

MONROVIA REDEVELOPMENT AGENCY

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

December 2014



JOHN CHIANG
California State Controller

December 31, 2014

Fran M. Delach, Interim City Manager
City of Monrovia/Successor Agency
415 S. Ivy Avenue
Monrovia, CA 91016

Dear Mr. Delach:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Monrovia Redevelopment Agency (RDA) to the City of Monrovia (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 \$57,657,899 in assets after January 1, 2011, including an unallowable transfer to the City totaling \$467,831, or less than 1% of transferred assets. 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 or by email at egonzalez@sco.ca.gov.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/sk

cc: John Naimo, Auditor-Controller
Los Angeles County
Maryann Luiz, Oversight Board Chair
City of Monrovia
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
Scott Freesmeier, Audit Manager
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Gerry Kwan, Auditor-in-Charge
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Attachment—City’s Response to Draft Review Report

Asset Transfer Review Report

Summary

The State Controller's Office (SCO) reviewed the asset transfers made by the Monrovia 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 \$57,657,899 in assets after January 1, 2011, including an unallowable transfer to the City of Monrovia (City) totaling \$467,831, or less than 1% of transferred assets. 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 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 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 Monrovia Redevelopment Agency transferred \$57,657,899 in assets after January 1, 2011, including an unallowable transfer to the City of Monrovia totaling \$467,831, or less than 1% of transferred assets. These assets 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 review report on October 3, 2014. Mark D. Alvarado, CPA, Administrative Services Director/Assistant City Manager; and Buffy J. Bullis, CPA, Finance Division Manager, responded by letter dated October 21, 2014, disagreeing with the review results. 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, 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

December 31, 2014

Finding and Order of the Controller

FINDING 1— Unallowable asset transfer to the City of Monrovia

The Monrovia Redevelopment Agency (RDA) made an unallowable asset transfer of \$467,831 to the City of Monrovia (City). The transfer occurred after January 1, 2011, and the assets were not contractually committed to a third party prior to January 1, 2011.

On May 1, 2011, the RDA transferred \$467,831 in cash to the City. The transfer was for payment on an inter-agency loan.

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 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 to H&S Code section 34167.5, the City is ordered to reverse the transfer of \$467,831 and turn over the assets to the Successor Agency.

City's Response

The City of Monrovia does not agree with the finding made by the State Controller's Office (SCO) during the audit review of all asset transfers made by the Monrovia Redevelopment Agency (RDA) to the City of Monrovia (City) after January 1, 2011. The RDA borrowed \$467,831 from the City in 2009 in order to purchase land for affordable housing purposes. The borrowing and the purchase were approved by the Agency Board at that time. The first opportunity to repay that loan was in 2011.

The City believes that the loan and repayment were done in accordance with the applicable laws in place at the time, and the transactions accurately reflect the financial position of both the RDA and the City of Monrovia.

SCO's Comment

The SCO's authority H&S Code section 34167.5 extends to all assets transferred after January 1, 2011, by the RDA to the city or county, or city and county that created the RDA, or any other public agency. This responsibility is not limited by other provisions of the redevelopment agency dissolution legislation. As a result, the loan payments made by the RDA to the City during the period of January 1, 2011, through January 31, 2012, were unallowable.

The Successor Agency may place loan agreements between the RDA and the City on the Recognized Obligation Payment Schedule as an enforceable obligation, provided that the Oversight Board finds that the loans were for a legitimate redevelopment purpose. The Finding and Order of the Controller remain as stated.

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



October 21, 2014

State Controller's Office
Division of Audits
Attention: Elizabeth Gonzalez, Chief, Local Government Compliance Bureau
P.O. Box 942850
Sacramento, CA 94250-5874

Re: Monrovia Redevelopment Agency Asset Transfer Review
Management Response to Finding 1

Dear Ms. Gonzalez:

In response to Finding 1, Unallowable Asset Transfer to the City of Monrovia, management would like to submit the following response:

Response to Finding 1:

The City of Monrovia does not agree with the finding made by the State Controller's Office (SCO) during the audit review of all asset transfers made by the Monrovia Redevelopment Agency (RDA) to the City of Monrovia (City) after January 1, 2011. The RDA borrowed \$467,831 from the City in 2009 in order to purchase land for affordable housing purposes. The borrowing and the purchase were approved by the Agency Board at that time. The first opportunity to repay that loan was in 2011.

The City believes that the loan and repayment were done in accordance with the applicable laws in place at the time, and the transactions accurately reflect the financial position of both the RDA and the City of Monrovia.

Thank you for your consideration of this matter. Please do not hesitate to contact me if you have any questions or if you require additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Alvarado".

Mark D. Alvarado
Administrative Services Director/Assistant City Manager
City of Monrovia
Phone (626) 932-5510; Fax (626) 932-5567; Email malvarado@ci.monrovia.ca.us

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