

LAKE FOREST REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

October 2014



JOHN CHIANG
California State Controller

October 21, 2014

Robert C. Dunek, City Manager
Lake Forest Redevelopment/Successor Agency
25550 Commercentre Drive, Suite 100
Lake Forest, CA 92630

Dear Mr. Dunek:

Pursuant to Health and Safety (H&S) Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Lake Forest Redevelopment Agency (RDA) to the City of Lake Forest (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 \$12,836,390 in assets after January 1, 2011, including unallowable transfers totaling \$4,379,116 or 34.11% of transferred assets. The unallowable transfers included \$3,579,281 to the City and \$799,835 to the Housing Authority.

However, during April 2013, the City turned over \$3,579,281 in current assets to the Successor Agency, which were subsequently remitted to the Orange County Auditor-Controller for distribution to the taxing entities.

In addition, on April 24, 2012, the Successor Agency effectuated the transfer of housing functions and assets of \$799,835 to the Housing Authority in accordance with H&S Code section 34176(b)(2) and 34177(g), and under Resolution OB 2012-08. Therefore, no further action is necessary.

If you have any questions, please contact Elizabeth González, Chief, Local Government Compliance Bureau, by phone at (916) 324-0622.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/kw

cc: Kathryn McCullough, Oversight Board Chair
Lake Forest Redevelopment/Successor Agency
Jan Grimes, Auditor-Controller
Orange County
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 Lake Forest 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 \$12,836,390 in assets after January 1, 2011, including unallowable transfers totaling \$4,379,116 or 34.11% of transferred assets. The unallowable transfers included \$3,579,281 to the City of Lake Forest (City) and \$799,835 to the Housing Authority.

However, during April 2013, the City turned over \$3,579,281 in current assets to the Successor Agency, which were subsequently remitted to the Orange County Auditor-Controller for distribution to the taxing entities.

In addition, on April 24, 2012, the Successor Agency effectuated the transfer of housing functions and assets of \$799,835 to the Housing Authority in accordance with Health and Safety (H&S) Code section 34176(b)(2) and 34177(g), and under Resolution OB 2012-08. 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 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 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 Lake Forest Redevelopment Agency transferred \$12,836,390 in assets after January 1, 2011, including unallowable transfers totaling \$4,379,116 or 34.11% of transferred assets. The unallowable transfers included \$3,579,281 to the City of Lake Forest (City) and \$799,835 to the Housing Authority.

However, during April 2013, the City turned over \$3,579,281 in current assets to the Successor Agency, which were subsequently remitted to the Orange County Auditor-Controller for distribution to the taxing entities.

In addition, on April 24, 2012, the Successor Agency effectuated the transfer of housing functions and assets of \$799,835 to the Housing Authority in accordance with H&S Code section 34176(b)(2) and 34177(g), and under Resolution OB 2012-08. 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 February 20, 2014. Keith Neves, Finance Director, responded by email dated March 13, 2014, agreeing with the review results.

Restricted Use

This report is solely for the information and use of the City, the Successor Agency, the Oversight Board, the Housing Authority, 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 21, 2014

Findings and Orders of the Controller

FINDING 1— Unallowable asset transfers to the City of Lake Forest

The Lake Forest Redevelopment Agency (RDA) made unallowable asset transfers totaling \$3,579,281 to the City of Lake Forest (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 on February 1, 2011 consisted of the following:

- The RDA transferred \$3,224,000 in cash to the City as prepayment of expenses for various capital projects located in the El Toro Redevelopment Project Area.
- The RDA transferred \$355,281 in cash to the City as a repayment on an advance from the City.

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).

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfer of the assets in the amount of \$3,579,281 and turn over the assets to the Successor Agency. However, in April 2013 the City turned over \$3,579,281 in cash to the Successor Agency. Also, on April 17, 2013, the Successor Agency remitted \$3,579,281 in cash to the Orange County Auditor-Controller for distribution to the taxing entities. Therefore, no further action is necessary.

FINDING 2— Unallowable asset transfers to the Housing Authority

The RDA made unallowable asset transfers totaling \$799,835 to the Housing Authority. The transfers occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to June 28, 2011.

On March 15, 2011, the RDA transferred \$799,835 in Low- and Moderate-Income Land (APN 614-024-01, and 22702 and 22706 Madrid Drive), to the Housing Authority.

Pursuant to 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).

In accordance with H&S Code section 34176(b)(2):

- (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.

In accordance with H&S Code section 34177(g):

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.

Order of the Controller

Pursuant to H&S Code section 34167.5, the Housing Authority is ordered to reverse the transfers in the amount of \$799,835 and turn over the assets to the Successor Agency. However, on April 24, 2012, the Successor Agency effectuated the transfer of housing functions and assets of \$799,835 to the Housing Authority in accordance with H&S Code sections 34176(b)(2) and 34177(g), and under Resolution OB 2012-08. Therefore, no further action is necessary.

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

Current Assets

Cash

2/1/2011 transfers of funds to the City for prepayment expenses for capital projects	\$ 3,224,000
2/1/2011 transfers of funds to repay advance from the City	<u>355,281</u>
Total unallowable transfers to the City	<u>3,579,281</u>
Cash turned over to the Successor Agency and remitted to the Orange County Auditor- Controller	<u>(3,579,281)</u>
Total amount subject to H&S Code section 34167.5	<u>\$ —</u>

**Schedule 2—
Unallowable Asset Transfers
to the Housing Authority
January 1, 2011, through January 31, 2012**

Low- and Moderate-Income Housing Assets

March 15, 2011 transfers

Land held for resale	\$ 326,000
Capital assets:	
Land APN 614-021-31	7,168
22702 Madrid Drive APN 933-43-060	226,931
22706 Madrid Drive APN 933-43-058	239,736
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Total unallowable transfers	799,835
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City (Housing Authority) election to retain housing assets per City Council resolution No. 2012-06 (April 24, 2012)	799,835
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Total transfers subject to H&S Code section 34167.5	<u>\$ —</u>

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874**

<http://www.sco.ca.gov>