,000 to the City of San Juan Capistrano (City). The transfers occurred after January 1, 2011 and the assets were not contractually committed to a third party prior to June 28, 2011.

On June 14, 2011, the RDA repaid loans to the City in the amounts of \$750,000 and \$50,000 in cash.

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, must be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177(d) and (e).

Order of the Controller

Pursuant to H&S Code section 34167.5, the City of San Juan Capistrano is ordered to reverse the transfers totaling \$800,000 and turn over the assets to the Successor Agency. However, on November 5, 2013, the City turned over \$800,000 in cash to the Successor Agency. Therefore, no further action is necessary.

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

Unallowable asset transfers to the City of San Juan Capistrano:

Current assets

 Cash (June 14, 2011)

\$ 800,000

Total unallowable asset transfers

800,000

On November 5, 2013, the City turned over cash to the Successor Agency

(800,000)

Total transfers subject to H&S Code section 34167.5

\$ —

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