

# **HOLLISTER REDEVELOPMENT AGENCY**

## **ASSET TRANSFER REVIEW**

### Review Report

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



**BETTY T. YEE**  
California State Controller

March 2015



**BETTY T. YEE**  
California State Controller

March 24, 2015

William Avera, Interim City Manager  
Hollister Redevelopment/Successor Agency  
375 Fifth Street  
Hollister, CA 95023

Dear Mr. Avera:

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

Our review found that the RDA transferred \$45,764,718 in assets after January 1, 2011, including unallowable transfers to the City totaling \$6,442,970, or 14.08% of transferred assets. These assets must be turned over to the Successor Agency.

However, \$6,328,316 in assets were placed on the Long-Range Property Management plan approved by the Department of Finance on February 21, 2014. Therefore, the remaining \$114,654 in unallowable transfers 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 or by email at [egonzalez@sco.ca.gov](mailto:egonzalez@sco.ca.gov).

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

JVB/sk

cc: Joe Paul Gonzalez, Auditor-Controller  
San Benito County  
Jaime De La Cruz, Oversight Board Chairman  
Hollister Redevelopment/Successor Agency  
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  
Cecilia Michaels, 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>Views of Responsible Officials</b> .....	2
<b>Restricted Use</b> .....	3
<b>Finding and Order of the Controller</b> .....	4
<b>Schedule 1—Unallowable Asset Transfers to the City of Hollister</b> .....	6
<b>Attachment—City’s Response to the Review Draft Report</b>	

# Asset Transfer Review Report

## Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Hollister 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 \$45,764,718 in assets after January 1, 2011, including unallowable transfers to the City of Hollister (City) totaling \$6,442,970, or 14.08% of transferred assets. These assets must be turned over to the Successor Agency.

However, \$6,328,316 in assets were placed on the Long-Range Property Management plan approved by the Department of Finance on February 21, 2014. Therefore, the remaining \$114,654 in unallowable transfers 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 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.

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 has identified asset transfers 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 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 operations and procedures.
- Reviewed meeting minutes, resolutions, and ordinances of the RDA, the City, 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 Hollister Redevelopment Agency transferred \$45,764,718 in assets after January 1, 2011, including unallowable transfers to the City of Hollister (City) totaling \$6,442,970, or 14.08% of transferred assets. These assets must be turned over to the Successor Agency.

However, \$6,328,316 in assets were placed on the Long-Range Property Management plan approved by the Department of Finance on February 21, 2014. Therefore, the remaining \$114,654 in unallowable transfers 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 November 25, 2014. Brett Miller, Accounting Manager, responded by letter dated February 25, 2015. 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

March 24, 2015

# Findings and Orders of the Controller

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

The Hollister Redevelopment Agency (RDA) made unallowable asset transfers of \$6,442,970 to the City of Hollister (City). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

Unallowable asset transfers were as follows:

- On July 14, 2011, the RDA transferred \$114,654 in cash to the City for rent and improvements per Resolution #2011-36R. Specifically:
  - The RDA paid the City \$14,654 in rent for the period of September 2011 through January 2012; according to a rental agreement entered into on June 29, 2011, the monthly rent was to be \$2,930. The rental payment was to be split between the RDA Fund 801 and the Housing Fund 802.
  - The agreement also included an improvement clause granting the City \$100,000 to improve the office space in which the RDA is located; both non-Housing and Housing Funds were each billed \$50,000.
- On June 29, 2011, the RDA transferred unrecorded land and improvements to the City. The land included two parcels with three APN's with a total value of \$1,070,000 specifically:
  - Grassy Knoll—APNs 054-011-019, 030 and 036, land with a book value of \$220,000.
  - Fire Station—APN 054-101-007, land with a book value of \$850,000
- On June 29 2011, the RDA transferred unrecorded improvements related to the Fire Station to the City. As of January 31, 2012 the value of the improvements was determined to be \$5,258,316.

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. The assets must be turned over to the Successor Agency for disposition in accordance with H&S Code section 34177(d) and (e). 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 that were funded by tax increment revenues of the dissolved 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

government 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 as asset . . .

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfers in the amount of \$6,442,970 and turn over the assets to the Successor Agency. However, \$6,328,316 in assets were placed on the Long-Range Property Management Plan approved by the Department of Finance on February 21, 2014. Therefore, the remaining \$114,654 in unallowable transfers must be turned over to the Successor Agency.

City's Response

The City contends that:

- The SCO Order unfairly punishes the City.
- There was no legal means or guidance from the Department of Finance on how to handle the expiration of a lease for office space.
- The City and the RDA acted in good faith in negotiating the RDA office space lease.
- The SCO should acknowledge that there was no legal remedy for the City based on the language in the Dissolution Act.

See Attachment for the City's complete response.

SCO's Comment

The RDA entered into the rental agreement with the City on June 29, 2011, after ABX1 26 was signed into law.

The Successor Agency can use the Recognized Obligation Payment Schedule process to obtain authorization on repaying the \$114,654 in rental payments to the City, provided that the Oversight Board finds that the payments were made for legitimate redevelopment purposes.

The Finding and Order of the Controller remain as stated.

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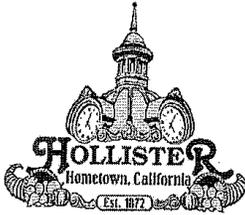
**Schedule 1—  
Unallowable Asset Transfers to the City of Hollister  
January 1, 2011, through January 31, 2012**

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Current Assets:	
Cash (July 14, 2011)	\$ 114,654
Capital Assets:	
Grassy Knoll (APNs 054-011-019,030, and 036) (June 29, 2011)	850,000
Fire Station (APN 054-101-007) (June 29, 2011)	220,000
Improvements related to the Fire Station (June 29, 2011)	<u>5,258,316</u>
Total unallowable transfers	6,442,970
Assets on the Long-Range Property Management Plan approved by the DOF (February 21, 2014)	<u>(6,328,316)</u>
Total transfers subject to H&S Code section 34167.5	<u>\$ 114,654</u>

**Attachment—  
City's Response to  
Draft Review Report**

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## City of Hollister Development Services

375 Fifth Street, Hollister, CA 95023

February 25, 2015

Mr. Jeffrey V. Brownfield, CPA  
Chief, Division of Audits  
Local Government Compliance Bureau at the State Controller's Office Div. Audits  
P. O. Box 942850  
Sacramento, California 94250-5874

SUBJECT Hollister Redevelopment Agency Asset Transfer Review Report (January 2015)

Dear Mr. Brownfield,

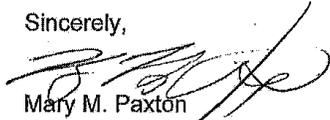
This letter is the City of Hollister Successor Agency written response to the Hollister Redevelopment Agency Asset Transfer Review Report (Report).

The City of Hollister Successor Agency acknowledges the findings in the Hollister Redevelopment Agency Asset Transfer Review Report (Report). The City of Hollister has been ordered to transfer \$114,654 in assets to the Successor Agency pursuant to Health and Safety Code Section 34167.5. The City of Hollister contends that the order unfairly punishes the City of Hollister. The Order states that the monthly rent of \$2,930 paid in the amount of \$14,654 for the period of September 2011 through January 2012 must be transferred to the City of Hollister Successor Agency because of a rental agreement that was entered into on June 29, 2011. The passage of the Dissolution Act and companion legislation placed the former Hollister Redevelopment Agency in a catch 22. There was not a legal means or guidance from the Department of Finance on how to handle the expiration of a lease for office space entered into prior to 2011. The intent of the prohibitions for entering into agreements in the Dissolution Act was to maximize the amount of unobligated tax increment that could be redirected to the budget crisis. The 2008 lease rate at the Hollister RDA office at 550 Monterey Street was \$4350 per month. The lease expired in 2011. The former RDA negotiated a less costly lease rate of \$2,930 per month which resulted in monthly savings of \$1,420 per month. The \$100,000 was used for tenant improvements to the new lease area. The Dissolution Act and Voluntary Program Act recognized a window of time where RDAs would continue operations and did not abolish RDA expenses for day to day overhead such as rent for office space. The City of Hollister maintains the former Hollister RDA acted in good faith and that the claw back makes no common sense. The City of

City of Hollister Response to City of Hollister Development Agency Asset Transfer Review  
Page 2 of 2

Hollister would appreciate acknowledgement from the State Controller's Office that there was no legal remedy for the City of Hollister based on the language in the Dissolution Act and Voluntary Program Act.

Sincerely,



Mary M. Paxton  
Program Manager  
City of Hollister Successor Agency

Cc: Brett Miller, City of Hollister Finance Director  
Bill Avera, City of Hollister City Manager

**State Controller's Office  
Division of Audits  
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