

COTATI REDEVELOPMENT AGENCY

Review Report

ASSET TRANSFER REVIEW

January 1, 2011, through January 31, 2012



BETTY T. YEE
California State Controller

June 2015



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California State Controller

June 30, 2015

Jessica O'Connell, Acting Finance Director
City of Cotati Redevelopment/Successor Agency
201 West Sierra Avenue
Cotati, CA 94931

Dear Ms. O'Connell:

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

Our review found that the RDA transferred \$15,551,882 in assets after January 1, 2011, including an unallowable transfer to the City totaling \$839,896, or 5.4% of transferred assets. These assets must be turned over to the Successor Agency.

However, on August 1, 2012, the Successor Agency effectuated the transfer of housing functions and assets of \$518,764 to the Entity Assuming the Housing Functions in accordance with H&S Code section 34176(b)(2) and 34177(g) and via Resolution No. 2012-05.

Therefore, the remaining \$321,132 in unallowable transfers 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 or by email at egonzalez@sco.ca.gov.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/as

Attachment

cc: Damien O'Bid, Acting City Manager
City of Cotati
Vicki Parker, Community Development Director
City of Cotati
David Spilman, Consultant
City of Cotati
David Sundstrom, Auditor-Controller
County of Sonoma
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
Reginald Nidoy, Audit Manager
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John Mellas, 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 Cotati 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 \$15,551,882 in assets after January 1, 2011, including an unallowable transfer to the City of Cotati (City) totaling \$839,896, or 5.4% of transferred assets. These assets must be turned over to the Successor Agency.

However, on August 1, 2012, the Successor Agency effectuated the transfer of housing functions and assets of \$518,764 to the Entity Assuming the Housing Functions in accordance with H&S Code section 34176(b)(2) and 34177(g) and via Resolution No. 2012-05.

Therefore, the remaining \$321,132 in unallowable transfers 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 and oversight boards 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 identified asset transfers that occurred after January 1, 2011, between the RDA, the City and/or any other public agency. 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's operations and procedures.
- Reviewed meeting minutes, resolutions, and ordinances of the City, the RDA, the Successor Agency, and the Oversight Board.
- Reviewed accounting records related 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 Cotati Redevelopment Agency transferred \$15,551,882 in assets after January 1, 2011, including unallowable transfers to the City of Cotati totaling \$839,896, or 5.4% of transferred assets. These assets must be turned over to the Successor Agency.

However, on August 1, 2012, the Successor Agency effectuated the transfer of housing functions and assets of \$518,764 to the Entity Assuming the Housing Functions in accordance with H&S Code section 34176(b)(2) and 34177(g) and via Resolution No. 2012-05.

Therefore, the remaining \$321,132 in unallowable transfers must be turned over to the Successor Agency.

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

Views of Responsible Officials

We issued a draft report on March 27, 2015. We did not receive a response to the draft review report from the City.

Restricted Use

This report is solely for the information and use of the City of Cotati, 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

June 30, 2015

Finding and Order of the Controller

FINDING— Unallowable property transfer

The Cotati Redevelopment Agency (RDA) made an unallowable asset transfer totaling \$839,896 to the City of Cotati (City). The transfer 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 \$839,896 in capital assets (land parcels) to the City. The RDA Board authorized the transfers by adopting Resolution No. CRA-233. The properties are described below:

Housing properties: total value of \$518,764

- APN 144-272-007, 80 George Street, Cotati (\$243,134)
- APN 144-301-012, Ryan Lane, Cotati (\$275,630)

Other (non-housing) properties: total value of \$321,132

- APN 144-320-025, 970 East Cotati Avenue, Cotati
- APN 144-320-026, 970 East Cotati Avenue, Cotati
- APN 144-320-028, 970 East Cotati Avenue, Cotati
- APN 144-320-029, 970 East Cotati Avenue, Cotati

Individual parcel values for 970 East Cotati Avenue were not available.

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(d) and (e).

In accordance with H&S Code section 34176:

- (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.

And in accordance with H&S Code section 34177:

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 City of Cotati is ordered to reverse the transfer totaling \$839,896 and turn over the assets to the Successor Agency.

However, on August 1, 2012, the Successor Agency effectuated the transfer of housing functions and assets of \$518,764 to the Entity Assuming the Housing Functions in accordance with H&S Code section 34176(b)(2) and 34177(g) and via Resolution No. 2012-05.

Therefore, the remaining \$321,132 in unallowable transfers must be turned over to the Successor Agency.

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

Unallowable land transfers (March 15, 2011)	
Housing properties	\$ 518,764
Non-housing properties	321,132
Total unallowable transfers	<u>839,896</u>
Less:	
Housing assets turned over to the Entity Assuming the Housing Functions (August 1, 2012)	<u>(518,764)</u>
Total transfers subject to H&S Code section 34167.5	<u>\$ 321,132</u>

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