

LA VERNE 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 13, 2014

Bob Russi, City Manager
La Verne Redevelopment/Successor Agency
3660 D Street
La Verne, CA 91750

Dear Mr. Russi:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the La Verne Redevelopment Agency (RDA) to the City of La Verne (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 \$12,552,242 in assets after January 1, 2011, including unallowable transfers to the City totaling \$151,896, or 1.21% 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/mh

cc: John Naimo, Acting Auditor-Controller
Los Angeles County Department of Auditor-Controller
Don Kendrick, Chairperson
Oversight Board
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
Kevin Kanemasu, Auditor-in-Charge
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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 La Verne 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 \$12,552,242 in assets after January 1, 2011, including unallowable transfers to the City of La Verne totaling \$151,896, or 1.21% of transferred assets. These 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 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 an asset transfer 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 La Verne Redevelopment Agency transferred \$12,552,242 in assets after January 1, 2011, including unallowable transfers to the City of La Verne totaling \$151,896, or 1.21% 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 Official

We issued a draft review report on June 9, 2013. Bob Russi, City Manager, responded by letter dated June 23, 2014, disagreeing with the review results. 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 City of La Verne, 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 13, 2014

Finding and Order of the Controller

**FINDING—
Unallowable asset
transfer to the City
of La Verne**

The La Verne Redevelopment Agency (RDA) made an unallowable asset transfer of \$151,896 to the City of La Verne (City). The asset transfers to the City occurred after January 1, 2011, and the asset was not contractually committed to a third party prior to June 28, 2011.

On June 1, 2011, the RDA repaid \$151,896 including \$124,847 (principal) and \$27,049 (interest) to the City pursuant to the loan payable between the RDA and the City entered into on July 18, 2005.

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, that were not contractually committed to a third party prior to June 28, 2011. The assets should be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177(d).

Order of the Controller

Pursuant to H&S Code section 34167.5, the City of La Verne is ordered to reverse the transfer of the above asset in the amount of \$151,896 and turn over to the Successor Agency.

City's Response

The City disagrees with the review results. See Attachment.

SCO's Response

The SCO contends that the loan repayment constitutes an unallowable transfer of assets because the transfer was made to the City between January 1, 2011, and January 31, 2012, and the fund was not encumbered to third parties before June 28, 2012. Therefore, the finding and order of the Controller remain as stated.

**Schedule 1—
Unallowable Asset Transfer to
the City of La Verne
January 1, 2011, through January 31, 2012**

Unallowable Asset Transfer to the City of La Verne

Current Assets

Cash transfer-repayment of 2005 Loan (principal)	\$ 124,847
Cash transfer-repayment of 2005 Loan (interest)	<u>27,049</u>
Total unallowable asset transfers	<u>\$ 151,896</u>

¹ See the Finding and Order of the Controller section.

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



CITY OF LA VERNE CITY HALL

3660 "D" Street, La Verne, California 91750-3599
www.ci.la-verne.ca.us

June 23, 2014

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

Re: Agency response to Draft State Controller's Office (SCO) Report
dated June 9, 2014

Dear Ms. Gonzalez:

The La Verne Redevelopment/Successor Agency received your draft report pursuant to HSC 34167.5 on June 19, 2014. The Agency's response is below concerning the finding and order to reverse a transfer of \$151,896 in assets.

The Agency purchased two parcels of land from the Metropolitan Water District (MWD) in June 2005. MWD financed \$1,232,000 of the Parcel A purchase price and \$1,057,500 of the Parcel B purchase price with notes secured by deeds of trust bearing interest at 5.25%. To reduce the interest expense to the Agency, on July 18, 2005, the City Council and Agency Board approved a refinancing of the MWD notes with a not to exceed \$2,300,000 loan from the City's Water Capital Improvement Fund bearing interest at 4%. This loan was memorialized by a note in writing, the loan proceeds were used to repay the MWD notes and the deeds of trust were reconveyed. The pertinent transactional documents have been previously provided to the SCO audit staff.

The La Verne Redevelopment/Successor Agency asserts that this transaction constitutes a refinancing of an indebtedness obligation and thus meets all of the criteria of an enforceable obligation specified in HSC 34171(d)(2) and 34178(b). Moreover, the Water Capital Improvement Fund is composed of developer fees subject to the requirement of the Mitigation Fee Act, GC 66000 et. seq. The monies must be expended on public improvements or refunded to the contributors. Thus the Water Capital Improvement Fund is separate and apart from the City's General Fund and it, and the contributors, in fact serve as third party investors in this situation.



SISTER CITIES
Atami, Mexico
Etchmiadzin, Armenia
Skopelos, Greece

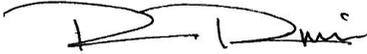
General Administration 909/596-8726 • Water Customer Service 909/596-8744 • Parks & Community Services 909/596-8700
Public Works 909/596-8741 • Finance 909/596-8716 • Community Development 909/596-8706 • Building 909/596-8713
Police Department 909/596-1913 • Fire Department 909/596-5991 • General Fax 909/596-8737

Accordingly, based on the above information the June 2011 loan payment of principal and interest totaling \$151,896 does not meet the definition of an unallowable transfer and the Agency does not concur with the SCO finding.

The La Verne Redevelopment/Successor Agency hereby requests the SCO to reconsider its finding in the draft report.

If you have any questions, please contact me at 909-596-8726.

Yours truly,

A handwritten signature in black ink, appearing to read "Bob Russi". The signature is stylized with a large, sweeping initial "B" and a cursive "Russi".

Bob Russi
City Manager

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

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