

City of Brisbane as Successor Agency

Agenda Report

To: City Council via City Manager
From: Deputy Finance Director
Subject: State Controller's Office Asset Transfer Audit
Date: November 18, 2013

Purpose:

To review State Controller's audit findings.

Recommendation:

To accept report and send to Oversight Board for resolution retroactively accepting transfer of assets from the Low Moderate Income Housing to the Brisbane Housing Authority and to direct staff to write a letter to the State Controller's Office disputing their findings of unallowable transfers.

Background:

When the redevelopment agency was dissolved in February 2012, the assets were transferred to the Successor Agency. In May 2012, the list of properties from the former redevelopment agency was presented to the Oversight Board and at that time it was decided that members of the Oversight Board could take a field trip to review these properties. (Multiple field trips were taken in August and September to assure compliance with the Brown Act.) At the December 12, 2012 Oversight Board meeting, a resolution was passed to transfer the governmental properties to the City of Brisbane. The Housing Fund properties were not transferred since they had a different process to follow. Once the Due Diligence was approved by the Department of Finance, the RDA Housing Fund properties were to be turned over to the City's Housing Authority.

Discussion:

This is the fourth audit of the same items regarding the dissolution of the redevelopment agency. We have been audited by a firm on behalf of the county, we have been audited by our outside auditors, and we have done two audits with another firm for the due diligence reports (DDR's). The same material has been presented to each of them.

According to the engagement letter, "The State Controller's Office (SCO) was charged with determining the dissolved redevelopment agency's compliance with Assembly Bill X1 26 regarding the disposition of the former redevelopment agency's assets. (Health & Safety Code section 34167.5)"

In order to make that determination, the SCO conducted an audit of the Brisbane Successor Agency and Housing Authority books during the weeks of September 30, 2013 to October 10, 2013. The scope of their review generally covered the period of January 1, 2011 through January 31, 2012.

We do not agree with the finding of this audit which is:

- The Brisbane Redevelopment Agency performed unallowable transfers to the City of Brisbane in the amount of \$137,099 on October 4, 2011. The transfers were performed to pay interest expense on cash advances that the City made to the RDA. These transfers will need to be reversed and the assets are to be returned to the Successor Agency. The Successor Agency is then directed to dispose of these assets pursuant to H&S Code sections 34177 (d) and (e).

Date	From RDA Fund#	Reference	Description	To City Fund#	Amount
10/4/2011	281	Journal# 00-15	Annual Interest of 4% of \$2,295,995.92 Advance from Marina Fund	555	\$91,840
10/4/2011	282	Journal# 00-15	Annual Interest of 3.5% of \$1,293,108 Advance from General Fund	100	\$45,259
				<u>Total</u>	<u>\$137,099</u>

This is looking at transactions retroactively. We have made these interest payments since fiscal year 2005/06 and the redevelopment agency was not dissolved at the time of the October 2011 payments. Our auditors have stated that the State Controller's Office does not have the authority to do any clawbacks, but we know that the state will do what it wants to do.

Should we be required to return these funds, \$91,840 will come from the Marina Fund and \$45,259 from the General Fund.

- The Brisbane Redevelopment Agency (Fund# 283) performed unallowable transfers to the City of Brisbane Housing Authority (Fund# 883) in the amount of \$14,655,364 on February 1, 2012. The assets transferred included \$13,410,252 of current assets and \$1,245,112 of capital assets. These transfers will need to be reversed and the assets are to be returned to the Successor Agency. The Successor Agency is then directed to dispose of these assets pursuant to H&S Code sections 34177(d) and (e). However, it appears that some of these assets also may be subject to the provisions of H&S Code section 34181(a) and (c).

Current Assets		
Account Name	Account#	Amount
Cash Balance	10999	4,262,262.19
Loan Recv. Bridge Housing	14031	2,336,085.61
Loan Recv. First Time Home Buyers	14035	431,500.00
Loan Recv. Habitat	14036	355,290.00
Advances to Other Funds	14250	4,099,278.25
Land Held For Resale	15012	1,925,835.52
	Total:	13,410,251.57


Capital Assets		
Asset I.D.	Description	Amount
7221180	Senior Housing	441,000
7281070	125 Visitacion	223,265.99
7281080	163 Visitacion	404,066.60
7281100	348 Monterey Ave	176,779.14
	Total:	1,245,111.73

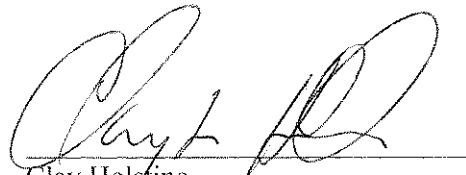
Some of the confusion on the part of the SCO is our use of the same fund numbers. All cash was transferred to the Successor Agency including all the cash in the Low and Moderate Income Housing Fund. That cash was used to pay the Recognized Obligation Payments for January to June 2012 and the tax increment for that period was returned to the county for distribution to the underlying taxing entities. After the Housing DDR was approved by the Department of Finance we did not formalize the transfer of the non-cash assets to the Housing Authority.

The Oversight Board approved the the transfer of the property, just not by resolution. In order to correct this finding, the Oversight Board needs to retroactively approve the transfer of assets from the Successor Agency to the Brisbane Housing Authority effective February 1, 2012 by resolution.

Fiscal Impact:

The fiscal impact depends on the legality of the interest payment claw back.


Betsy Cooper,
Deputy Finance Director


Clay Holstine,
City Manager