

OCEANSIDE COMMUNITY DEVELOPMENT COMMISSION

ASSET TRANSFER REVIEW

Review Report

January 1, 2011, through January 31, 2012



JOHN CHIANG
California State Controller

November 2014



JOHN CHIANG
California State Controller

November 19, 2014

Steve Jepsen, City Manager
Oceanside Redevelopment/Successor Agency
300 North Coast Highway
Oceanside, CA 92054

Dear Mr. Jepsen:

Pursuant to Health and Safety Code section 34167.5, the State Controller's Office (SCO) reviewed all asset transfers made by the Oceanside Community Development Commission (RDA) to the City of Oceanside (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 \$101,779,561 in assets after January 1, 2011, including unallowable transfers to the City totaling \$18,821,311, or 18.49% of transferred assets.

However, on various dates, the City turned over cash totaling \$13,593,016 to the Successor Agency. Also, on August 26, 2014, the City turned over real property valued at \$5,228,295 to the Successor Agency. Therefore, no further action is necessary.

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

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/kw

cc: Mike Blessing, Chairperson of the Oversight Board
City of Oceanside
Jane McPherson, CPA, Accounting Manager
City of Oceanside
Tracy Sandoval, Auditor-Controller
San Diego County, Auditor-Controller
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
Kevin Kanemasu, Auditor-in-Charge
Division of Audits, State Controller's Office
Wan Ting Lo, Auditor
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 Oceanside Community Development Commission (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 \$101,779,561 in assets after January 1, 2011, including unallowable transfers to the City of Oceanside (City) totaling \$18,821,311, or 18.49% of transferred assets.

However, on various dates, the City turned over cash, totaling \$13,593,016, to the Successor Agency. Also, on August 26, 2014, the City turned over real property valued at \$5,228,295 to the Successor Agency. 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 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 Oceanside Community Development Commission transferred \$101,779,561 in assets after January 1, 2011, including unallowable transfers to the City of Oceanside (City) totaling \$18,821,311, or 18.49% of transferred assets.

However, on various dates, the City turned over cash, totaling \$13,593,016, to the Successor Agency. Also, on August 26, 2014, the City turned over real property valued at \$5,228,295 to the Successor Agency. Therefore, no further action is necessary.

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 August 26, 2014. Steven Jepsen, City Manager, responded by letter dated September 4, 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 Oceanside, 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

November 19, 2014

Finding and Order of the Controller

**FINDING—
Unallowable asset
transfers to the
City of Oceanside**

The Oceanside Community Development Commission (RDA) made unallowable asset transfers of \$18,821,311 to the City of Oceanside (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 were as follows:

- On March 16, 2011, the RDA approved the transfer of RDA-owned real properties (land for \$4,528,295 and land held for resale for \$700,000) to the City by quitclaim deed. The actual transfer took place on March 22, 2011, when \$5,228,295 worth of real properties was conveyed.
- On March 16, 2011, the RDA and the City entered into a Cooperative Agreement to transfer the assets from the RDA's accounts (Fund 573 and 489) into a new City's account (Fund 504), by adopting Resolution 11-D0183-3. Under the agreement, the City would continue the five RDA projects (Water Front Improvements, Hotel Block Public Improvement, Lot #26, Mission Avenue, and Drainage Improvement) and expend funds on behalf of the RDA for project implementation. Between March 30, 2011, and June 29, 2011, the RDA transferred \$13,532,820 in cash from RDA's Funds 573 and 489 to City's Fund 504. However, on February 1, 2012, the City turned over \$13,532,820 in cash to the Successor Agency.
- On June 1, 2011, and January 31, 2012, the RDA made two loan repayments totaling \$60,196 (principal and interest) to the City, pursuant to a loan agreement the RDA entered into with the City on October 23, 2001. However, on April 30, 2013, the transaction was reversed and the City turned over cash totaling \$60,196 to the Successor Agency.

Pursuant to H&S Code section 34167.5, any asset transfers by the RDA to a city, county, city and county, or any other public agency after January 1, 2011 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 transfers in the amount of \$18,821,311 and turn over the assets to the Successor Agency. However, on various dates the City turned over cash totaling \$13,593,016 to the Successor Agency. Also, on August 26, 2014, the City turned over real property valued at \$5,228,295 to the Successor Agency. Therefore, no further action is necessary.

City's Response

In summary, appropriate action has been taken to return the applicable properties to the Successor Agency through the adoption of Resolution 14-R0516-OOB.

See Attachment for the City's complete response.

SCO's Comment

We acknowledge that the City has taken corrective action to return the assets to the Successor Agency. Therefore, no further action is necessary. The Order of the Controller has been adjusted accordingly.

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

Current Assets:	
March 22, 2011: real property (land held for resale)	\$ 700,000
March 30 – June 29, 2011: assets from RDA’s Fund 573 and Fund 489	13,532,820
June 1, 2011, and January 31, 2012: cash transfer for loan repayments	<u>60,196</u>
Subtotal	14,293,016
Capital Assets:	
March 22, 2011: real properties (land)	<u>4,528,295</u>
Total unallowable transfers to the City	18,821,311
Less:	
February 1, 2012: assets (City Fund 504) turned over to the Successor Agency	(13,532,820)
April 30, 2013: cash turned over to the Successor Agency	(60,196)
August 26, 2014: real properties (land and land held for resale) turned over to the Successor Agency	<u>(5,228,295)</u>
Subtotal	<u>(18,821,311)</u>
Total transfers subject to H&S Code section 34167.5	<u>\$ —</u>

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



CITY OF OCEANSIDE
OFFICE OF CITY MANAGER

September 4, 2014

Elizabeth Gonzalez, Chief
Local Government Complaint Bureau
California State Controller's Office
PO Box 942850
Sacramento, CA. 94250-5874

VIA EMAIL: EGonzalez@sco.ca.gov
and U.S. Mail

Dear Ms. Gonzalez:

This letter serves as the City of Oceanside's response to the State Controller Offices' letter dated August 26, 2014 concerning the Draft Asset Transfer Review Report ("Draft Report") for the Oceanside Community Development Commission. The letter was received by the City on September 2, 2014 and requests a response within ten days following receipt of the Draft Report.

In pertinent part, the Draft Report concludes that the Oceanside Community Development Commission transferred certain real property valued at \$5,222,295 to the City of Oceanside on March 26, 2011. The Draft Report also includes an order of the Controller demanding that these real properties be turned over to the Successor Agency. We understand this is the only order included in the Draft Report, and my comments are focused solely at this order.

Please be advised that on August 26, 2014, the Oversight Board of the Oceanside Successor Agency adopted Resolution number 14-R0516-OOB, a copy of which is attached. Among other things, that resolution authorized the Successor Agency to accept the transfer of the properties at issue in the Draft Report from the City of Oceanside. The Oversight Board took this action based upon discussion between Successor Agency and SCO staff at a teleconference on July 30, 2014.¹ Our staff was advised if the Oversight Board accepted the transfer of the properties from the City, the draft finding would be revised and the proposed order would be satisfied. Official action to return the properties has occurred at a publicly noticed meeting and we believe the Draft Report should be modified and the proposed Order stricken.

Pursuant to Health and Safety Code section 34179(e), all actions of the Oversight Board are required to be adopted by resolution. The resolution must be forwarded to the Department of

¹ Please note that your letter mistakenly reports that the results of the report were discussed with the City at an exit conference held on January 27, 2014. While a conference was held on that date, the Draft Report at that time included no findings or proposed orders related to the properties at issue in the most recent Draft. Instead, Oceanside was advised in January 2014 that the Oversight Board's adoption of Resolution 12-R0421-OOB validating the transfer of the applicable properties to the City was an acceptable resolution of the matter. SCO auditor Sarah Lo later informed Oceanside on July 9, 2014, that the SCO could no longer accept the June 26, 2012 action of the Oversight Board and that the assets would need to be returned to the Successor Agency.
300 NORTH COAST HIGHWAY • OCEANSIDE, CA 92054-2885 • TELEPHONE (760) 435-3085 • FAX (760) 435-3078

Finance ("DOF") for review. Our staff sent a copy of Resolution 14-R0516-OOB to DOF on August 27, 2014. On September 3, 2014, DOF indicated via email that it would review the resolution. We are confident based on discussions with DOF staff this week that all of DOF's questions have been addressed. I will advise you when DOF provides its formal approval of the Oversight Board's action.

In summary, appropriate action has been taken to return the applicable properties to the Successor Agency through the adoption of Resolution 14-R0516-OOB. We have taken this action without waiving any legal argument that the Oversight Board's action on June 26, 2012 ratifying the transfers was lawful and is now barred from legal challenge under Health and Safety Code section 34181(f). Please let me know if you have any questions concerning this response.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Jepsen", with a large, stylized flourish at the end.

Steven Jepsen
CITY MANAGER

cc: John P. Mullen, City Attorney



CITY OF OCEANSIDE

DEPARTMENT OF THE CITY CLERK
ZACK BECK

CERTIFICATION

STATE OF CALIFORNIA)

COUNTY OF SAN DIEGO)

CITY OF OCEANSIDE)

I, Holly Trobaugh, Assistant City Clerk of the City of Oceanside, hereby certify that the foregoing is a true and correct copy of Oceanside Oversight Board for the Successor Agency of the City of Oceanside Resolution Number 14-R0516-QOB, which was approved on August 28, 2014.

A handwritten signature in cursive script that reads "Holly Trobaugh".

Holly Trobaugh, Assistant City Clerk
City of Oceanside, California

Dated: August 26, 2014

1 RESOLUTION NO. 14-R0516-00B

2 RESOLUTION OF THE OVERSIGHT BOARD FOR THE
3 SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
4 OF THE CITY OF OCEANSIDE CALIFORNIA ACCEPTING
5 THE TRANSFER OF PROPERTY FROM THE CITY OF
6 OCEANSIDE AND AUTHORIZING THE CHAIRMAN TO
7 EXECUTE A QUITCLAIM DEED TRANSFERRING THE
8 PROPERTIES TO THE CITY OF OCEANSIDE TO BE USED
9 FOR GOVERNMENTAL PURPOSES

10 WHEREAS, on March 26, 2011, prior to the enactment of AB 1X 26, the Community
11 Development Commission of the City of Oceanside (CDC) transferred to the City of Oceanside
12 title to various parcels of land with no or de minimus revenue potential to be used for public
13 beach access parking as well as two properties that are subject to long term leases with
14 nonprofit organizations for civic uses; and

15 WHEREAS, on April, 20, 2012, the State Controller issued a letter to all successor
16 agencies requiring the return of assets transferred by former redevelopment agencies cities
17 occurring after January 1, 2011; and

18 WHEREAS, at the time the CDC authorized the transfer of the properties described
19 above on March 26, 2011, the CDC had full legal authorization to make such a transfer; and

20 WHEREAS, Health and Safety Code section 34181(a) authorizes the Oversight Board to
21 direct the Successor Agency to transfer ownership of assets that were constructed and used for a
22 government purpose to the appropriate public jurisdiction; and

23 WHEREAS, the properties previously transferred to the City of Oceanside on March 26,
24 2011 were constructed and continue to be used for government purposes including the provision
25 of public parking for coastal access. In addition, two properties are subject to long term leases
26 with non-profit organizations that provide civic uses; and

27 WHEREAS, on June 26, 2012, the Oversight Board adopted resolution 12-R0421-OOB
28 ratifying the transfer of the properties subject to the action of the CDC on March 26, 2011; and

WHEREAS, a copy of Resolution 12-R-0421-OOB was provided by Successor Agency
staff to the Department of Finance and no objection was provided; and

1 WHEREAS, the State Controller's Office (SCO) is charged with reviewing all land
2 transfers between January 1, 2011, and January 31, 2012. The SCO provided preliminary
3 findings to the Successor Agency staff several months ago and did not take issue with the
4 Oversight Board's action on June 26, 2012 ratifying the transfer of the subject properties to the
5 City. Moreover, DOF has completed several audits of other agencies and found that oversight
6 boards could ratify the transfer of land from a redevelopment agency to a city for continued
7 governmental purposes; and

8 WHEREAS, before it finalized its findings involving Oceanside and after the passage of
9 several months, the SCO raised a concern that the Oversight Board could not "ratify" the
10 actions of the Redevelopment Agency. Rather, according to the SCO, the Oversight Board
11 must make its own decision to transfer the properties that were quitclaimed in 2011. The SCO
12 relies upon a recent Superior Court case with the former Brea Redevelopment Agency to
13 support its position; and

14 WHEREAS, to address the SCO's preliminary findings, staff has prepared the following
15 resolution;

16 WHEREAS, the Oversight Board finds that each of the identified properties in Exhibit A
17 have no or de minimus revenue potential as they were constructed and continued to be used to
18 this date for an appropriate governmental purpose, namely the provision of limited parking for
19 coastal access as well as for lawful civic uses pursuant to two leases with nonprofit
20 organizations.

21 NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD FOR THE
22 SUCCESSOR AGENCY OF THE CITY OF OCEANSIDE AS FOLLOWS;

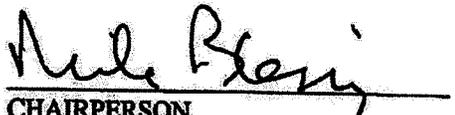
23 SECTION 1. The recitals set forth above are true and correct and incorporated herein.

24 SECTION 2. The Oversight Board authorizes the acceptance of those properties listed
25 in Exhibit A to the City and further authorizes the Successor Agency to quitclaim each property
26 to the City of Oceanside to be used for continued governmental purposes as public parking for
27 coastal access and for civic uses subject to leases approved before the dissolution of the
28 redevelopment agency.

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PASSED AND ADOPTED by the Oversight Board of Successor Agency of Oceanside
this 26th Day of August, 2014, by the following vote:

AYES: BLESSING, ARMSTRONG, HADLEY, WEISS
NAYES: NONE
ABSENT: NONE
ABSTAIN: DALEY, SCHALLOCK



CHAIRPERSON
OVERSIGHT BOARD OF SUCCESSOR
AGENCY
CITY OF OCEANSIDE

ATTEST:


SECRETARY

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel A:

That certain real property situated in the City of Oceanside, County of San Diego, State of California, being that portion of the Southeast Quarter of the Northeast Quarter of Section 22 Township 11 South, Range 5 West, San Bernardino Meridian, according to Official Plat thereof, as described in that certain Final Order of Condemnation in Superior Court of the State of California for the County of San Diego, North County Branch, Case No. GIN 002372-1 dated February 8, 2001, Community Development Commission of the City of Oceanside as Plaintiff and P-H- Oceanside, Ltd, et al, as Defendant, as filed in the Office of the County Recorder of San Diego County as Document No. 2001-0112409 on February 28, 2001, Official Records of San Diego County

Assessor Parcel No. 143-040-45

Parcel B:

That certain real property situated in the City of Oceanside, County of San Diego, State of California, being portions of Lots 2, 3 and 4 of Hill Street Annex to the City of Oceanside, according to Map thereof No. 1296 filed in the Office of the County Recorder of San Diego County, October 20, 1910, described in that certain Grant Deed dated May 21, 1980, from Fred J. Williams and Doris M Williams, to The Redevelopment Agency of the City of Oceanside (predecessor in interest to said Commission) as filed in the Office of the County Recorder of San Diego as Document No. 80-1748637 on May 30, 1980, Official Records of San Diego County

Assessor Parcel No. 147-020-39

Parcel C:

That certain real property situated in the City of Oceanside, County of San Diego, State of California, being the southwesterly 60 feet of Lots 5 and 6 in Block 10 of Oceanside Townsite, according to Map thereof No. 344 filed in the Office of the County Recorder of the County of San Diego County, July 1, 1885, described in that certain Grant Deed dated May 1, 2002 from Edward J. Arthur and Jean M. Arthur, as Trustees of the Arthur Declaration of Trust dated December 29, 1988, to said Commission as filed in the Office of the County Recorder of San Diego as Document No. 2002-0448329, on May 28, 2002, Official Records of San Diego County

Assessor Parcel No. 147-088-02

Parcel D:

That certain real property situated in the City of Oceanside, County of San Diego, State of California, being those portions of said Railway Company's 500-wide Oceanside Station Grounds as described in Deed dated February 19, 1887 to California Southern Railroad Company (predecessor in interest to said Railway Company) recorded February 23, 1887, in Book 78 of Deeds, Page 390, Records of said County, together with those portions of said Railway Company's 200-foot wide strip of land as acquired by said Railroad Company under the provisions of the Act of Congress of March 3, 1875 (18 Stat. 482), and as shown on a Map filed in the Office of the Secretary of the Interior, March 14, 1881, as approved May 12, 1881, lying in Sections 22, 26 and 27, Township 11 South, Range 5 West, San Bernardino Meridian, as more fully described in those certain Quitclaim Deeds from The Atchison, Topeka and Santa Fe Railway Company dated September 19, 1989, to said Commission as filed in the Office of the County Recorder of San Diego as Document No. 89-883345 and 89-

683346, respectively, on December 18, 1989, Official Records of San Diego County, being Parcel No. 1, Parcel No. 2, and Parcel No. 3 of said Document No. 89-683345, and Parcel No. 1 of said Document No. 89-683346

Assessor Parcel No. 147-160-08, 147-160-10, 147-350-16, 150-077-22 & 25, 150-263-22 & 23

Parcel E:

That certain real property situated in the City of Oceanside, County of San Diego, State of California, being Lots 3, 4, 5, and 6 of Strand Tract Addition according to Map thereof No. 936 filed in Office of the County Recorder of San Diego County, December 8, 1904, as more particularly described in that certain Grant Deed dated December 12, 1989 from David Rorick, Jr., et al, to said Commission as file in the Office of the County Recorder of San Diego as Document No. 89-679564, on December 15, 1989, Official Records of San Diego County

Assessor Parcel No. 147-264-03, 04, 05 & 06

Parcel F:

That certain real property situated in the City of Oceanside, County of San Diego, State of California, being a portion of said Atchison, Topeka and Santa Fe Railway Company's 600 foot wide Oceanside Station Grounds as further described in of that certain Final Order of Condemnation in Superior Court of the State of California for the County of San Diego, North County Branch, Case No. N81201 (Consolidated with N81757-1 dated April 17, 2000, Community Development Commission of the City of Oceanside as Plaintiff and Burlington Northern and Santa Fe Railway Company, et al, as Defendant, as filed in the Office of the County Recorder of San Diego as Document No. 2000-021076, on April 25, 2000, Official Records of San Diego County

Assessor Parcel No. 147-350-22

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

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