

PISMO BEACH REDEVELOPMENT AGENCY

Review Report

ASSET TRANSFER REVIEW

January 1, 2011, through January 31, 2012



BETTY T. YEE
California State Controller

June 2015



BETTY T. YEE
California State Controller

June 30, 2015

Tom Murray, Chair
Designated Local Authority for the Pismo Beach Successor Agency
777 Manuela Way
Arroyo, CA 93430

Dear Mr. Murray:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Pismo Beach Redevelopment Agency (RDA) to the City of Pismo Beach (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 did not transfer assets totaling \$1,691,876 to the Successor Agency on February 1, 2012. Those assets must be transferred to the Successor Agency for disposition in accordance with Health and Safety (H&S) Code section 34167.5.

On January 12, 2012, and January 17, 2012, the City declined to serve as both the Successor Agency and the Successor Housing Agency to the former RDA. On February 10, 2012, Governor Brown appointed a three-member governing board to serve as the Designated Local Authority (DLA) for the former RDA.

The DLA took the following corrective actions to dispose of the former RDA assets:

- On June 5, 2012, the DLA established a County Trust Fund and transferred all former RDA cash in the amount of \$691,876 to the Trust Fund. Subsequently, all unencumbered cash was remitted to the County Auditor-Controller for distribution among local taxing entities.
- The DLA assumed responsibility of the \$1,000,000 loan receivable upon dissolution of the RDA. The DLA is currently in the process of disposing of the asset in accordance with 34176(b).

Therefore, no further action is necessary.

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/as

cc: Nadia Feeser, Administrative Services Director
City of Pismo Beach
David Botelho, Program Budget Manager
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Elizabeth Gonzalez, Bureau Chief
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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Pismo Beach 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 did not transfer assets totaling \$1,691,876 to the Successor Agency on February 1, 2012. Those assets must be transferred to the Successor Agency for disposition in accordance with Health and Safety (H&S) Code section 34167.5.

On January 12, 2012, and January 17, 2012, the City of Pismo Beach (City) declined to serve as both the Successor Agency and the Successor Housing Agency to the former RDA. On February 10, 2012, Governor Brown appointed a three-member governing board to serve as the Designated Local Authority (DLA) for the former RDA.

The DLA took the following corrective actions to dispose of the former RDA assets:

- On June 5, 2012, the DLA established a County Trust Fund and transferred all former RDA cash in the amount of \$691,876 to the Trust Fund. Subsequently, all unencumbered cash was remitted to the County Auditor-Controller for distribution among local taxing entities.
- The DLA assumed responsibility of the \$1,000,000 loan receivable upon dissolution of the RDA. The DLA is currently in the process of disposing of the asset in accordance with H&S Code section 34176(b).

Therefore, no further action is necessary.

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 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 DLA, and the City.
- 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 Pismo Beach Redevelopment Agency (RDA) did not transfer assets totaling \$1,691,876 to the Successor Agency on February 1, 2012. Those assets must be transferred to the Successor Agency for disposition in accordance with Health and Safety (H&S) Code section 34167.5.

On January 12, 2012, and January 17, 2012, the City of Pismo Beach declined to serve as both the Successor Agency and the Successor Housing Agency to the former RDA. On February 10, 2012, Governor Brown appointed a three-member governing board to serve as the Designated Local Authority (DLA) for the former RDA.

The DLA took the following corrective actions to dispose of the former RDA assets:

- On June 5, 2012, the DLA established a County Trust Fund and transferred all former RDA cash in the amount of \$691,876 to the Trust Fund. Subsequently, all unencumbered cash was remitted to the County Auditor-Controller for distribution among local taxing entities.
- The DLA assumed responsibility of the \$1,000,000 loan receivable upon dissolution of the RDA. The DLA is currently in the process of disposing of the asset in accordance with 34176(b).

Therefore, no further action is necessary.

Details of our findings 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 June 13, 2014. Tom Murray, Chair of the DLA, responded by email dated October 3, 2014, agreeing with the review results.

Restricted Use

This report is solely for the information and use of the City of Pismo Beach, the DLA, 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

June 30, 2015

Finding and Order of the Controller

**FINDING—
Assets not
transferred to the
Successor Agency**

The Pismo Beach Redevelopment Agency (RDA) did not transfer assets totaling \$1,691,876 to the Successor Agency on February 1, 2012. The assets consisted of cash totaling \$691,876 and a note receivable totaling \$1,000,000. The note receivable was a result of the sale of RDA land to the Peoples' Self-Help Housing Corporation in exchange for a promissory note dated September 20, 2011. The note bears no interest and is payable in one lump sum fifty-five years from the date of the note.

Health and Safety (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.

H&S Code section 34177(d) states:

Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency... for allocation and distribution... [in accordance with]... Section 34188.

H&S Code section 34181(c) states:

The oversight board shall direct the successor agency to do the following: (c) Transfer housing responsibilities and all rights, powers, duties, and obligations along with any amounts on deposit in the Low and Moderate Income Housing Fund to the appropriate entity pursuant to Section 34176.

On January 12, 2012, and January 17, 2012, the City declined to serve as both the Successor Agency and the Successor Housing Agency to the former RDA. Therefore, Governor Brown took action in accordance with H&S Code section 34173(d)(3)(A), which states:

If no local agency elects to serve as a successor agency for a dissolved redevelopment agency, a public body, referred to herein as a "designated local authority" shall be immediately formed, pursuant to this part, in the county and shall be vested with all the powers and duties of a successor agency as described in the part. The Governor shall appoint three residents of the county to serve as the governing board of the authority. The designated local authority shall serve as successor agency until a local agency elects to become the successor agency in accordance with this section.

Order of the Controller

Pursuant to H&S Code section 34167.5, the City of Pismo Beach (City) is ordered to ensure that the assets, described above, be transferred to the Successor Agency.

However, on June 5, 2012 the appointed Designated Local Authority (DLA) for the former RDA took corrective action by remitting \$691,876 in unencumbered cash to the County Auditor-Controller for distribution among the taxing entities. In addition, the DLA is currently in the process of disposing of the note receivable in accordance with H&S Code section 34176(b). Therefore, no further action is necessary.

City's Response

The DLA for the former RDA agrees that the SCO finding on the draft report is accurate and complete.

SCO's Comment

The Finding and Order of the Controller remain as stated.

**Schedule 1—
RDA Assets Not Transferred to
the Designated Local Authority
January 1, 2011, through January 31, 2012**

Current assets:

Cash and notes receivable as of January 31, 2012	\$ 1,691,876
Low-Mod cash transferred to the San Luis Obispo County Auditor-Controller's Office on June 5, 2012, and July 12, 2012	(691,876)
DLA disposing of asset in accordance with 34176(b)	<u>(1,000,000)</u>
Total transfers subject to H&S Code section 34167.5	<u>\$ —</u>

**State Controller's Office
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<http://www.sco.ca.gov>