



Proposal To Eliminate Redevelopment Incites Frenzy

Agencies Plead Case In Sacramento, Approve Flurry Of New Projects

BY JOSH STEPHENS

As with so many trends, the use of tax-increment financing for redevelopment began in California. Since being created here in 1952, this vital aspect of redevelopment has spread to 48 other states. And yet if Gov. Jerry Brown’s current budget proposal passes, it may very well die in the state where it was born.

It is not going quietly.

In the two weeks since Brown announced his intention to eliminate redevelopment in California as part of his proposal to cut the state’s \$24 billion deficit, what used to be a relatively obscure system intended to eradicate blight has been thrust into tumultuous debate.

Redevelopment agencies are taking aggressive steps to protect their funds – though it’s not clear whether these steps will withstand legal scrutiny. And the California Redevelopment Association has gone into “campaign mode” to try to block Brown’s proposal.

Mayors from the state’s ten largest cities have met with Brown to plead their case, but so far Brown has not backed down. Meanwhile, a

poll by the Public Policy Institute of California released Jan. 26 suggest that cities face an uphill battle: 66 percent of Californians favor the elimination of redevelopment.

At stake is \$5 billion in redevelopment tax-increment funds currently controlled by redevelopment agencies, mostly associated with cities.

The state’s redevelopment agencies, led by the California Redevelopment Association, are insisting that the tax increment that they reap from redevelopment projects belongs to them. Their argument centers on the notion that redevelopment monies create significant positive externalities that other forms of state or local spending do not. These redevelopment advocates –say that up to 300,000 jobs and countless billions of dollars worth of development are in jeopardy.

Despite the stakes, many redevelopment officials say that the governor’s announcement caught them by surprise. Just two months after winning a major victory with the passage of

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Brown Forces Robust, Necessary Debate over Redevelopment

insight
WILLIAM FULTON

What would life be like in California without redevelopment?

This is not a question that most cities, planning consultants, or urban developers in California have ever wanted to ask. But now Gov. Jerry Brown has forced the issue. Cleverly skirting the long-standing legal skirmishes over whether it’s constitutional to take money away from redevelopment agencies, Brown has proposed simply abolishing the entire system, which can be accomplished via statute. The redevelopment establishment – accustomed to head-on assaults on its revenue but not its *raison d’être* – never saw this one coming. “Shell-shocked” is far too kind a term to describe their current state.

To be sure, killing redevelopment would create a major disruption for the

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RDAs come out swinging against the GovernorPage 12

Adding another chapter to the state's redevelopment drama, State Controller John Chiang has announced his auditors were beginning reviews of 18 redevelopment agencies across the state in an effort to obtain facts on how RDA funds are used and the extent to which they comply with laws governing their activities.

"The heated debate over whether RDAs are the engines of local economic and job growth or are simply scams providing windfalls to political cronies at the expense of public services has largely been based on anecdotal evidence," Chiang said in a statement. "As lawmakers deliberate the Governor's proposal to close RDAs and divert those funds to local schools and public safety agencies, I believe it is important to provide factual, empirical information about how these agencies perform and what they bring to the communities they serve."

The 18 RDAs selected for the reviews represent urban, suburban and rural communities. They are geographically diverse and represent a mix of varying populations. The reviews will look at, among other things, how the RDAs define a "blighted" area, whether they are appropriately paying for low- and moderate-income housing as required by law, whether they are accurately "passing through" pay-

ments to schools within their community, and how much RDA officials, board members and employees are being compensated for their services.

Intended to assist lawmakers in their budget debates, the reviews will be completed in early March. The chosen municipal RDAs are as follows: San Jose, Los Angeles, Richmond, Pittsburg, Fremont, Pasadena, Fresno, Palm Desert, Placentia, Parlier, Hercules, Anderson, Citrus Heights, Calexico, Coronado, and Desert Hot Springs; plus the RDAs of Riverside County and Sacramento County.

San Diego County may gain over 20,000 acres of federally designated wilderness area. Rep. Darrell Issa (R-Vista) is sponsoring the Beauty Mountain and Agua Tibia Act of 2011, which would add over 7,700 acres to the Agua Tibia Wilderness and over 13,000 acres to the Beauty Mountain Wilderness. The legislation is a repeat of 2009 legislation which failed in Congress.

A lawsuit against the Pechanga Band of Luseño Indians will tentatively go forward in a federal court, according to a Jan. 3 memorandum by Judge Dale S. Fischer. The city contends that the tribe owes \$2 million of a \$52 million, 21-year agreement to compensate the city for impacts on city infrastructure used by visitors to the tribe's

popular Pechanga Resort and Casino, which sits just outside the city limit. There was debate over the jurisdiction for the suit given the unusual nature of the agreement between city and tribe. A November ruling had indicated that federal court was not the proper venue, but the judge's latest decision comes after a response by city attorneys. The tribe has now asked that the court throw out the lawsuit on the grounds that the tribe's sovereign immunity means that the court has no jurisdiction in the case.

California will be well represented in the American Planning Association's 2011 National Planning Awards, to be presented at the APA's national conference in April.

The National Planning Excellence Award for Public Outreach went to the Los Angeles Department of City Planning's SurveyLA public participation program. SurveyLA is an attempt to catalog all of the historic architectural resources. The APA cited the program's determination to foster extensive public engagement and its use of a website, quarterly newsletters, an Emmy-award winning education video airing on local television, DVDs distributed to neighborhoods in English and Spanish, multi-lingual

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We at *CP&DR* knew that 2011 would be a big year for redevelopment news. Just two issues ago we featured redevelopment as our front-page story, evaluating how agencies were coping in the wake of this year's funding transfer to the state. But we – like seemingly everyone else in the state – had no idea that the story would be this big.

Governor Jerry Brown's proposed elimination of redevelopment is a story with 400 angles – at least. That's roughly the number of agencies statewide that now face elimination in the governor's budget proposal, which is responding to a budget crisis of monumental proportions. Officials from seemingly every city in the state have been expressing their anxieties over everything from pet projects to regional employment to economic development. Whether tax increment financing is actually good for any of these things remains an open question at the heart of this frenzied policy debate.

editor's note

Love it or hate it, redevelopment is one of the driving forces in land use in California. It is of special interest to *CP&DR* because it is one of the few land use programs that operates – partially, at least – on a statewide level. So we will be following this story closely, monitoring both the budget debate

and gauging the future of redevelopment.

This is the first issue that has gone to press since the governor's announcement. With the exception of Legal Digest and some news briefs, every article in this issues deals with redevelopment. Lest this slate seem like overkill, it's no exaggeration to say that we could have published twice as many stories on twice as many angles as sub-topics. As it is, with this special issue as a kickoff, we will be following up in the coming weeks with more news and analysis as we try to discern what redevelopment does – and does not – mean for California.

–JOSH STEPHENS



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information brochures, YouTube, Twitter, and a volunteer program.

The Advancing Diversity & Social Change Award went to Alvaro Huerta. Huerta is a positive role model for Latino communities and the planning field. He has mentored numerous individuals interested in pursuing urban planning educations. He is a visiting scholar at UCLA's Chicano Studies Research Center and a visiting lecturer at UCLA's Department of Urban Planning.

The San Bernardino Mountains Land Trust has finalized the purchase of 260 acres of privately owned land, which it will now add to the San Bernardino National Forest. Complicating matters, the series of parcels had been owned by individuals spread across the country. The stretch of open space will preserve an important wildlife corridor connecting the Cajon Mountain area to the San Gabriel Mountains. With this acquisition, the trust increases its total to over 9,000 acres of land turned over from private hands to the U.S. Forest Service.

Before leaving office, former Governor Schwarzenegger made four key transportation appointments. Developer Thomas Richards and *LA Business Journal* publisher Matthew Toledo will join former Anaheim Mayor Kurt Pringle on the High-Speed Rail Authority's board of directors. Additionally, former congresswoman Yvonne Burke will head the statewide Transportation Commission. After her time in Congress, Burke served as an L.A. County Supervisor, where she chaired Metro during a contentious transit strike in the 1990s.

Following months of negotiations, the city of San Francisco and the America's Cup Event Authority reached an agreement to bring the world's premier sailing race to the San Francisco Bay. The competition is scheduled to begin Sept. 7, 2013, with preliminary races beginning in July of 2010. Boosters argued that the bay's intersection of the natural and built environments would provide an ideal backdrop for the race. Several Bay Area cities

will play a role in supporting the event. The City of Richmond is vying to establish an America's Cup Village as well as wharfs to house the state-of-the-art catamarans. The City of Berkeley is convening a group of public agencies and private sector groups tasked with determining how to take advantage of the influx of cup contenders, support staff, and tourists. A study last July suggested that the event could boost the regional economy by as much as \$1.4 billion.

Los Angeles' historic Union Station is not owned by the public, but rather by a Texas-based properties holding company. However, the L.A. County Metropolitan Transportation Authority (Metro) and the California High-Speed Rail Authority are in talks to buy the 38-acre facility. This month, the HSR board allocated \$30 million to help Metro complete the transaction. Because negotiations are ongoing, Metro has not disclosed an estimate of the cost of the purchase, but they are expected to contribute in the lion's share and thus get management privileges. With Metro building twelve major mass transit projects in the coming decades, the agency sees an obvious strategic advantage in owning the county's largest transit hub. Each day, hundreds of thousands of travelers pass through Union Station on buses, Metro Rail, Metrolink, Amtrak California, and eventually high-speed trains. Metro's ownership should facilitate the bureaucratic and technical challenges of threading high-speed rail through Union Station. Additionally, the surrounding property could be redeveloped into transit-oriented housing and commercial space.

The Endangered Species Coalition has issued a report outlining the potential local environmental toll of climate change. According to the study, California's water system is going to be increasingly stressed. In particular, the Sacramento River Delta and the Sierra Nevada mountains ranked fifth and sixth, respectively, in their nationwide "top ten hot spots" for threatened species. In the Delta, warmer

temperatures could drive out fish species adapted to cool water. And in the mountains, warmer and drier weather could dramatically reduce the amount of viable habitat.

Irvine's Great Park – long in the works – has been nudged further towards construction with the announcement of plans to build nearly 5,000 new homes in the surrounding neighborhoods. The recession had stalled the project, but it appears to be back on track now that investors have issued a \$400 million line of credit. The housing units will include detached homes, townhouses, and affordable apartments. In addition to the housing units, the developer, Five Point Communities, plans to break ground on 1.2 million square feet of retail and commercial space by 2013. School board officials are working to ensure that enough tax increment funding is established to fund much-needed new schools in Irvine. Those details will be hammered out in the coming months, according to district officials.

In Monterey Park the EPA has entered into a settlement with 275 parties that sent waste to a landfill now under Superfund designation. The landfill, which operated from 1948 to 1984, took in hazardous waste without meeting the stringent design standards that would be required today. The parties in question will contribute \$17 million to cover cleanup costs. In the history of the cleanup project, hundreds of polluters have contributed a total of over \$600 million.

What could have been a multi-million dollar business hub is now in flux following a decision by the Oakland City Council to reconsider granting the requisite business licenses. Due to legal concerns, the council has put on hold plans to create an industrial marijuana district for cultivation and processing. Alameda County District Attorney Nancy O'Malley has advised the city's incoming mayor that the city's permits would provide no legal cover to the new businesses. Even though U.S. Attorney General Eric Holder vowed not to prosecute medical marijuana users, City Attorney John Russo has received word from U.S. Justice Department attorneys that Oakland's plan pushes the envelope too far. An industry study suggested that a proposed 170,000-square foot warehouse could create up to \$70 million in medical marijuana sales and 400 jobs.

The Southeastern Economic Development Corporation of San Diego has filed a lawsuit against Morgan Stanley, accusing the bank of mismanaging its pension plan. The suit alleges that bank officials authorized riskier investments than should have been allowed under the pension plan's guidelines. The agency contends that the bank is liable for up to half a million dollars. ■



legal digest

Private Development Must Pay Prevailing Wage

Partial Public Funding Qualifies Entire Project As Public Works

BY KATE J. HART

The Second District Court of Appeal has upheld a determination by the Department of Industrial Relations that required public improvements in a master planned community project to abide by prevailing wage laws. The court further ruled that Mello-Roos proceeds are “public funds,” and that once a project is deemed a “public work” under the Prevailing Wage Law, all public portions of the project are subject to the law – including those public improvements that are privately financed.

This case is significant because it turns the historical interpretation of “public work” under the Prevailing Wage Law on its head. Typically, the analysis to ascertain whether each public improvement is a public work is based on whether a portion of the required public improvement work received a direct allocation of public funds. Under this decision, developers will be required to pay prevailing wages for work on public facilities and infrastructure financed only partially by public funds.

The Department of Industrial Relations (DIR) sets prevailing wage rates for different regions of the state based largely on union-level wages in the largest cities. Developers can often find contractors and subcontractors willing to work for less than the prevailing wage.

The project at issue in this case – the Rosedale project in the City of Azusa – involves development of more than 1,200 homes, upwards of 50,000 square feet of commercial space, and various public infrastructure on the site of a former nursery. In an agreement with the city, developer Azusa Land Partners (ALP) agreed to conditions of approval requiring construction of certain public infrastructure and improvements, including a

public school and adjoining park, sewer and water facilities, and street work, on behalf of the cities of Azusa and Glendora.

The planning, design and construction of the facilities were to be funded through Mello-Roos bonds issued by a Community Facilities District (CFD). Under agreements between the city and the developer, ALP was obligated to perform the public improvements required by the city as conditions of project approval, even if the cost of the improvements exceeded the amount of the authorized bond funds, which was \$120 million. Ultimately, the cost of the improvements totaled \$147 million. The CFD issued only \$71 million in bonds, leaving \$76 million in public improvements to be borne by the developer.

In 2007, DIR determined that ALP was required to comply with prevailing wage laws for all construction of public improvements required by the city’s conditions of approval for the Rosedale project. After the agency rejected ALP’s administrative appeal, the developer sued. ALP argued the project was not a public work under the Labor Code and, accordingly, it should be required to pay prevailing wages only for the public improvements actually financed with bond proceeds – not for privately funded infrastructure improvements for which no bond proceeds were received. A Los Angeles Superior Court judge ruled against ALP, and a three-judge panel of the Second District upheld the ruling on appeal.

In defining the term “public work” under the Prevailing Wage Law (Labor Code §§ 1720-1861), the court held that the entire project constituted a “public work” because

the project was funded *in part* through public funds. The court based much of its decision on 2001 legislation that expanded the universe of projects subject to the Prevailing Wage Law (see *CP&DR*, September 2002[1]).

“The phrase ‘work done for’ in §1720 subdivision (a)(2) includes all the infrastructure work performed for the CFD and required by the city as a condition of its approval of the project, not merely the work for which ALP received funding through the CFD,” Justice Jeffrey Johnson wrote for the court.

The court also held that under the plain meaning of § 1720, the Mello-Roos bond proceeds constituted public funds. The court focused on the phrase “paid for in whole or in part out of public funds” and reasoned that the city and CFD are public entities that directed Wells Fargo, the holder of the loan proceeds, to pay the developer for public works constructed.

Finally, the court concluded that the obligation to pay prevailing wages applies to all required public works improvements, including those that are privately funded. The court ruled that “once the determination is made that the project is a ‘public work’ under [the statute], the entire project is subject to the prevailing wage laws.” The court reasoned that the law does not contain a requirement that funds be directly allocated to specific works of public improvements or require dollar-for-dollar reimbursement for infrastructure improvements. The court found that “public work of improvement” means *all* public infrastructure and improvements required as conditions of approval.

Assuming the court’s holding stands, ALP will be required to – CONTINUED ON PAGE 5

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pay prevailing wages on the \$76 million in public improvements that it privately financed. ■

■ The Case:

Azusa Land Partners v. Department of Industrial Relations, No. B218275, 2010 DJDAR 19029. Filed December 21, 2010.

■ The Lawyers:

For ALP: Patrick Perry and Nancy Fong, Allen, Matkins,

Leck, Gamble, Mallory & Natsis, (213) 622-5555.

For DIR, Vanessa Holton, Anthony Mischel and Christopher Jagard, Department of Industrial Relations, (415) 703-4240.

takings

Court Affirms Legality Of Mobile Home Park Rent Control

BY CORU BADGLEY

An 11-judge panel of the Ninth U.S. Circuit Court of Appeals has thrown out the court's 2009 decision that invalidated the City of Goleta's mobile home rent control ordinance. This time, the court ruled the ordinance was not an unconstitutional taking of property because the mobile home park owners who brought the challenge acquired the property long after ordinance was in effect.

In 2009, a three-judge panel for the Ninth Circuit made a controversial determination that a mobile home rent control ordinance constituted a regulatory taking (*Guggenheim v. City of Goleta*, (9th Cir. 2009) 582 F.3d 996; see *CP&DR Legal Digest*, October 15, 2009 [↗]). The ruling appeared to threaten the viability of mobile home rent control schemes in more than 100 California cities and counties.

The city sought and received an en banc hearing before a larger panel of judges. Because of the precedent-setting nature of the 2009 ruling, numerous interest groups – property rights organizations, the California Association of Realtors, affordable housing advocates, the League of California cities and others – filed amicus briefs. In an 8-3 decision, the en banc panel vacated the court's previous decision, holding that the mobile home park owners were not deprived of distinct investment-backed expectations. Therefore, the rent control ordinance did not constitute a taking of their property, the court ruled.

When the plaintiffs, Daniel and Susan Guggenheim and Maureen Pierce, originally purchased Ranch Mobile Estates in 1997, five years prior to filing the lawsuit, the property was located in the unincorporated area of the county. The county code, origi-

nally adopted in 1979 and amended in 1987, imposed the identical rent control ordinance that was subsequently adopted by the city. This fact became crucial to the appellate court's en banc decision.

The city adopted the rent control ordinance on the day in 2002 when Goleta incorporated. The measure imposed a cap on the amount mobile home park landowners could charge for rent and provided procedures for increasing the rental amount. The result of this law, according to the plaintiffs, was to transfer wealth from the landowner to the tenant because the artificially low rents made the individually owned coaches more valuable.

Under the *Penn Central* test, a court must look at three primary factors when determining whether a regulatory taking has occurred: (1) the economic impact of the regulation on the claimant, (2) the character of the government's action, and (3) the extent to which the regulation has interfered with distinct investment-backed expectations. In this case, the court found that the third primary factor weighed greatly in favor of the city. The plaintiffs purchased property that was already burdened by the rent control ordinance, and plaintiffs had no expectation that the rent control ordinance would be lifted at some future date. Even when the city incorporated, the city never gave any indication of eliminating the ordinance, the court determined.

"Since the ordinance was a matter of public record, the price they [the Guggenheims and Pierce] paid for the mobile home park doubtless reflected the burden of rent control they would have to suffer," Judge Andrew Kleinfeld wrote for the court. "They could have no 'distinct investment-backed

expectations' that they would obtain illegal amounts of rent."

"The people who really have investment-backed expectations that might be upset by changes in the rent control system are tenants who bought their mobile homes after rent control went into effect," continued Kleinfeld, who was a dissenter in the original 2009 ruling. "Ending rent control would be a windfall to the Guggenheims, and a disaster for tenants who bought their mobile homes after rent control was imposed in the '70s and '80s."

In a dissenting opinion far longer than the court's ruling, Judge Carlos Bea wrote that the majority had erroneously converted *Penn Central*'s "three-factor balancing test into a 'one-strike-you're-out' checklist." He also said the majority wrongly ignored the Supreme Court ruling in *Palazzolo v. Rhode Island*, 533 U.S. 606 (2001) (see *CP&DR Legal Digest*, August 2001) [↗], in which the court permitted a property owner to challenge a pre-existing regulation. The majority held that *Palazzolo* "is of no help to the Guggenheims" because the cases differ.

Although the city won this round, the battle may not be over. The court indicated that this lawsuit was only a facial challenge of the ordinance itself, and, if the city applied the ordinance in an unconstitutional manner, the property owners could bring an "as-applied" challenge at a later date. ■

■ The Case:

Guggenheim v. City of Goleta, No. 06-56306, 2010 DJDAR 19204. Filed December 22, 2010.

■ The Lawyers:

For Guggenheim: Robert S. Coldren, Hart, King & Coldren, (714) 432-8700.

For the city: Andrew W. Schwartz, Shute, Mihaly & Weinberger, (415) 552-7272.

ceqa

Piecemeal Environmental Review Sinks Kern County Mining Project

BY KATE J. HART

The parts of a Kern county mining project are not greater than – or a substitute for – the whole, as far as the California Environmental Quality Act (CEQA) is concerned.

A county reviewing a mining reclamation plan is required to review the entire proposed mining project and not just the reclamation element, pursuant to the CEQA, the Fifth District Court of Appeal has ruled. The court ruled that Kern County should not have segmented the reclamation plan from the mining project that would trigger the need for reclamation in the first place.

“[W]hen the county focused on the reclamation plan alone, it committed the fallacy of division whereby a larger, whole project was improperly divided into component parts for piecemeal consideration. That was error,” Justice Stephen Kane wrote for the unanimous three-judge appellate panel. The fact that the mining would occur on federal land and had been approved by a federal agency did not matter, the court determined. It ordered the county to prepare an environmental impact report for the entire project.

In 2005, Carlton Global Resources submitted an application to Kern County to surface mine 250,000 cubic yards of calcite marble per year for 30 years from a 40-acre foothill property owned by the Bureau of Land Management (BLM). Carlton also sought approval for a reclamation plan to restore the land after the completion of the mining, as required by the state Surface Mining and Reclamation Act (SMARA). The BLM conducted environmental review of the project under the National Environmental Policy Act (NEPA), and the county conducted environmental review of only the reclamation plan under CEQA. After determining all impacts of the reclamation activities could be offset to a less than significant level, the county adopted a mitigated negative declaration and approved a conditional use permit for the reclamation plan.

Neighboring property owners sued the county, arguing the county should have been the “lead agency” for the entire project – not only the reclamation plan – and that the failure to consider the whole mining proj-

ect along with the reclamation plan violated CEQA. Kern County Superior Court Judge Kenneth Twisselman ruled for the county. The Fifth Appellate District agreed with the neighbors and reversed the trial court’s decision.

Kern County’s zoning ordinance specifically indicated that surface mining operations required both a surface mining permit and a reclamation plan to be approved by the Planning Commission. The mining application clearly contemplated both a surface mining permit as well as a reclamation plan. Nonetheless, based on a Memorandum of Understanding (MOU) among the State of California, the U.S. Forest Service and the BLM, and the fact that the BLM approved the project after NEPA review, county planners and attorneys directed that the county’s environmental review and approval contemplated only the reclamation plan. They reasoned that the BLM was the actual permitting agency for the mining operations. The appellate court disagreed with this approach, in part because the MOU did not preclude environmental review under CEQA.

The Court of Appeal first held that the county was the lead agency under both SMARA and CEQA and, thus, was required to conduct environmental review of the entire project. The Court reasoned that a section in SMARA (Public Resources Code § 2770 (a)) and the county’s own ordinance deemed the county to be the lead agency. Specifically, a federal agency cannot be a CEQA lead agency because it is not a state public agency.

Given that it was clear the county was the lead agency for the mining project, Justice Kane wrote, “It was improper for the county to sever the mining operations from the scope of its review under SMARA.”

The court also addressed the scope of a project as defined by CEQA and emphasized that the term “project” refers to “the whole of an action” and “the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term ‘project’ does not mean each separate governmental agency.”

The court distinguished the two mining cases cited by the county – *El Dorado County Taxpayers for Quality Growth v. County of El Dorado*, (2004) 122 Cal.App.4th 1591 (see *CP&DR Legal Digest*, December 2004 [link]), and *City of Ukiah v. County of Mendocino*, (1987) 196 Cal.App.3d 47. Those cases involved existing, vested rights to mine and, thus, a review of only newly proposed reclamation plans by the local agencies was proper.

Next, the court held that the MOU did not authorize the county to avoid environmental review of the mining project. The MOU merely acknowledged that cities and counties have a legal obligation to conduct environmental review of mining projects and reclamation plans under SMARA, and that federal agencies also need to consider environmental effects of mining projects, the court determined.

The court noted that the MOU required the local and federal agencies to cooperate with one another on mining projects, and allowed local lead agencies under CEQA to adopt documents prepared under NEPA, assuming those documents met the requirements of SMARA and CEQA. However, the court found that the county “failed to avail itself of the cooperation provisions of the MOU,” and that the county did not assist with the NEPA document or consider the NEPA document in any way, as was required by the MOU.

In conclusion, the court set aside the county’s approvals and ordered it to prepare an environmental impact report that addresses potentially significant effects on air quality, traffic, water resources and biology. ■

■ The Case:

Nelson v. County of Kern, No. F059293, 2010 DJDAR 17585. Filed November 19, 2010.

■ The Lawyers:

For Nelson: John L.B. Smith, Christopher L. Campbell and Amanda M. Neal, Baker, Manock & Jensen, (559) 432-5400.

For the county: Theresa Goldner and Charles F. Collins, county counsel’s office, (661) 868-3850.

For Carlton Global Resources: Scott A. Morris, William T. Chisum and Hanspeter Walter, Kronick, Moskovitz, Tiedemann & Girard, (916) 321-4500.

The core of California redevelopment

law tells redevelopment agencies what they can fight against – blight – and it enables them to identify project areas in which to do so. Generally, the law does not, however, indicate what blight should be replaced with. As a result, critics have charged that redevelopment often funds vanity projects such as stadiums at the expense of what they consider more socially beneficial developments.

The one major exception to this is affordable housing. A 1976 update to state redevelopment law requires that redevelopment agencies set aside 20% of their tax increment revenue for the provision of affordable housing. The California Redevelopment Association estimates that redevelopment agencies have contributed to the production of 98,000 units of affordable housing since 1993. Set-aside funds totaled \$5.6 billion in 2007-08. In short, redevelopment is a common source of funds for affordable housing developed by nonprofits. Redevelopment funds are in almost every affordable housing deal in California and are the second-biggest source of funds in the state, after federal funds.

Advocates of affordable housing fear that Gov. Jerry Brown's proposed elimination of redevelopment will also be a death knell for affordable housing.

"Our program has generated about 1,000 units, and then (with the budget proposal) it just stops," said Philip Lanzafame, Chief Assistant Director of Community Development in Glendale. "Every project that we could conceive of in the future is in jeopardy."

Although the proposed budget would redirect much of redevelopment's tax increment to local agencies and services, it does not provide for ongoing funding of affordable housing. It merely provides that existing housing funds that are already in redevelopment agencies' coffers would be transferred to local housing authorities. Obviously, those funds will be available to complete affordable housing projects already planned. But after that transfer, localities would be on their own.

"About \$1 billion per year flows from the tax increment," said Paul Zimmerman, executive director of the Southern California Association of Nonprofit Housing. "None of the proposals on the table replace those programs and that financing."

Although estimates vary, most agree that California faces a grave shortage of both market-rate and affordable housing.

Redevelopment monies are one of the three main funding sources used to make affordable developments viable statewide. The others are state bond funds and federal funds, administered through the Department of Housing and Urban Development. Many cities have their own housing programs, including affordable housing trust funds.

The federal government is threatening to cut back on HUD funding, and Proposition 1C bonds – the largest state housing bond – had, as of December 2009, only \$800 million left out of a total of \$2.8 billion approved by voters in 2006.

"With the bond proceeds from the Prop 1C and the infrastructure package, just about spent, redevelopment monies for low and moderate income housing are about the only state-mandated program left that addresses the housing prices," said Zimmerman.

By many accounts, redevelopment has not addressed housing all that well. A September 2010 report by the Senate Office of Oversight and Outcomes found that many of the 42 agencies in its sample spent the majority of their housing funds on administration and planning rather than on development of actual housing. The report contends that agencies have little accountability and spend housing monies in questionable ways.

REDEVELOPMENT WATCH

JOSH STEPHENS

Redevelopment Demise Could Hinder Affordable Housing

Reports such as this have fueled the notion that redevelopment agencies are ill-equipped to provide for affordable housing, regardless of the social benefit that the housing would provide. Affordable housing advocates say, however, that these failures are not reason to do away with redevelopment agencies.

Julie Spezia, executive director of advocacy group Housing California, said that agencies that are not spending their affordable housing monies may be doing so at the behest of their cities – not because they are averse to developing affordable housing.

"We don't think that the redevelopment agencies are running amok and doing things that the cities aren't actually wanting them to do," said Spezia. In fact, in most cities the city council and redevelopment board are one in the same.

As such, Spezia and Zimmerman both said that redevelopment provides critical funding and that the system should be reformed rather than eliminated.

If they are eliminated, even the fate of the agencies' existing housing funds is uncertain. The budget calls for the funds to be "shifted to local housing authorities." Though this budget language implies that funds would go to public housing authorities that build and run public housing projects – as opposed to nonprofit and market-rate developers that include affordable housing in their portfolios – this intention is far from certain.

Larger cities have municipal housing departments that promote affordable housing in a variety of ways, and it is unclear whether those departments would be eligible (or able) to receive funds – or whether the funds could be directed at the discretion of local officials.

In many places, neither municipal departments nor public housing authorities exist, and the only viable agencies would be county housing authorities, which could receive significant windfalls depending on how many cities are in their jurisdictions and how much funding those cities have amassed.

In the absence of clarification from Sacramento, however, the elimination of redevelopment could be synonymous with the elimination of affordable housing entirely.

"When you get down to a lot of cities that are under 50,000, many of them don't even have housing departments," said Zimmerman. "Their redevelopment agencies are their housing departments."

Larger cities will likely be able to absorb those funds and continue with redevelopment agencies' housing plans.

"We would do whatever we're called upon to do," said Doug Guthrie, general manager of the Los Angeles Housing Department. "We've got good staffing here. Many of the programs we run are very similar to CRA's programs." Guthrie added that CRA is a crucial partner in the department's five-year housing program, contributing \$50 million of tax increment investment annually. Other cities are not so bullish.

"I don't know that Sacramento has thought all of this through," said Glendale's Lanzafame. "It's all pretty vague, and we're all left wondering, what if, and what's going to happen." ■

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people who work in the redevelopment establishment – redevelopment agency employees, lawyers, consultants, bond underwriters, and others who have devoted their life to the intricacies of the California redevelopment system. Some would lose their jobs or, at the very least, a lot of their income; some would keep doing what they’re doing now; and some would adapt to the new world. For these folks – who, frankly, make up a significant portion of the audience for this publication – the prospect of a world without redevelopment is pretty scary. But what else would happen?

The main thing that would happen is that California’s tax-increment machine would come to a halt. Some projects would continue to move forward for those redevelopment agencies that still have a lot of bond revenue. But new activity would cease, and gradually cities would have to figure out how to attract real estate development – and build public infrastructure – in priority areas without using the funds available from tax-increment. On the one hand, it would create a more level playing field; on the other hand, it could place priority locations with expensive problems – brownfields, downtowns with small parcels – at a significant disadvantage compared to greenfield sites.

Over the decades, redevelopment has been idealized as a highly effective tool to “save cities” and demonized as an evil plot by which big government and big developers squeeze the little guy. At different times in different cities, of course, it has been both. In recent years, however, redevelopment has increasingly been about one thing only: Cities capturing property tax increment dollars.

Though complicated as a technical process, redevelopment in concept is pretty simple. It relies on finding one condition – blight, whatever that is – in order to obtain unusual powers of eminent domain and capture the lion’s share of future increases in property tax revenues (otherwise known as tax increment).

Eminent domain used to be a big deal – the only way to remove the hold-out brake-shop owner from blocking construction of your convention center – but the truth is it’s rarely used these days. Fire-breathing redevelopment opponents have scared cities out of using it much. What cities are really after is the property tax increment.

In a post-Proposition 13 world, it is the only way that a city can increase its share of the property tax pie. By unilaterally declaring an area “blighted” and creating a redevelopment project area, a city that typically receives about 15% of property tax revenue can capture – even today – about 65% of new revenues. (Older project areas still get close to 100% of this “tax increment”.) In other words: Find blight and most of the future tax revenues in an area belong to you, not to the county and the school district. The state gets involved because, under court cases governing equalization of school funding, the state must replace all school funds lost to redevelopment.

Is it any wonder that blight, as redevelopment wags like to say, is in the eye of the beholder? Is it any wonder that cities have pursued redevelopment as aggressively as possible in the three decades since Proposition 13 outlawed any increase in property tax rates? Is it any wonder that California uses tax-increment financing far, far more than any other state? And it is any wonder that the redevelopment establishment has had to play a defensive game in Sacramento – giving up tax-increment and flexibility inch by inch – since the last time Jerry Brown was governor?

But other than redirecting property tax revenue from counties and school districts to a city’s redevelopment fund, what is the endgame? The redevelopment establishment is fond of referring to redevelopment as California’s largest economic development program – and they’re right. As Brown’s proposal has reminded everyone, redevelopment is a multibillion-dollar-a-year economic development program. But is it meant to generate a net increase in economic activity? Or is it meant to direct real estate development into specific, preferred locations – to combat poverty, for example? The redevelopment establishment uses both of these rationales depending on the situation, and in fact redevelopment is used for both these purposes – and many more besides.

This has always been the big question about redevelopment in California. Tax-increment financing is an extremely flexible local funding tool. And part of the reason that it’s so popular – and used in so many different ways, some legitimate and some not – is that it’s just about the only tool cities have. This flexibility has always been the appeal of redevelopment to local officials. It’s also what drives Sacramento finance nerds crazy about it.

And therein lies the dilemma. On the one hand, redevelopment is the only game cities have to play – and those that play it well can show dramatic results. On the other hand, if you’re the governor of California and you’re going to put several billion dollars a year into economic development, would you pick this? A hodge-podge of subsidies for both affordable and market-rate housing, big sales-tax generators such as retailers, some industrial development, hotels, and whatever else each city around the state thinks is important?

The good thing about the current debate is that, after decades of attack-and-retreat skirmishing between Sacramento and the redevelopment establishment, Jerry Brown has finally called the question. For the first time in six decades, California has the opportunity to re-examine redevelopment’s goals and purpose. After all, Brown is doing something more than just calling for the end of redevelopment. He has almost also promised “a new tool” for local governments to pursue economic development.

But that moment could be squandered in the heat of the moment. The default solution would be more of the same: the redevelopment establishment again coughs up some more tax increment and gives up some flexibility, in exchange for continuing to exist. This is just an extension of what’s been happening for years.

On the other hand, Brown could try to use his leverage to force more fundamental changes that make redevelopment more useful and politically sustainable without doing away with it completely. For example, California could adopt a more targeted tax-increment program, aimed at specific situations such as transit-oriented development and brownfields. And such reform could do away with the blight finding, which has little more than a façade for decades.

Yes, there would be a lot less flexibility for cities and redevelopment would be a smaller program under this kind of reform. But it would bring California in line with other states. Priority locations would still qualify for a break. And redevelopment abuse would be much less likely – making it a less juicy target for Sacramento year after year and, for that reason, a tool that cities know they’ll have. That would be a real step toward a sustainable California – not just fiscally but politically as well. ■

Cities Scramble To Approve New Projects

– CONTINUED FROM PAGE 1

Proposition 22, they find themselves scrambling to shore up both funds and public support.

“We’re both shocked and disappointed that there was no forewarning and no discussion with any of the interested parties before the governor released his budget,” said Long Beach Redevelopment Agency Executive Director Amy Bodek.

The proposal would shut down all 400-plus city and county redevelopment agencies and thousands of redevelopment project areas. Officials from every city in California have lamented the threat to both specific projects and their local economies. (Counties do not use redevelopment as much as cities do.) Projects that are in jeopardy include such high-profile projects as a new football stadium in San Diego, a new Oakland A’s ballpark in San Jose or Fremont, museums, transit oriented developments, and infrastructure projects throughout the state.

Many agencies have gone so far as to approve new projects in the past two weeks in order to shield funds from a shutdown that would take place July 1 if the governor’s proposal is enacted. The proposal makes it clear that the state will continue to honor existing obligations, via what the governor’s proposal describes as “successor agencies.”

The board of the Los Angeles Community Redevelopment Agency approved \$930 million in new investments for over 200 planned projects Jan. 14. That figure includes \$35 million for the recently unveiled Broad Art Museum on Grand Avenue and \$50 million for an adjacent Frank Gehry-designed mixed use complex. It also includes \$20 million for the highly publicized “Clean Tech Corridor,” plus countless smaller projects that are slated to receive CRA investments of as little as \$50,000. The Los Angeles City Council still must approve the projects.

The city council in Long Beach approved \$1.2 billion in total obligations, including both ongoing and new projects. The San Jose Redevelopment Agency approved a more modest \$58 million in new obligations – including funds for a new ballpark – while Fremont approved \$140 million for the construction of its new BART station. The Culver City Council even enacted a purchase agreement, worth \$14 million, to transfer ownership of an existing municipal parking garage from the city to the redevelopment agency. The move would presumably get the garage on the agency’s books and thus decrease the amount of funds that the state would be able to absorb and reallocate.

In Glendale, the city council approved a host of projects – including a library, football fields, and pedestrian improvements – worth a total of \$480 million in tax increment, according to Philip Lanzafame, Chief Assistant Director of Community Development. The redevelopment agency is also supporting a highly publicized expansion of the Americana at Brand mall.

“We entered into cooperation agreements with the city to obligate those projects that were included in our five-year implementation plan,” said Lanzafame.

Long Beach’s Bodek said that the threat of being shut down July 1 evinces a “misunderstanding” of how redevelopment projects work. She said that her agency reserves the right to continue entering into new contracts, especially on projects – such as a fire station currently under construction – that are already underway but may need amendments.

“We cannot afford to jeopardize those projects,” said Bodek.

Though securing funds may seem like an underhanded move while the budget debate just gets started, Lanzafame said, “all the cities that are working on this strategy or similar strategies had been put in this position by Sacramento, because there had been very little conversation

with local jurisdictions.”

Many officials had in fact expected the Legislature to pass legislation preventing this rush to secure funds, but thus far none has materialized. Senate Pro Tem Darrel Steinberg has indicated that he favors a compromise between the governor and redevelopment agencies and is not pushing any such legislation.

In an initial report published the day after Brown released his budget proposal, the Legislative Analyst’s Office warned that agencies would attempt to fast-track projects and therefore decrease the amount of tax increment that the state could recoup. The governor’s budget estimates that once all other obligations are paid, the elimination of redevelopment will create a net gain of \$1.7 billion for the state. Most of these monies will be returned to localities in the form of funding for schools and trial courts.

CRA spokesperson Krista Noonan said that CRA does not have accurate records of what agencies are doing statewide. She said that CRA is telling agencies they can approve projects “that are all set and ready to go, but if you have future projects we’ve told them to hold off on those.”

Indeed, that’s far from the only thing that has eluded accurate record-keeping. Just about every aspect of the governor’s proposal is at issue, ranging from the true value of the re-appropriated increment to the legality of the plan itself. Redevelopment officials argue that redevelopment is enshrined in the State Constitution and that Proposition 22 prevents the state from appropriating local redevelopment, and transportation, funds. The governor’s office will likely argue, however, that redevelopment agencies exist only with the approval of the Legislature and governor and therefore can be eliminated.

Beyond the legal arguments lies a deeper, and seemingly intractable debate over the effectiveness of redevelopment. Almost all involved – including CRA Executive Director John Shirey – acknowledge that the state’s dire fiscal situation requires shared sacrifice. However, redevelopment officials contend that the value of redevelopment to localities far outweighs the property tax revenues that are diverted from the state’s coffers. They say the proposal is therefore “penny-wise and pound-foolish.” (Also, redevelopment agencies have already surrendered more than \$2 billion to balance the state’s budget.)

But even this contention relies more on anecdotal evidence and casual studies than on a comprehensive, rigorous evaluation of redevelopment. State Controller John Chiang announced Jan. 25 that he would review 18 agencies statewide by mid-March (see *InBrief*).

Redevelopment has suffered some scathing critiques, most notably from both the Los Angeles Times and the Senate Office of Oversight and Outcomes in September, which found that many agencies were failing to produce affordable housing and were instead stockpiling the 20 percent of their tax increment that is supposed to go to affordable housing. More broadly, agencies have been accused of cronyism, overly liberal definitions of blight, and lack of transparency.

“Are there abuses in redevelopment agencies in terms of a more expanded view of blight? Certainly,” said Renata Simril, managing director at real estate services firm Jones Lang LaSalle and formerly a developer with Forest City Enterprises. “That’s not an issue of all redevelopment agencies are bad. It’s more of an issue of an appropriate... regulation and approval method.”

Academically, the governor’s proposal has stirred debate over whether redevelopment actually creates a net benefit statewide or whether its incentives and subsidies simply

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No Scholarly Consensus On Value Of TIF Financing

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draw development into certain areas rather than others.

Redevelopment has vexed scholars mainly because, they say, it is almost impossible to design a study that filters out other variables and hones in on a casual relationship between tax increment spending and the economic activity that is associated with redevelopment. It is, in short, impossible to evaluate what would have been developed in the absence of redevelopment.

“It’s hard to do an in-depth study on a policy like redevelopment,” said Jed Kolko, research fellow at the Public Policy Institute of California. PPIC’s only major study of redevelopment came out in 1998 and did not find significant benefits from redevelopment. Studies in other states have been similarly inconclusive.

“The TIF area might grow or it might just be pulling growth from other areas,” said Joan Youngman, senior fellow with the Lincoln Institute of Land Policy. “That’s one of the concerns: If you’re just moving development around instead of creating something new.”

As well, even if redevelopment does legitimately create local multipliers that justify the investment of tax increment money, critics of redevelopment still note that when dealing with the statewide budget, everything is relative.

“I think you can say that (there are positive externalities) about almost everything, and certainly people do say that about other areas of the budget that are also slated for large reductions as well,” said Jean Ross, executive director of the California Budget Project, a nonprofit watchdog organization. “We’re looking at large cuts proposed to health programs that pull in, in some cases, 2-to-1 federal match. Those certainly have large multiplier effects.”

This lack of certainty has meant that the debates over the governor’s proposal fall largely along the lines of self-interest. City councils across the state have passed resolutions opposing the proposal while others – especially firefighters and teachers unions – have praised it as an appropriate windfall.

“For the state continuing to subsidize a program that has mostly local benefits, it seems like a program that would be appropriate for realignment or shifting it down to the local level,” said Mark Whitaker, senior fiscal and policy analyst at the Legislative Analyst’s Office.

Counties are caught somewhere in the middle, according to Paul

McIntosh, executive director of the California Association of Counties. Counties have frequently feuded with municipal redevelopment agencies over the fact that redevelopment can detract from county coffers.

“There has been that natural rub and a great deal of skepticism on behalf of counties looking at cities that are using redevelopment... for projects that are, in the county’s opinion, questionable redevelopment projects,” said McIntosh. However, he also noted that 23 counties have their own redevelopment agencies, which the governor’s proposal would eliminate alongside the city agencies.

But the proponents of redevelopment argue that a statewide perspective is beside the point: redevelopment, they say, was designed as a catalyst for local development, especially in places that need it most desperately.

“There is an inherent gap between the cost of construction and the rent that you can derive in those markets,” said Simril.

“Greenfield development is easier than infill development. Infill development requires incentives,” said Chris Redfearn, director of the Graduate Program in Real Estate at USC. “There’s a sense that agglomeration is more beneficial for society – that we all benefit from having cities organized in a certain way.”

The nature of those benefits – or lack thereof – will likely be scrutinized in the coming weeks. Big-city mayors will be meeting with the governor to plead their case, and the Senate and Assembly budget committees will be holding hearings Feb. 3 and 7, respectively. ■

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A Punching Bag Called Local Government

The clamp on local governments in California grows only tighter and tighter.

The number and detail of state mandates continues to increase. The ability to raise revenue continues to decrease. The amount of litigation never decreases. Redevelopment is in doubt. Keeping a city or county out of financial or legal trouble seems to get more difficult every year.

Those were the implicit – and sometimes explicit – messages during the UCLA Extension Land Use Law and Planning Conference in Los Angeles last Friday. As always at the conference, expert practitioners and analysts reviewed last year’s lawmaking, rulemaking and courtroom activity, and speculated about the year ahead. It was difficult to detect many rays of light for cities or counties.

Naturally, everybody was abuzz about the future of redevelopment. San Gabriel City Manager Steve Preston described the situation as “turmoil” right now. Since Gov. Brown revealed a budget proposal that would eliminate local redevelopment authority, a number of redevelopment agencies have taken hasty action to obligate tax increment revenues in order to protect the money from the state. However, the administration, the Legislative Analyst’s Office and others in Sacramento are looking skeptically at the quick activity, and it’s likely that the state will define “obligate” very tightly, Preston warned.

Regarding other revenues, we learned that under Proposition 26, “a charge is a tax unless it’s not,” said Peter Detwiler, staff director of the state Senate Governance and Finance Committee. The Chamber of Commerce-backed the initiative requiring two-thirds voter approval for any revenue increase except those in seven exempt areas. Detwiler said development impact fees grounded on a solid nexus study or general

plan are exempt, as are permit processing fees.

However, conference co-chair Susan Hori, a partner at Manatt, Phelps & Phillips, was not so sure about the status of development impact fees because the Proposition 26 language is vague. The building industry is hinting that impact fees may not be exempt, and things like indirect source fees that some air pollution control districts have begun to exact could be targets for Proposition 26 challenges, she said.

Hori said that cities and counties could get around Proposition 26 by signing development agreements, because developers willingly accept any fees or taxes that are part of such an agreement. But attorney William Abbott, of Abbott & Kindermann, pointed to a recent court case as a warning about development agreements. In *Mammoth Lakes Land Acquisition, LLC v. Town of Mammoth Lakes*, the city was ordered to pay \$32 million in damages and attorneys fees for violating a development agreement. The city was liable because a development agreement makes a city subject to contract law, limiting the city’s discretion, he explained.

Attorneys Michael Zischke, of Cox, Castle & Nicholson, and Susan Brandt-Hawley, who runs a small Sonoma County law office, made clear just how often cities and counties find themselves defending California Environmental Quality Act lawsuits. The attorneys, who typically represent opposite sides, covered no fewer than 25 CEQA decisions that the California Supreme Court or state appellate courts handed down during 2010, including 17 in which a city or county were directly involved. Local governments won some, lost some and even these two experienced attorneys often disagreed on what decisions meant. Still, it wasn’t hard to draw a few conclusions: A city – CONTINUED ON PAGE 12

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or county dealing with a controversial land use matter will get sued on CEQA grounds, and success in court depends on factors not entirely within the local government's control.

Of course, an environmental impact report for a development project or growth plan needs to explain very clearly the sources of water to serve future homes and businesses. Hori recommended that all water assessments take note of extensive litigation over management of the Delta smelt, because that litigation has the potential to restrict the export of water from the Sacramento-San Joaquin River Delta. The litigation has been ongoing for years and is nowhere near a final resolution. Good luck with plans that rely on imported water – even water that the State Water Project has delivered in the past.

On a different environmental front, David Smith, a vice president of development company DMB Associates, noted a quandary that will arise as regional planning agencies move forward on SB 375 implementation and the required sustainable communities strategies. The point of the law is to encourage denser development in advantageous

locations. This development should provide regional benefits, but it will cause localized congestion – which raises both CEQA and local political issues for cities.

And there was more. Senate Bill 812 from last year requires housing elements to analyze the needs of developmentally disabled people. It's a noble concept, but how, Detwiler asked, are city planners supposed to comply with this mandate? He offered no suggestions.

The Williamson Act has served as the cornerstone for agricultural land preservation in California since the 1960s, but its future is "very uncertain," Detwiler observed. The state this fiscal year is providing \$10 million to counties that lose money because of Williamson Act property tax breaks, but even that minimal amount is unlikely to survive the current budget debate.

I continue flipping the pages of my notebook and the 450 pages of conference materials looking for an encouraging sign for local government. I'll let you know if I find one.

–PAUL SHIGLEY | JANUARY 25, 2011 ■

CRA Leadership Vows Not To Compromise With Governor

While redevelopment might once have been considered a key weapon in the War on Poverty, redevelopment officials now find themselves gearing up for a different kind of battle. They rallied the troops today, laying out a strategy for opposing the elimination of redevelopment in order to help close a \$24 billion budget gap.

In a videoconference today the leadership and legal counsel of the California Redevelopment Association vowed that the organization would not compromise in its effort to turn back Gov. Jerry Brown's bid to eliminate redevelopment in the state. CRA Executive Director John Shirey repeatedly made a life-or-death analogy, saying "you can't compromise when there's a gun to your head." According to the governor's budget proposal, released last week, all 500-plus of the state's redevelopment agencies would be dissolved as of July and their tax increments freed for a variety of purposes. This threatened dissolution, according to Shirey, gives the redevelopment community no room for negotiation.

Shirey, along with attorney Brent Hawkins and CRA Legislative Associate Dave Jones, pointed to a number of aggressive legal and lobbying strategies that CRA and its member agencies plan to employ in the coming weeks. Shirey recommended that member agencies lobby elected officials, submit op-eds to their local papers, and rally allies such as builders, developers, and business associations. CRA's public relations offensive revolves around an oft-cited claim that redevelopment project areas represent over 300,000 private sector and construction jobs statewide. Shirey admitted, however, that "there's not really a pile of studies" to prove (or disprove) the effectiveness of redevelopment. He noted that redevelopment generates roughly \$2 billion annually in revenue but stopped short of insisting that the amount represents a net gain caused by redevelopment activities.

On the legal front, CRA officials said that dissolution of redevelopment would violate as many as three provisions of the state and/or fed-

eral constitution: Proposition 22, Article 16, Sec. 16 of the California Constitution, and/or a violation of the contract clause of the state and federal constitutions. Jones called this situation a "conundrum" for the state. They vowed that if lobbying fails to persuade the Legislature to reject the governor's proposal, they would mount legal challenges.

Despite the governor's aggressive actions towards redevelopment, Shirey stopped short of vilifying him, admitting that the state is in dire financial straits and praising the governor for wanting to balance the budget "in an honest way." He did, however, emphasize that redevelopment "didn't get the state into this mess." He also took swipes at the firefighters and teachers unions, both of which, he said, have been angling to free up the redevelopment tax increment for educational and public safety purposes. Jones noted that the conflict between redevelopment and education "is the crux of our problem" because it pits redevelopment against education, which is of course popular among voters. Shirey insisted that this is also a false conflict because redevelopment monies often go towards school construction and fire stations.

During the videoconference, many of the questions from agency participants revolved around existing obligations and the possible transition that would occur if and when redevelopment is abolished. CRA officials emphasized that the Legislature has yet to pass any legislation freezing new obligations and that all existing contracts and legally binding agreements will be honored. Although he encouraged members not to think about dissolution, he said that he has yet to hear concrete plans for what form the "successor agencies" might take. Jones indicated that, rather than take the place of redevelopment agencies, they would likely "wind down and put redevelopment out of business."

CRA officials are intending to ramp up their lobbying efforts in anticipation of the meeting of the Assembly Budget Committee on State Administration, scheduled for Feb. 7.

–JOSH STEPHENS | JANUARY 20, 2011 ■

