

KERMAN REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



BETTY T. YEE
California State Controller

February 2015



BETTY T. YEE
California State Controller

February 18, 2015

Luis Patlan, City Manager
City of Kerman
850 S. Madera Avenue
Kerman, CA 93630

Dear Mr. Patlan:

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

Our review found that the RDA transferred \$377,840 in assets to the Successor Agency after January 1, 2011. We did not identify any unallowable transfers that occurred during the review period between the RDA, the City, and/or any other public agency.

However, \$32,785 in RDA assets have not been transferred to the Successor Agency. These assets 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.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/kw

cc: Gary K. Yep, Chair of the Oversight Board
City of Kerman
Vicki Crow, Auditor Controller
Fresno County
Toni Jones, Finance Director
City of Kerman
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
Venus Sharifi, Auditor-in-Charge
Division of Audits, State Controller's Office

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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Kerman 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 \$377,840 in assets to the Successor Agency after January 1, 2011. We did not identify any unallowable transfers that occurred during the review period between the RDA, the City of Kerman (City), and/or any other public agency.

However, \$32,785 in RDA assets have not been transferred to the Successor Agency. These assets 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 State Controller is required to 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 identified assets 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 Kerman Redevelopment Agency (RDA) transferred \$377,840 in assets to the Successor Agency after January 1, 2011. We did not identify any unallowable transfers that occurred during the review period between the RDA, the City of Kerman, and/or any other public agency.

However, \$32,785 in RDA assets have not been transferred to the Successor Agency. These assets must be turned over to the Successor Agency.

Views of Responsible Officials

We issued a draft review report on November 4, 2013. Luis Patlan, City Manager responded by letter dated November 14, 2013, disagreeing with the review results. The City of Kerman'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 Kerman, the Entity Assuming the Housing Functions, 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

February 18, 2015

Finding and Order of the Controller

**FINDING—
Unallowable asset
transfers to the
Entity Assuming
the Housing
Functions**

The Kerman Redevelopment Agency (RDA) failed to turn over \$32,785 in land held for resale to the Successor Agency by January 31, 2012. The assets were not contractually committed to a third party prior to June 28, 2011.

Health and Safety Code (H&S) 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 sections 34167.5, the RDA may not transfer assets to a city, county, city and county, or any other public agency after January 1, 2011. However, these assets were never turned over to the Successor Agency for disposition in accordance with H&S Code sections 34175 (b) and 34177 (d) and (e). The assets must be turned over to the Successor Agency for proper disposition.

Order of the Controller

Pursuant to H&S Code section 34167.5, the City of Kerman (City) is ordered to turn over \$32,785 in assets to the Successor Agency.

City's Response to Draft

The draft report states assets were transferred to the City but the report is not correct. The assets identified in the draft report were never transferred.

Please modify the report to indicate the assets should be transferred to the Successor Agency, not to reverse the transfer.

SCO Comment

The Finding and Order of the Controller have been modified to indicate the assets should be turned over to the Successor Agency.

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

OFFICE OF THE CITY MANAGER
Luis Patlan

Mayor – Gary Yep
Council Members
Doug Wilcox
Raj Dhaliwal
Nathan Fox
Charlie Jones



850 S. Madera Avenue
KERMAN, CA 93630

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November 14, 2013

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

**RE: City of Kerman Redevelopment Successor Agency
Asset Transfer Review-Comments on Draft Report**

Dear Mr. Mar:

I am in receipt of the Draft Asset Transfer Review Report (Draft Report) dated November 4, 2013 and appreciate the opportunity to comment on the findings.

The draft report states assets were transferred to the City but the report is not correct. The asset identified in the draft report (\$32,785) was never transferred.

Please modify the report to indicate the asset should be transferred to the Successor Agency, not to reverse the transfer.

Please feel free to contact me with any questions at (559) 846-9387 or lpatlan@cityofkerman.org.

Sincerely,

A handwritten signature in blue ink that reads 'Luis Patlan'.

Luis Patlan
City Manager

C: Finance Department

"COMMUNITY COMES FIRST"

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