

TIBURON REDEVELOPMENT AGENCY

Review Report

ASSET TRANSFER REVIEW

January 1, 2011, through January 31, 2012



BETTY T. YEE
California State Controller

March 2015



BETTY T. YEE
California State Controller

March 11, 2015

Heidi Bigall, Director of Administrative Services
Town of Tiburon
1505 Tiburon Boulevard
Tiburon, CA 94920

Dear Ms. Bigall

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

Our review found that the RDA transferred \$1,819,805 in assets after January 1, 2011, including unallowable transfers to the Town totaling \$31,960, or 1.76% of transferred assets. These assets must be turned over to the Successor Agency. However, because a Successor Agency was not formed, the Town must remit \$31,960 in cash to the Marin County Auditor-Controller.

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/gj

Heidi Bigall, Director of
Administrative Services

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March 11, 2015

cc: Roy Given, Director of Finance
Marin County Redevelopment Agency
Peggy Curran, Town Manager
Town of Tiburon
Ann Danforth, Town Attorney
Town of Tiburon
David Botelho, Program Budget Manager
California Department of Finance
Richard J. Chivaro, Chief Legal Counsel
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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 Tiburon 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 \$1,819,805 in assets after January 1, 2011, including unallowable transfers to the Town of Tiburon (Town) totaling \$31,960, or 1.76% of transferred assets. These assets must be turned over to the Successor Agency. However, because a Successor Agency was not formed, the Town must remit \$31,960 in cash to the Marin County Auditor-Controller.

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 Town of Tiburon/ Marin County 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 Town personnel to gain an understanding of the Successor Agency's operations and procedures.
- Reviewed meeting minutes, resolutions, and ordinances of the Town of Tiburon, and the RDA.
- Reviewed accounting records relating to the recording of assets.
- Reviewed applicable financial reports to verify assets (capital, cash, property, etc.).

Conclusion

Our review found that the Tiburon Redevelopment Agency transferred \$1,819,805 in assets after January 1, 2011, including unallowable transfers to the Town of Tiburon totaling \$31,960, or 1.76% of transferred assets. These assets must be turned over to the Successor Agency. However, because a Successor Agency was not formed, the Town must remit \$31,960 in cash to the Marin County Auditor-Controller.

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

Views of Responsible Officials

At an exit conference on February 3, 2015, we discussed the review results with Heidi Bigall, Director of Administrative Services, Town of Tiburon; Peggy Curran, Town Manager; and Ann Danforth, Town Attorney. On February 23, 2015, Ms. Bigall agreed that a draft review report was not necessary and that the report could be issued as final.

Restricted Use

This report is solely for the information and use of the Town of Tiburon, 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

March 11, 2015

Finding and Order of the Controller

**FINDING—
Unallowable cash
transfer**

The Tiburon Redevelopment Agency (RDA) made an unallowable asset transfer of \$31,960 to the Town of Tiburon (Town). The transfer occurred after January 1, 2011, and the assets were not committed to a third-party prior to June 28, 2011.

On March 1, 2011, the RDA transferred \$31,960 in cash to the Town.

Pursuant to Health and Safety (H&S) Code section 34167.5, the RDA may not transfer assets to a city [town], 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). However, because a Successor Agency was not formed, the Town must remit \$31,960 in cash to the Marin County Auditor-Controller.

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to remit \$31,960 in cash to the Marin County Auditor-Controller for disposition in accordance with H&S Code section 34177(d).

**State Controller's Office
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