

# **CERES REDEVELOPMENT AGENCY**

## **ASSET TRANSFER REVIEW**

### Review Report

*January 1, 2011, through January 31, 2012*



**JOHN CHIANG**  
California State Controller

July 2014



**JOHN CHIANG**  
**California State Controller**

July 23, 2014

Art de Werk, City Manager  
Ceres Redevelopment/Successor Agency  
2720 2<sup>nd</sup> Street  
Ceres, CA 95307

Dear Mr. de Werk:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Ceres Redevelopment Agency (RDA) to the City of Ceres (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 \$36,707,298 in assets after January 1, 2011, including unallowable transfers to the City totaling \$1,184,000, or 3.23% of transferred assets. These assets must be turned over to the Successor Agency.

If you have any questions, please contact Elizabeth González, Bureau 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: Paul Caruso, Oversight Board Chair  
Ceres Successor Agency  
Lauren Klein, Auditor-Controller  
Stanislaus County  
David Botelho, Program Budget Manager  
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# Contents

## Review Report

<b>Summary</b> .....	1
<b>Background</b> .....	1
<b>Objective, Scope, and Methodology</b> .....	2
<b>Conclusion</b> .....	2
<b>Views of Responsible Officials</b> .....	2
<b>Restricted Use</b> .....	2
<b>Finding and Order of the Controller</b> .....	3
<b>Schedule 1—Unallowable RDA Asset Transfers to the City of Ceres</b> .....	4
<b>Attachment—City of Ceres’ Response to Draft Review Report</b>	

# Asset Transfer Review Report

## Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Ceres 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 \$36,707,298 in assets after January 1, 2011, including unallowable transfers to the City of Ceres (City) totaling \$1,184,000, or 3.23% 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 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 Ceres Redevelopment Agency transferred \$36,707,298 in assets after January 1, 2011, including unallowable transfers to the City of Ceres totaling \$1,184,000, or 3.23% 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 Officials**

We issued a draft review report on May 9, 2014. Michael L. Lyons, City Attorney, responded by letter dated May 21, 2014, agreeing 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, 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 23, 2014

# Finding and Order of the Controller

## **FINDING— Unallowable asset transfers to the City of Ceres**

The Ceres Redevelopment Agency (RDA) made unallowable asset transfers in the amount of \$1,184,000 to the City of Ceres (City). The asset transfers to the City occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

On March 14, 2011, the RDA transferred a total of \$1,184,000 in capital assets to the City. These transfers were accomplished per Resolution 2011-08.

Pursuant to provisions of 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(e).

### Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to turn over the assets to the Successor Agency, described in Schedule 1, in the amount of \$1,184,000. The Successor Agency is directed to properly dispose of the assets in accordance with H&S Code section 34177(e).

### City's Response

The City of Ceres responded to the draft review report with a letter dated May 21, 2014, and the City agrees with the draft report, preliminary conclusions, and the draft Finding and Order of the Controller.

However, the City takes exception to the values affixed to some of the properties listed in the report schedule and has provided what the City believes is to be more accurate estimated values.

See attachment for details of the City of Ceres' response.

### SCO's Comment:

The SCO is in agreement with the City regarding their compliance with the Finding and Order of the Controller.

However, the reported asset values for the properties listed in Schedule 1 of the report are based on the accounting records of the assets that were provided to the SCO during the review. It is not within the scope of this review to assign or determine current fair market value for an asset.

The Finding and Order of the Controller remains as stated.

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

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Unallowable property transfers to the City of Ceres per Resolution 2011-08 on  
March 4, 2011

2928 5 <sup>th</sup> Street	\$ 250,000
3012 5 <sup>th</sup> Street	89,000
2761 4 <sup>th</sup> Street	400,000
2912 4 <sup>th</sup> Street	135,000
3004 5 <sup>th</sup> Street	186,000
2920 5 <sup>th</sup> Street	124,000
	<hr/>
Total asset transfers subject to Health and Safety Code section 34167.5	<u>\$ 1,184,000</u>

**Attachment—  
City of Ceres' Response to  
Draft Review Report**

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# OFFICE OF THE CITY ATTORNEY

CITY OF CERES  
2720 SECOND STREET  
CERES, CA 95307-3292  
(209)538-5633  
FAX: (209) 538-5650



## CITY COUNCIL

Chris Vierra, Mayor  
Ken Lane                      Bret Durossette  
Mike Kline                    Linda Ryno

May 21, 2014

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

Re: Ceres Redevelopment Agency Draft Asset Transfer Review

The Draft Asset Transfer Review was received by the City on May 12, 2014. The City has reviewed that document and has no objection to the Finding and Order of the Controller directing the transfer to the Successor Agency of the six real properties identified in Schedule 1 of the Asset Transfer Review. We do note what appears to be an error in the address of the first parcel of property listed on the Schedule. The address of the property listed as 2829 5<sup>th</sup> Street should be listed as 2928 5<sup>th</sup> Street.

The City does, however, take exception to the values affixed to the following properties listed in "Schedule 1":

<u>Property Address</u>	<u>Schedule Value</u>	<u>City Value</u>
3012 5 <sup>th</sup> Street	\$ 89,000	\$73,000
2912 4 <sup>th</sup> Street	\$135,000	\$73,000
3004 5 <sup>th</sup> Street	\$186,000	\$73,000

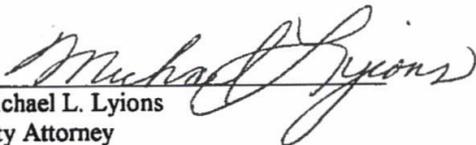
The property at 3012 5<sup>th</sup> Street was acquired in November of 2008 for \$89,000; the property at 2912 4<sup>th</sup> Street was acquired in April of 2008 for \$135,000; and the property at 3004 5<sup>th</sup> Street was acquired in April 2008 for \$186,000. Use of the acquisition price to establish value grossly overstates the value of these properties. Properties in the vicinity were identified for sale through the use of a commercial real estate database (CoStar.com: a comprehensive database of commercial real estate information) and their selling price per sf was averaged. Based upon an average of \$10.38 per sf the properties were estimated to be worth \$73,000 each.

Ms. Elizabeth Gonzalez  
May 21, 2014  
Page 2

<u>Property Address</u>	<u>Schedule Value</u>	<u>City Value</u>
2761 4 <sup>th</sup> Street	\$400,000	\$160,000-200,000

This property was acquired in August of 2006, for a purchase price of \$400,000. The property was a vacant lot used by a church for parking. The property was purchased before the great recession at or near the peak of the inflated real estate market. Further, a premium was paid for the property because of its peculiar value to the Agency to help jump-start economic activity in the City's downtown area. The property is now used as a portion of a City parking lot. The City would estimate that the value of the property has declined at least 50% to 60% since its original acquisition. The city would therefore estimate its value to be \$160,000 to \$200,000.

Very truly yours,

  
Michael L. Lyons  
City Attorney

cc: Toby Wells, City Manager

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

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