

# **CARLSBAD REDEVELOPMENT AGENCY**

## **ASSET TRANSFER REVIEW**

### Review Report

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



**JOHN CHIANG**  
California State Controller

November 2013



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

November 7, 2013

Debbie Fountain, Director  
Housing and Neighborhood Services  
City of Carlsbad  
1200 Carlsbad Village Drive  
Carlsbad, CA 92008

Dear Ms. Fountain:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Carlsbad Redevelopment Agency (RDA) to the City of Carlsbad (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 it should be turned over to the Carlsbad Redevelopment 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 agencies have been reversed.

Our review found that the RDA transferred \$23,730,730 in assets after January 1, 2011, including unallowable transfers in the amount of \$5,864,329, or 24.71% to the City. Furthermore, the RDA has not yet transferred \$2,117,126 in cash and \$3,029,737 in capital assets to the Successor Agency as required. These assets must be turned over the Successor Agency. However, the Oversight Board subsequently approved transfers of assets to the City in the amount of \$7,981,455 on May 15, 2012, and \$3,029,737 on September 13, 2013; therefore, no further action is required.

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

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

JVB/sk

cc: Kevin Branca, Assistant Finance Director  
City of Carlsbad  
Chuck McBride, Director  
Administrative Services  
City of Carlsbad  
Tracy Sandavol, Auditor-Controller  
County of San Diego  
Julie Baker, Chairman  
Oversight Board  
David Botelho, Program Budget Manager  
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  
Kandy Liu, Auditor-in-Charge  
Division of Audits, State Controller's Office

# Contents

## Review Report

<b>Summary</b> .....	1
<b>Background</b> .....	1
<b>Objective, Scope, and Methodology</b> .....	2
<b>Conclusion</b> .....	2
<b>View of Responsible Official</b> .....	3
<b>Restricted Use</b> .....	3
<b>Findings and Orders of the Controller</b> .....	4
<b>Schedule 1—Unallowable RDA Asset Transfers to the City of Carlsbad</b> .....	7
<b>Schedule 2—RDA Assets not yet Transferred to the Successor Agency as of February 1, 2012</b> .....	8
<b>Attachment—City of Carlsbad Response to Draft Review Report</b>	

# Asset Transfer Review Report

## Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Carlsbad 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 \$23,730,730 in assets after January 1, 2011, including unallowable transfers in the amount of \$5,864,329, or 24.71% to the City of Carlsbad (City). Furthermore, the RDA has not yet transferred \$2,117,126 in cash and \$3,029,737 in capital assets to the Successor Agency as required. These assets must be turned over the Successor Agency. However, the Oversight Board subsequently approved transfers of assets to the City in the amount of \$7,981,455 on May 15, 2012 and \$3,029,737 on September 13, 2013; therefore, no further action is required.

## 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 Code (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, 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.

## **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 operations and procedures.
- Reviewed meeting minutes, resolutions, and ordinances of the Carlsbad City Council, 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 RDA transferred \$23,730,730 in assets after January 1, 2011, including unallowable transfers in the amount of \$5,864,329, or 24.71% to the City. Furthermore, the RDA has not yet transferred \$2,117,126 in cash and \$3,029,737 in capital assets to the Successor Agency as required. These assets must be turned over the Successor Agency. However, the Oversight Board subsequently approved transfers of assets to the City in the amount of \$7,981,455 on May 15, 2012, and \$3,029,737 on September 13, 2013; therefore, no further action is required.

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

**Views of  
Responsible  
Official**

We issued a draft review report on September 9, 2013. Debbie Fountain, Housing and Neighborhood Services Director, responded by letter dated September 17, 2013, 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 of Carlsbad, the County of San Diego, 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 7, 2013

# Findings and Orders of the Controller

## **FINDING 1— Unallowable capital assets transferred to the City of Carlsbad**

The Carlsbad Redevelopment Agency (RDA) transferred capital assets with book value amounts totaling \$5,864,329 on March 8, 2011, to the City of Carlsbad (City). Housing and Redevelopment Commission of the City of Carlsbad Resolution No. 498 and City Council Resolution No. 2011-042 approved the transfers. These assets were not contractually committed to a third party; therefore, these transfers are unallowable.

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. Those 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 governmental 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 an asset. Any compensation to be provided to the successor agency for the transfer of the asset shall be governed by the agreements relating to the construction or use of that asset. Disposal shall be done expeditiously and in a manner aimed at maximizing value. Asset disposition may be accomplished by a distribution of income to taxing entities proportionate to their property tax share from one or more properties that may be transferred to a public or private agency for management pursuant to the direction of the oversight board.

### Order of the Controller

Based on H&S Code section 34167.5, the Successor Agency is ordered to reverse the above transfers and return the assets to the Successor Agency. However, on May 15, 2012, the Oversight Board approved these transfers with Oversight Board Resolution No. 12-003; therefore, no further action is required.

Please note that the Department of Finance (DOF) must approve the Oversight Board's decision in this matter. If the DOF does not approve this decision, then the city is ordered to transfer the assets to the Successor Agency pursuant to H&S Code section 34167.5.



City of Carlsbad Response

The Successor Agency to the former RDA agrees with this finding which has determined that the transfer was ultimately allowed with the required Oversight Board approval.

SCO Comment

The SCO agrees with the City's response. No further action required.

**FINDING 2—  
Cash assets not yet  
transferred to the  
Successor Agency**

The RDA did not transfer \$2,117,126 in cash to the Successor Agency on February 1, 2012, as required.

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 provision of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of February 1, 2012. Any legal or contractual restrictions on the use of these funds or assets shall also be transferred to the successor agency.

Order of the Controller

Based on H&S Code section 34175 (b), the above mentioned cash assets are ordered to be turned over to the Successor Agency. However, on May 15, 2012, the Oversight Board approved the transfer to the City with Oversight Board Resolution No. 12-003; therefore, no further action is required.

Please note that the DOF must approve the Oversight Board's decision in this matter. If the DOF does not approve this decision, then the city is ordered to transfer the assets to the Successor Agency pursuant to H&S Code section 34167.5.

City of Carlsbad Response

The Successor Agency to the former RDA agrees with this finding which has determined that the transfer was ultimately allowed with the required Oversight Board approval.

SCO Comment

The SCO agrees with the City's response. No further action required.

**FINDING 3—  
Capital assets not  
yet transferred to  
the Successor  
Agency**

The RDA owned the Senior Center, public right-of-way, and Construction in Progress with book values totaling \$3,029,737. These capital assets have not been transferred to the Successor Agency as of February 1, 2012, as required.

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 provision of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of February 1, 2012. Any legal or contractual restrictions on the use of these funds or assets shall also be transferred to the successor agency.

Order of the Controller

Based on H&S Code section 34175 (b), the above-mentioned capital assets must be turned over to the Successor Agency. The Successor Agency must properly dispose of those assets in accordance with H&S Code sections 34177 (d) and (e) and 34181 (a). However, on September 24, 2013, the Oversight Board approved these transfers as governmental purpose with Oversight Board resolution 13-006, therefore, no further action is required.

City of Carlsbad Response

The Successor Agency to the former RDA agrees that \$3,029,737 in assets must be returned to the Successor Agency because those assets had not been approved by the Oversight Board. The Successor Agency intends to obtain Oversight Board approval on September 24, 2013, to transfer these remaining assets, which include a Senior Center, public right-of-way, and construction in progress (related to the Carlsbad Boulevard Realignment Project) valued at \$3,029,737, to the City of Carlsbad.

SCO Comment

On September 30, 2013, the City forwarded Oversight Board Resolution #13-006 dated September 24, 2013 (attached to City's response), which approved asset classifications and the transfers of remaining property assets to the City for use for government purposes. Within the Resolution, the Oversight Board approved transfers of the Senior Center, public right-of-way, and the construction process projects for the Carlsbad Boulevard Realignment to the City of Carlsbad as governmental purpose uses; therefore, no further action is required.

Please note that the DOF must approve the Oversight Board's decision in this matter. If the DOF does not approve this decision, then the city is ordered to transfer the assets to the Successor Agency pursuant to H&S Code section 34167.5.

---

**Schedule 1—  
Unallowable RDA Assets  
Transferred to the City of Carlsbad  
January 1, 2011, through January 31, 2012**

---

Unallowable RDA assets transferred to the City of Carlsbad

Unallowable capital assets transferred to the City of Carlsbad	\$ 5,864,329
Adjustment for Oversight Board-approved transfers on May 15, 2012	<u>(5,864,329)</u>
Total amount subject to Health and Safety Code section 34167.5	<u>\$ —</u> <sup>1</sup>

---

<sup>1</sup> See the Findings and Orders of the Controller section.

**Schedule 2—  
RDA Assets Not Yet Transferred to the  
Successor Agency as of February 1, 2012**

---

RDA assets not yet transferred to the Successor Agency as of February 1, 2012

Cash	\$ 2,117,126
Capital assets	3,029,737
Adjustment for Oversight Board-approved transfers on May 15, 2012	<u>(2,117,126)</u>
Total	3,029,737
Adjustment for Oversight Board-approved transfers on September 24, 2013	<u>(3,029,737)</u>
Total amount subject to H&S Code section 24167.5	<u>\$ —<sup>1</sup></u>

---

<sup>1</sup> See the Findings and Orders of the Controller section.

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

---



CITY OF  
**CARLSBAD**

Housing & Neighborhood Services

[www.carlsbadca.gov](http://www.carlsbadca.gov)

September 17, 2013

Mr. Jeffrey Brownfield, CPA  
Chief, Division of Audits  
P.O. Box 942850  
Sacramento, Ca. 94250-5874

Dear Mr. Brownfield:

Thank you for your correspondence dated September 9, 2013 regarding the recent review of all of the asset transfers made by the previous Carlsbad Redevelopment Agency (RDA) to the City of Carlsbad after January 1, 2011. It is our understanding that this review included an assessment of whether each asset transfer was allowable and whether it should be turned over to the Successor Agency.

Based on your review, you determined that transfers in the amount of \$7,981,455 were ultimately allowed with the required Oversight Board approval, and that \$3,029,737 in transfers were not allowed and must be returned to the Successor Agency due to the fact that they had not been approved by the Oversight Board. The Successor Agency to the former RDA agrees with your findings and intends to obtain Oversight Board approval on September 24, 2013 to transfer these remaining assets, which include our Senior Center, public right-of-way, construction in progress (related to our Carlsbad Boulevard Realignment Project) valued at \$3,029,737, to the City of Carlsbad as indicated during our exit meeting on this review.

Once we have the above action by the Oversight Board approved, we believe that we will have satisfied all requirements to complete our allowable transfer of assets to the City of Carlsbad. Thank you for the opportunity to review the draft audit report.

If you have any further questions or require additional information from my office to complete the final audit report, please contact me at (760) 434-2935 or [debbie.fountain@carlsbadca.gov](mailto:debbie.fountain@carlsbadca.gov).

Sincerely,

Debbie Fountain  
Housing and Neighborhood Services Director

cc: Administrative Services Director  
Assistant Finance Director



Housing & Neighborhood Services

1200 Carlsbad Village Drive • Carlsbad, CA 92008 • Tel: 434-2935 • Fax: 760-720-2082


1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

3. The Oversight Board for the Successor Agency to the Carlsbad Redevelopment Agency hereby confirms the classifications set forth for those transferred properties as related to government purpose and approves the City of Carlsbad as the appropriate public agency to receive said assets to continue said uses.
4. The Housing and Neighborhood Services Director, acting as Successor Agency staff, is authorized to submit the action of the Oversight Board to the appropriate officials within the County of San Diego and/or State of California officials as set forth by State Law, and to represent the Board by providing any additional information requested by the County and State officials to support the approved transfers.
5. The Housing and Neighborhood Services Director is also authorized to execute and submit any documents required to be filed with the City of Carlsbad and/or County of San Diego to complete the transfer of these assets to the City of Carlsbad.

PASSED, APPROVED AND ADOPTED at a special public meeting of the Oversight Board for the Successor Agency to the Carlsbad Redevelopment Agency on the 24th day of September, 2013, by the following vote to wit:

AYES: Kellett, O'Connell, Baker, Hubbs, McBride, Coates  
NOES: None  
ABSENT: None

ATTEST:  
  
Julie Baker, Chairperson, Oversight Board  
For the Successor Agency to the  
Carlsbad Redevelopment Agency

  
Debbie Fountain,  
Staff for the Successor Agency to the  
Carlsbad Redevelopment Agency

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

RESOLUTION NO. 13-006

A RESOLUTION OF THE OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY TO THE CARLSBAD REDEVELOPMENT AGENCY OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING THE ASSET CLASSIFICATIONS AND THE TRANSFER OF REMAINING PROPERTY ASSETS TO THE CITY OF CARLSBAD FOR USE FOR GOVERNMENT PURPOSES

WHEREAS, pursuant to ABX1 26, State of California legislation adopted in June, 2011, the Carlsbad Redevelopment Agency was dissolved effective February 1, 2012 and the City of Carlsbad became the Successor Agency for the Carlsbad Redevelopment Agency, and the Carlsbad Housing Authority became the Successor Housing Agency for the Carlsbad Redevelopment Agency; and

WHEREAS, the Oversight Board Agency previously authorized transfer of real property and other assets to the City of Carlsbad in June, 2012; and

WHEREAS, the Successor Agency to the former Carlsbad Redevelopment Agency has identified several remaining assets that are recommended for transfer to the City of Carlsbad to continue the government purpose use of those Agency assets; and

WHEREAS, the said assets are eligible for transfer to the City of Carlsbad as assets that will continue to be used by the City of Carlsbad for a public government use.

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board for the Successor Agency to the Carlsbad Redevelopment Agency as follows:

1. That the above recitations are true and correct.
2. The Oversight Board for the Successor Agency to the Carlsbad Redevelopment Agency hereby approves the transfer of the Agency's share of the Senior Center, the Agency ownership of right-of-way for streets, roads and public parking in the Village Area, and the "in construction" project for the Carlsbad Boulevard Realignment program, which includes studies and plans, to the City of Carlsbad as government purpose uses.



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

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