

CITY OF MOUNTAIN VIEW REVITALIZATION AUTHORITY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

August 2013



JOHN CHIANG
California State Controller

August 2, 2013

Patty Kong, Finance Director
City of Mountain View Revitalization Authority/Successor Agency
500 Castro Street, 2nd Floor
Mountain View, CA 94041

Dear Ms. Kong:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the City of Mountain View Revitalization Authority (RDA) to the City of Mountain View 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 it should be turned over to the City of Mountain View Revitalization Authority 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 of Mountain View or any other public agencies have been reversed.

Our review found that the RDA transferred \$46,398,570 in assets, which included unallowable transfers of assets to the Successor Housing Authority totaling \$13,014,895, or 28.05%, that must be turned over to the Successor Agency.

After reviewing the City's response to the draft report, the SCO agrees that the City does not need to turn over to the Successor Agency the \$458,440 cash identified in Finding 1 of the report.

In addition, on June 17, 2013, the Oversight Board ratified the transfer of \$12,556,455 in loan receivables to the Successor Housing Authority pursuant to Health and Safety Code Section 34176; therefore, no further action is needed.

If you have any questions, please contact Steven Mar, Bureau Chief, Local Government Audits Bureau, at (916) 324-7226.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/kw

cc: Kevin C. Duggan, Chairperson of
The Oversight Board for the Successor Agency
To the Mountain View Revitalization Authority
Irene Lui, Controller-Treasurer
County Of Santa Clara
Steve Szalay, Local Government Consultant
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Steven Mar, Bureau Chief
Division of Audits, State Controller's Office
Scott Freesmeier, Audit Manager
Division of Audits, State Controller's Office
Daniela Anechiotoaie, 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 1—RDA Assets Transferred to the Entity Assuming Housing Functions	6
Attachment—City of Mountain View’s Response to Draft Review Report	

Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the City of Mountain View Revitalization Authority (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 \$46,398,570 in assets, which included unallowable transfers of assets to the Successor Housing Authority totaling \$13,014,895, or 28.05%, that must be turned over to the Successor Agency.

After reviewing the City's response to the draft report, the SCO agrees that the City does not need to turn over to the Successor Agency the \$458,440 cash identified in Finding 1 of the report.

In addition, on June 17, 2013, the Oversight Board ratified the transfer of \$12,556,455 in loan receivables to the Successor Housing Authority pursuant to Health and Safety Code Section 34176; therefore, no further action is needed.

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 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.

In accordance with the requirements of H&S Code section 34167.5, the State Controller is required to review the activities of RDAs, "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," and the date on which the RDA ceases to operate, or January 31, 2012, whichever is earlier.

The SCO has identified transfers of assets that occurred after January 1, 2011, between the RDA, the City of Mountain View, and/or other public agencies. 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 order to ensure compliance with this order.

Objectives, 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 operations and procedures.
- Reviewed meeting minutes, resolutions, and ordinances of the RDA, the City of Mountain View, 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 City of Mountain View RDA transferred \$46,398,570 in assets, which included unallowable transfers of assets to the Successor Housing Authority totaling \$13,014,895, or 28.05%, that must be turned over to the Successor Agency.

After reviewing the City's response to the draft report, the SCO agrees that the City does not need to turn over to the Successor Agency the \$458,440 cash identified in Finding 1 of the report.

In addition, on June 17, 2013, the Oversight Board ratified the transfer of \$12,556,455 in loan receivables to the Successor Housing Authority pursuant to Health and Safety Code Section 34176; therefore, no further action is needed.

Details of our findings are in the Findings and Orders of the Controller section of this report.

**Views of
Responsible
Officials**

We issued a draft review report on April 22, 2013. Jannie L. Quinn, City Attorney, responded by letter dated May 6, 2013, 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 Mountain View, the Successor Agency, the Oversight Board, the Successor Housing Authority, 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 2, 2013

Finding and Order of the Controller

FINDING 1— Unallowable asset Transfer to Entity Assuming Housing Functions

The City of Mountain View Revitalization Authority (RDA) made an unallowable asset transfer of \$13,014,895, described in Schedule 1, to the entity assuming the housing functions. The asset transfers occurred during the period of January 1, 2011, through February 1, 2012, and the assets were not contractually committed to a third party prior to June 28, 2011.

On January 31, 2012, the RDA transferred a total of \$13,014,895 (\$458,440 and \$12,556,455 in cash and loans receivable, respectively) in Low and Moderate Income housing assets to the entity assuming housing functions. Based on Health and Safety (H&S) Code section 34177(e), the Successor Agency, not the entity assuming the housing functions, is responsible for the disposition of assets and properties of the former RDA.

H&S Code section 34175(b) states, “All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on February 1, 2012, to the control of the successor agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of February 1, 2012.” Pursuant to H&S Code section 34175(b), the RDA was required to transfer all assets, including housing assets, to the Successor Agency.

Pursuant to H&S Code section 34177(e) the “Successor Agency is to dispose of all former RDA assets . . . as directed by the oversight board.” Also, pursuant to H&S Code section 34177(g), the Successor Agency is to “effectuate transfer of housing functions and assets to the appropriate entity designated pursuant to Section 34176.” However, H&S Code section 34181(c) requires the Oversight Board to direct the Successor Agency to transfer housing assets to the appropriate entity pursuant to H&S Code section 34176.

Order of the Controller

Based on H&S Code section 34167.5, the entity assuming the housing functions is ordered to reverse the transfer of the above assets, described in Schedule 1, in the amount of \$13,014,895 and turn them over to the Successor Agency for disposition as directed by the Oversight Board.

City’s Response

Transfer of \$458,440 in Cash

On February 1, 2012, the Authority transferred \$458,440 in accordance with the ROPs for January 1, 2012, through June 20, 2012. The State Controller received and approved this ROPs. These funds were contractually committed to a third party for an affordable housing project using the 20% set aside funds pursuant to an agreement executed on April 18, 2011, prior to the June 28, 2011 deadline. Copies

of the pertinent agreements are attached as Attachment 1. In addition, a copy of the approved ROPs is attached as Attachment 2. Therefore, this particular finding is inaccurate and should be corrected.

SCO's Comments

The State Controller's Office (SCO) agrees with the City, after reviewing the new documents provided (Attachment 1), that \$458,440 were contractually committed to a third party. However, the SCO disagrees with the statement made by the Successor Agency that the SCO approved the ROPs for January 1, 2012, through June 30, 2012, because the SCO does not have the authority to approve ROPs. The finding amount is reduced by \$458,440.

City's Response

\$12,556,455 in Loans Receivable

...the Department of Finance reviewed and approved the Housing Assets Transfer Form submitted by the Successor Agency on August 22, 2012. (Attachment 3).

The next Oversight Board meeting is scheduled for June 17, 2013 and in accordance with the State Controller's request at the exit interview, a formal resolution will be presented to the Oversight Board ratifying the transfer of these housing assets pursuant to Health and Safety Code section 34176 and 34181.

SCO's Comments

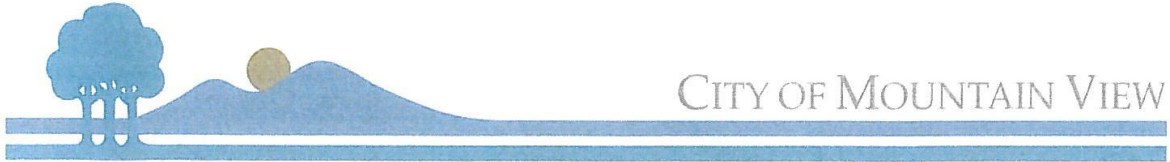
No further action is needed by the City and the Successor Agency. The Oversight Board ratified the transfer of the housing assets on June 17, 2013.

**Schedule 1—
RDA Assets Transferred to
the Entity Assuming Housing Functions
January 1, 2011, through January 31, 2012**

Unallowable transfers to the entity assuming the housing functions:	
Cash	\$ 458,440
Loans/grants receivables	<u>12,556,455</u>
Total unallowable asset transfers	13,014,895
Adjustment to cash transfer	(458,440)
Adjustment to loan receivables ¹	<u>(12,556,455)</u>
Total unallowable asset transfers after adjustment	<u><u>\$ —</u></u>

¹ See the Finding and Order of the Controller section.

**Attachment—
City of Mountain View’s Response
to Draft Review Report**



CITY OF MOUNTAIN VIEW

OFFICE OF THE CITY ATTORNEY

500 Castro Street • Post Office Box 7540 • Mountain View • California • 94039-7540
650-903-6303 • Fax 650-967-4215

May 6, 2013

VIA EMAIL (smar@sco.ca.gov) AND US MAIL

Steven Mar, Chief
Local Government Audits Bureau
State Controller's Office
Division of Audits
P.O. Box 942850
Sacramento, CA 94250-5874

Re: DRAFT City of Mountain View Revitalization Authority
Asset Transfer Review Report

Dear Mr. Mar:

Please be advised that the Successor Agency to the Mountain View Revitalization Authority ("Successor Agency") wishes to submit the following comments concerning the draft report and requests that you consider these comments in preparing the final report.

The State Controller's Office has preliminarily determined the Mountain View Revitalization Authority ("Authority") made an unallowable asset transfer of \$13,014,895 in low and moderate income housing assets to the entity assuming housing functions. The Successor Agency requests reconsideration of this preliminary finding and submits this letter addressing the two separate components of this transfer in support of this request:

1. Transfer of \$458,440 in Cash

On February 1, 2012, the Authority transferred \$458,440 in accordance with the ROPs for January 1, 2012 through June 20, 2012. The State Controller received and approved this ROPs. These funds were contractually committed to a third party for an affordable housing project using the 20% set aside funds pursuant to an agreement executed on April 18, 2011, prior to the June 28, 2011 deadline. Copies of the pertinent agreements are attached as Attachment 1. In addition, a

copy of the approved ROPs is attached as Attachment 2. Therefore, this particular finding is inaccurate and should be corrected.

2. \$12,556,455 in Loans Receivable

In accordance with AB1X26, the City of Mountain View, the City that authorized the creation of Authority, elected to retain the housing assets and functions previously performed by the redevelopment agency. In accordance with Health and Safety Code § 34176, on February 1, 2012, the Authority transferred these assets to the Successor Agency because they were not amounts on deposit. The Successor Agency placed the loans receivable at issue in a separate account designated for the Successor Housing Authority. The Oversight Board first convened on April 16, 2012 and was informed the loans receivable were transferred and placed in a Successor Agency Low and Moderate Income Housing Fund.

All of these assets and transfers have been reviewed by the County Auditor Controller, State Controller and Department of Finance, and approved as part of the agreed upon procedures, ROPs, or due diligence review process by the County Auditor Controller, State Controller and Department of Finance. In addition, the Department of Finance reviewed and approved the Housing Assets Transfer Form submitted by the Successor Agency on August 22, 2012. (Attachment 3).

The next Oversight Board meeting is scheduled for June 17, 2013 and in accordance with the State Controller's request at the exit interview, a formal resolution will be presented to the Oversight Board ratifying the transfer of these housing assets pursuant to Health and Safety Code §§ 34176 and 34181. The Successor Agency requests that this finding be removed from the report or the report not be issued until the Successor Agency provides the State Controller with a copy of the Oversight Board's adopted resolution.

Thank you for your consideration.

Sincerely,



Jannie L. Quinn
City Attorney

Attachments
cc: Patty Kong

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

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