

COSTA MESA REDEVELOPMENT AGENCY

Review Report

ASSET TRANSFER REVIEW

January 1, 2011, through January 31, 2012



BETTY T. YEE
California State Controller

January 2015



BETTY T. YEE
California State Controller

January 28, 2015

Stephen Dunivent, Interim Finance Director
Costa Mesa Redevelopment/Successor Agency
77 Fair Drive
Costa Mesa, CA 92626

Dear Mr. Dunivent:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Costa Mesa Redevelopment Agency (RDA) to the City of Costa Mesa (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 \$17,275,079 in assets after January 1, 2011, including unallowable transfers to the City totaling \$2,721,209, or 15.75% of transferred assets.

However, on May 1, 2013, the City remitted \$2,492,747 in cash to the Orange County Auditor-Controller. Also, on June 30, 2013, the City turned over \$116,867 in cash to the Successor Agency. Therefore, the remaining \$111,595 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/kw

cc: Colleen O'Donoghue, Assistant Finance Director
Costa Mesa Redevelopment/Successor Agency
James M. Righeimer, Chair
Oversight Board of the Successor Agency to the Costa Mesa Redevelopment 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
Scott Freesmeier, Audit Manager
Division of Audits, State Controller's Office
Wan Ting Lo, 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 Costa Mesa 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 \$17,275,079 in assets after January 1, 2011, including unallowable transfers to the City of Costa Mesa (City) totaling \$2,721,209, or 15.75% of transferred assets.

However, on May 1, 2013, the City remitted \$2,492,747 in cash to the Orange County Auditor-Controller. Also, on June 30, 2013, the City turned over \$116,867 in cash to the Successor Agency. Therefore, the remaining \$111,595 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 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 Costa Mesa Redevelopment Agency transferred \$17,275,079 in assets after January 1, 2011, including unallowable transfers to the City of Costa Mesa (City) totaling \$2,721,209, or 15.75% of transferred assets.

However, on May 1, 2013, the City remitted \$2,492,747 in cash to the Orange County Auditor-Controller, and on June 30, 2013, the City turned over \$116,867 in cash to the Successor Agency. Therefore, the remaining \$111,595 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 review report on December 16, 2014. Stephen Dunivent, Interim Finance Director, responded by letter dated December 24, 2014. 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 of Costa Mesa, 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

January 28, 2015

Finding and Order of the Controller

FINDING— Unallowable asset transfers to the City of Costa Mesa

The Costa Mesa Redevelopment Agency made unallowable asset transfers totaling \$2,721,209 to the City of Costa Mesa (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 March 24, 2011, the RDA transferred \$1,299,705 in cash to the City's General Fund for loan repayment.
- On March 29, 2011, the RDA transferred \$10,204 in cash to the City's Community Development Block Grant (CDBG) Fund for loan repayment.
- On June 15, 2011, the RDA reimbursed the City \$12,400 for project expenses. The City was unable to furnish documents for the reimbursement.
- On June 30, 2011, the RDA transferred \$88,991 in rental revenue to the City's CDBG Fund.
- On November 29, 2011, the RDA transferred \$1,309,909 in cash to the City's General Fund and CDBG Fund for loan repayments.

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).

Order of the Controller

Pursuant to H&S Code section 34167.5, the City is ordered to reverse the transfers in the amount of \$2,721,209, and turn over the assets to the Successor Agency.

However, on May 1, 2013, the City remitted cash totaling \$2,492,747 to the Orange County Auditor-Controller. Also, on June 30, 2013, the City turned over \$116,867 in cash to the Successor Agency. Therefore, the remaining \$111,595 in unallowable transfers must be turned over to the Successor Agency.

City's Response

The unallowable transfers of \$111,595 for the loan repayment to the City's CDBG fund, the transfer of rental revenue and the reimbursement of project cost that we were unable to locate the supporting documentations will be reimbursed to the Successor Agency.

SCO's Comment

The Order of the Controller remains as stated for the remaining unallowable transfers of \$111,595 to the City. Once the assets are turned over to the Successor Agency, no further action will be required.

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

Current Assets:		
3/24/2011	Loan repayment to the City's General Fund	\$ 1,299,705
3/29/2011	Loan repayment to the City's CDBG Fund	10,204
6/15/2011	Reimbursement of project expense to the City	12,400
6/30/2011	Transfer of rental revenue to the City	88,991
11/29/2011	Loan repayment to the City's General Fund and CDBG Fund	<u>1,309,909</u>
		<u>2,721,209</u>
Less:		
5/1/2013	Remittance to the Orange County Auditor-Controller	(2,492,747)
6/30/2013	Cash turned over to the Successor Agency	<u>(116,867)</u>
		<u>(2,609,614)</u>
Total transfers subject to H&S Code section 34167.5		<u>\$ 111,595</u>

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



CITY OF COSTA MESA

77 FAIR DRIVE, P.O. BOX 1200, COSTA MESA, CA 92628-1200

FROM THE OFFICE OF THE FINANCE DIRECTOR/CITY TREASURER

December 24, 2014

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

Re: California State Controller Letter dated December 16, 2014

Dear Ms. Gonzalez:

We reviewed the draft Asset Transfer Review report. The unallowable transfers of \$111,595 for the loan repayment to the City's CDBG fund, the transfer of rental revenue and the reimbursement of project costs that we were unable to locate the supporting documentations will be reimbursed to the Successor Agency.

If you have any questions or need any additional information, please contact Colleen O'Donoghue at (714) 754-5219 or colleen.odonoghue@costamesaca.gov.

Sincerely,


Stephen Dunivent
Interim Finance Director

Enclosure

Copy: Colleen O'Donoghue, Assistant Finance Director

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

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