

# **ATWATER REDEVELOPMENT AGENCY**

## **ASSET TRANSFER REVIEW**

### Review Report

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



**JOHN CHIANG**  
California State Controller

October 2013



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

October 11, 2013

Frank Pietro, City Manager  
Atwater Redevelopment Successor Agency  
750 Bellevue Road  
Atwater, CA 95301

Dear Mr. Pietro:

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

Our review found that the City of Atwater Redevelopment Agency transferred \$11,714,886 in assets after January 1, 2011, to the Atwater Housing Agency and the Atwater Successor Agency. These included an unallowable asset transfer of \$3,855,930, or 32.91%, in assets to the Housing Agency that should have been turned over to the Successor Agency.

However, on September 16, 2013, the Oversight Board retroactively approved the transfer of \$3,855,930 in housing assets that were transferred to the Housing Agency. Therefore, no further action is necessary.

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/vb

cc: Bill Zenoni, Finance Director  
City of Atwater  
Scott McBride, Community Development Director  
City of Atwater  
Carol Joan Faul, Mayor/Oversight Board Chair  
City of Atwater  
Steven Szalay, Local Government Consultant  
California Department of Finance  
Richard J. Chivaro, Chief Legal Counsel  
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# Asset Transfer Review Report

## Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Atwater 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 \$11,714,886 in assets after January 1, 2011, to the Atwater Housing Agency and the Atwater Successor Agency. These included an unallowable asset transfer of \$3,855,930, or 32.91%, in assets to the Housing Agency that should have been turned over to the Successor Agency.

However, on September 16, 2013, the Oversight Board retroactively approved the transfer of \$3,855,930 in housing assets that were transferred to the Housing Agency. 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 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 Atwater Redevelopment Agency, the City of Atwater, 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 City of Atwater and the Atwater Redevelopment Agency.
- 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 \$11,714,886 in assets after January 1, 2011, to the Atwater Housing Agency and the Atwater Successor Agency. These included an unallowable asset transfer of \$3,855,930, or 32.91%, in assets to the Housing Agency that should have been turned over to the Successor Agency.

However, on September 16, 2013, the Oversight Board retroactively approved the transfer of \$3,855,930 in housing assets that were transferred to the Housing Agency. Therefore, no further action is necessary.

Details of our finding are in the Finding and Order of the Controller section of this report.

**Views of  
Responsible  
Officials**

At an exit conference on September 12, 2013, we discussed the review results with Scott McBride, Community Development Director; Julia Coronado, Executive Assistant; and Lori Waterman, Grants Manager. They further agreed that a draft review report was not necessary and that the report could be issued as final.

**Restricted Use**

This report is solely for the information and use of the City of Atwater, the Successor Agency, the Housing 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

October 11, 2013

# Finding and Order of the Controller

**FINDING—  
Unallowable asset  
transfers to the  
Housing Agency**

The Atwater Redevelopment Agency (RDA) made an unallowable asset transfer of \$3,855,930 to the Housing Agency. The asset transfer to the Housing Agency occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

On January 31, 2012, the RDA made an unallowable transfer of \$3,855,390 in housing land held for resale to the Housing Agency. On September 16, 2013, the Oversight Board retroactively approved the transfer of \$3,855,930 in housing assets to the Housing Agency.

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 should 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 government purpose, such as roads, school buildings, parks, 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.

## Order of the Controller

Based on H&S Code section 34167.5, the Housing Agency would have been ordered to reverse the transfer of the above assets in the amount of \$3,855,930. However, on September 16, 2013, the Oversight Board retroactively approved the transfer of \$3,855,930 in housing assets to the Housing Agency. Therefore, no further action is necessary.



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

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Unallowable asset transfers to the Housing Agency:

Housing assets transferred to the Housing Agency on January 31, 2012	\$ 3,855,930
Total unallowable asset transfers	3,855,930
City of Atwater Successor Agency Oversight Board retroactively approved on September 16, 2013	<u>(3,855,930)</u>
Total amount subject to Health and Safety Code section 34167.5	<u><u>\$ —</u></u>

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