

2003-2004 SANTA CLARA COUNTY CIVIL GRAND JURY

INQUIRY INTO LOS GATOS REDEVELOPMENT AGENCY FINANCIAL OPERATIONS

Summary

An inquiry was conducted into the financial records of the Los Gatos Redevelopment Agency (RDA) with specific emphasis on tax revenue from the County of Santa Clara (County) and its distribution to the Los Gatos-Saratoga high school district and six other taxing entities. The criteria for retention of RDA records by the town of Los Gatos (Town) were also the subject of this inquiry.

The 2003-2004 Santa Clara County Civil Grand Jury (Grand Jury) concluded its inquiry with two findings and two recommendations. The recommendations, if adopted, will improve understanding of the RDA's financial records and add the RDA's files to the Town's collection of permanent records.

Background

In response to a citizen complaint, the Grand Jury conducted an inquiry into the management of the RDA. The complainant had questioned the amount of tax monies transferred to the schools during past years as shown in the Town's reports and the increasing property values in the Town's redevelopment area as shown in County reports. The complainant was unable to obtain the financial records requested from the Town.

The RDA was created, after the 1989 earthquake, on November 25, 1991 under Town Ordinance 1882. The Central Los Gatos Redevelopment Project includes an area of 404,000 square feet, a little more than 9 acres, surrounding the downtown area. This is called the *Project Area* that is designated in the redevelopment plan for redevelopment and revitalization. New income from property taxes (i.e. the increase in property taxes within the redevelopment project area resulting from assessed value that exceeds the base year assessed value) is called the *Tax Increment*. The *Tax Increment* in this area is currently about \$4,000,000 per year, and has been growing at about eight percent per year.

Taxing entities such as the county, school districts, and special districts, that serve the *Project Area*, continue to receive all the tax revenues they received the year the redevelopment *Project*

Area was formed (the base year). In addition, taxing entities receive a negotiated portion of the *Tax Increment* from the redevelopment *Project Area* called a *Pass-through* or they may elect to receive the allowed 2% annual property tax increase, which is referred to as the *Election Amount*. The choice to receive this *Election Amount* or the *Pass-through* amount is only available initially and can not be changed thereafter.

Some Redevelopment Agencies pay each taxing entity their contracted *Pass-through* percentage directly, while the County pays each entity the *Election Amount* directly. However the RDA had not requested this arrangement until 2002. Until then, the RDA followed a common Redevelopment Agency practice - to receive the *Election Amount* from the County. The *Election Amount* should have been forwarded to the taxing entities.

Facts

Payments:

- Contrary to what should have happened, the RDA had not forwarded the *Election Amount* payments to the taxing entities even though the RDA had received these payments from the County for the years FY 96/97 through FY 01/02. During this six-year period the monies remained at the RDA and not the taxing entities.
- A principal of Urban Analytics LLC, an independent auditor, uncovered the incorrect financial spreadsheet listings of the yearly tax increments with reference to *Election Amounts* during an RDA bond audit conducted in May 2002.
- The Town's current Finance Manager corrected the financial spreadsheet records and, in a letter dated August 1, 2002 to the County Property Tax Manager, requested that the past six-year *Election Amounts* be sent directly from the County to the taxing entities and that this be the future protocol between the RDA and the County with reference to the transmittal of *Election Amounts*.
- A check for \$1,496,142.62, from the RDA to the County, was enclosed in the above letter for transmittal of the monies, by the County, to five districts. The monies were distributed as follows:

\$401,251.91 – Los Gatos-Saratoga High School District
\$481,687.20 – Santa Clara County
\$303,481.42 – Central Fire District
\$278,287.61 – Town of Los Gatos
\$ 31,434.48 – Mid Peninsula Regional Open Space District

Records:

- The Town established a Records Management Policy (Town Resolution 1990-22) on January 16, 1989, before the RDA was created.
- The Records Management Program in the Administrative Manual for the Town became effective on August 25, 1993 but did not specifically mention the RDA.

- An internal memorandum from the Town's office staff to the Finance Manager dated September 9, 2003 referenced the current State Records Management Guidelines and listed the guidelines specific to RDA budgets and bond issues as requiring permanent retention.
- One of the key projects in the Town's budget for FY 2003-04 is the development of a records management policy and program by the clerk's office.

Finding I

No notations had been made on the Town's corrected financial spreadsheets, for future reference, to ensure that the Election Amounts shown were for reference only and were not distributed by the RDA, but rather directly by the County to the taxing entities.

Recommendation I

Permanent notation should be made in the RDA financial spreadsheet records referencing the newly established protocol with the County for the distribution of the *Election* monies to the taxing entities.

Finding II

RDA records are not listed as part of the Town's Record Retention Policy.

Recommendation II

The RDA should be formally included in the Town's Records Management Policy with the retention of RDA records being classified as permanent.

PASSED and **ADOPTED** by the Santa Clara County Civil Grand Jury on this 11th day of March 2004.

Richard H. Woodward
Foreperson

References

Documents

Map of Central Los Gatos Redevelopment Project by Los Gatos Planning, dated November 21, 1994.

Draft Report “Fiscal Consultant Report for the Los Gatos Redevelopment Agency Tax Allocation Bonds 2002 Series A.”

Financial spreadsheet from Finance Manager’s computer records showing “Election Amounts per Original Calculations” and “Revised Amounts per Urban Analytics,” dated May 20, 2002.

Letter dated August 1, 2002 from the Los Gatos Finance and Administrative Manager to the Property Tax Manager for the County of Santa Clara.

Inter-Office Memorandum to the Los Gatos Finance Manager entitled “Current State Records Management Guidelines,” dated September 9, 2003.

Page IV-10 from the Los Gatos 2003-2004 Budget.

Interviews

Meeting with the Los Gatos Redevelopment Manager on July 16, 2003.

Meeting with the Los Gatos Finance and Administration Director on September 11, 2003.

Telephone conversations with Urban Analytics LLC.

Telephone conversations and fax transmittals dated October 17, 2003 with the Los Gatos Finance Manager.

Meeting with the former Santa Clara County Tax Manager on January 29, 2004.