

OAKLEY REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



BETTY T. YEE
California State Controller

July 2015



BETTY T. YEE
California State Controller

July 27, 2015

CERTIFIED MAIL—RETURN RECEIPT REQUESTED

Paul Abelson, Finance Director
Oakley Redevelopment/Successor Agency
3231 Main Street
Oakley, CA 94561

Dear Mr. Abelson:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Oakley Redevelopment Agency (RDA) to the City of Oakley (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 \$45,472,121 in assets after January 1, 2011, including unallowable transfers totaling \$42,236,544, or 92.88% of transferred assets. The unallowable transfers included \$32,431,438 to the City and \$9,805,106 to the Entity Assuming the Housing Functions.

However, the following corrective actions have been taken:

- On February 1, 2012, the City turned over \$23,739,392 in assets to the Successor Agency.
- On various dates, the Successor Agency took corrective actions for the transfer of properties totaling \$8,692,046.
- On November 5, 2013, the Successor Agency effectuated the transfer of \$9,805,106 in housing functions and assets to the Entity Assuming the Housing Functions.

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

Attachment

cc: Richard J. Chivaro, Chief Legal Counsel
State Controller's Office
Elizabeth González, Bureau Chief
Division of Audits, State Controller's Office
Scott Freesmeier, Audit Manager
Division of Audits, State Controller's Office
Michael Mock, Auditor-in-Charge
Division of Audits, State Controller's Office
David Botelho, Program Budget Manager
California Department of Finance
Robert Campbell, Auditor-Controller
Contra Costa County
Bill Swenson, Chair
Oversight Board

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Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Oakley 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 \$45,472,121 in assets after January 1, 2011, including unallowable transfers totaling \$42,236,544, or 92.88% of transferred assets. The unallowable transfers included \$32,431,438 to the City of Oakley (City) and \$9,805,106 to the Entity Assuming the Housing Functions.

However, the following corrective actions have been taken:

- On February 1, 2012, the City turned over \$23,739,392 in assets to the Successor Agency.
- On various dates, the Successor Agency took corrective actions for the transfer of properties totaling \$8,692,046.
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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 (H&S) Code beginning with section 34161.

H&S Code section 34167.5 states in part “. . . the 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 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 City, the Successor Agency, and the RDA.
- 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 Oakley Redevelopment Agency transferred \$45,472,121 in assets after January 1, 2011, including unallowable transfers totaling \$42,236,544, or 92.88% of transferred assets. The unallowable transfers included \$32,431,438 to the City of Oakley (City) and \$9,805,106 to the Entity Assuming the Housing Functions.

However, the following corrective actions have been taken:

- On February 1, 2012, the City turned over \$23,739,392 in assets to the Successor Agency.
- On various dates, the Successor Agency took corrective actions for the transfer of properties totaling \$8,692,046.
- On November 5, 2013, the Successor Agency effectuated the transfer of \$9,805,106 in housing functions and assets to the Entity Assuming the Housing Functions.

Therefore, no further action is necessary.

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

**Views of
Responsible
Officials**

We issued a draft review report on May 18, 2015. Paul Abelson, Finance Director, responded by letter dated May 28, 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, the Entity Assuming the Housing Functions, 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

July 27, 2015

Findings and Orders of the Controller

FINDING 1— Unallowable asset transfers to the City of Oakley

The Oakley Redevelopment Agency (RDA) made unallowable asset transfers of \$32,431,438 to the City of Oakley (City). The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

On January 19, 2011, the RDA transferred \$32,431,438 in current and capital assets to the City.

Pursuant to Health & 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(e).

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfers totaling \$32,431,438, and turn over the assets to the Successor Agency. However, on February 1, 2012, the City turned over \$23,739,392 in assets to the Successor Agency. Also, on various dates, the Successor Agency took corrective actions for the transfer of properties totaling \$8,692,046. Therefore, no further action is necessary.

City's Response

The City has complied with the Order of the Controller.

See Attachment for the City's complete response.

SCO's Comment

The City provided additional documentation validating that corrective actions for the transfer of properties totaling \$8,692,046 have been taken by the Successor Agency; therefore, no further action is necessary. The Order of the Controller has been modified accordingly.

FINDING 2— Unallowable asset transfers to the Entity Assuming the Housing Functions

On January 19, 2011, the Oakley Redevelopment Agency (RDA) made unallowable asset transfers of \$9,805,106 to the Entity Assuming the Housing Functions. The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

H&S Code section 34176(b)(2) states:

(b) If a city, county, or city and county does not elect to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, assets, duties, and obligations associated with the housing activities of the agency, excluding enforceable obligations retained by the successor agency and any amounts in the Low and Moderate Income Housing Fund, shall be transferred as follows:

(2) If there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, to that local housing authority.

H&S Code section 34177(g) states:

Successor agencies are required to do all of the following:

(g) Effectuate transfer of housing functions and assets to the appropriate entity designated pursuant to Section 34176.

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).

Order of the Controller

Pursuant H&S Code section 34167.5, the Entity Assuming the Housing Functions is ordered to reverse the transfers totaling \$9,805,106, and turn over the assets to the Successor Agency. However, on November 5, 2013, the Successor Agency effectuated the transfer of housing functions and assets of \$9,805,106 to the Entity Assuming the Housing Functions in accordance with H&S Code sections 34176(b)(2) and 34177(g), and under Resolution OB 08-13. Therefore, no further action is necessary.

City's Response

The City stated that it complied with the Order of the Controller as stated in the Draft Review Report.

SCO's Comment

No further action is necessary.

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

Transfers to the City of Oakley on January 19, 2011	\$ 32,431,438
Less:	
Assets turned over to the Successor Agency on February 1, 2012	(23,739,392)
Corrective actions by the Successor Agency for the transfer of properties (various dates)	(8,692,046)
 Total transfers subject to H&S Code section 34167.5	 <hr style="width: 10%; margin-left: auto; margin-right: 0;"/> —

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



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MAYOR
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VICE MAYOR
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COUNCILMEMBERS
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May 28, 2015

Elizabeth Gonzalez, Chief
Local Government Compliance Bureau
State Controller's Office
Division of Audits
PO Box 942850
Sacramento, CA 94250-5874

RE: Responses to Draft Oakley RDA/SA Audit

Dear Ms. Gonzalez,

As the time between the date of fieldwork and this draft report, I am emailing you a separate, more detailed response, reflecting both the general responses below, that I think are consistent with your Report for publication, and detail and documentation regarding what has transpired since the audit – evidencing compliance with the Audit findings and the Law.

Responses to the Draft Audit:

Finding #1:

Complied. As acknowledged at the exit meeting with the SCO Audit Manager, the assets were deeded to the City pursuant to a Cooperation Agreement that was effective prior to the Dissolution Act's passing, and the City held them on the Redevelopment Agency's behalf. At all times, before the Dissolution Act and afterwards, the assets have been held in separate accounts for the benefit of the Redevelopment Agency (and later, the Successor Agency); and since June 30, 2012, the year the Successor Agency was formed, they have been included on the Successor Agency's Financial Statements. In fact, with the dissolution of the Redevelopment Agency, the original "City Redevelopment" funds simply became the Successor Agency's Funds, affecting the transfer prescribed.

As for the Deeds, we were advised verbally by representatives from both the SCO and Department of Finance that there might be a need to re-deed the property back to the Successor Agency, but not to rush to do so – as the majority of the properties would likely be transferred to the City via the Agency's Long-Term Property Management and Disposition Plan (PMP) process. What was important was to ensure they were on the Successor


Agency's books, and ultimately included in the Agency's PMP. We have provided you with separate documentation, to update what you have on record, showing that they were and are on the Agency's books and in the PMP, as appropriate.

Finding #2:

Complied. The Oversight Board was formed subsequent to the dissolution date, and the Agency had not gone to them to retroactively approve the transfer of housing assets to the City as Successor Housing Agency. On the advice of the SCO Audit Manager at the exit meeting, the Agency returned to the Oversight Board on November 5, 2013 to approve the transfers, retroactive to February 1, 2012. The Department of Finance approved the Oversight Board's Resolution on February 21, 2014.

If you have any questions, or wish to discuss this with me further, please don't hesitate to call me directly at (925) 646-7010.

Best Regards,


Paul Abelson
Finance Director

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