

# California Shifts Towards Bike Sharing

BY JOSH STEPHENS

## WATCH OUT, COPENHAGEN.

Like so many a rider at the back of the peleton, California cities have long lagged behind their European counterparts in their embrace of bicycling. But they are now clipping in and gearing with the dramatic arrival of bike sharing. With zero major bike-sharing systems currently in the state, no fewer than five California cities will be adopting pilot projects by mid-2013.

Touted as an ideal amenity for tourists and a “first-mile, last-mile” solution to free commuters from private automobiles, bike sharing is a short-term, high-tech twist on bike rentals. Automated stations are placed at close intervals – sometimes as few as two or three blocks – from one another, and users with a day pass or annual membership can check out bikes with the swipe of a card, and then deliver them back to any other vending station upon arriving at their destination.

“Nobody is going to be commuting across the city on bike share,” said Eric Bruins, planning and policy director for the Los Angeles County Bicycle Coalition. “It gives them mobility within the destination area for

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Rendering of Bike Nation bike kiosk at Long Beach Convention Center

COURTESY BIKE NATION

## Sacramento Has Not Heard the Last of CEQA Reform

**insight**  
WILLIAM FULTON

THE SUDDEN LATE AUGUST EFFORT to reform California Environmental Quality Act gained surprising traction before it fall short – the victim, apparently, not only of opposition from some environmentalists and Democrats but also a lack of time to fully vet the ideas. But one thing is clear: With the economy still sluggish and an increasing number of Democrats – including Gov. Jerry Brown – impatient with CEQA’s bottomless pit of process and lawsuits, the reform effort will be back next year. And it’s got a good chance of going somewhere next year.

Like pension reform, CEQA reform shows how

California politics is changing. There’s mounting pressure to jettison longstanding laws and policies that are viewed as holding back the state’s economy. Some traditional Democratic constituencies are advocating reform. This is putting the die-hard defenders – public employee unions on pensions, environmentalists on CEQA – in an extremely defensive position, and they are putting huge pressure on Democratic legislative leaders to hold the line.

For decades, CEQA has been the favorite whipping boy of Republican legislators, greenfield home-builders and big business groups like the Chamber of

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**THE FEDERAL RAILROAD ADMINISTRATION (FRA)** has issued a Record of Decision that approved the alignment from Merced to Fresno, allowing construction to begin next year. The FRA approved the “Hybrid Alternative” which was selected by the Authority’s board of directors in December. The “Hybrid Alternative” is designed to minimize the need to acquire property; require the shortest length of elevated track; be the least expensive to build; entail the fewest potential noise impacts; and minimize the impacts on parks and other public space.

**SAN BERNARDINO COUNTY** will be spending \$13.3 million to create a 76-acre habitat for the federally protected, endangered San Bernardino kangaroo rat. Since the impending construction of the restructured Interstate 15/Interstate 215 junction near Devore will destroy the current wildlife habitat, the 76 acres of open land will replace the lost habitat. Federal rules require that replacement habitat be three times as large as the habitat lost. The interstate structure will cost \$324 million and will add one northbound lane and one southbound lane on Interstate 15.

**XPRESS WEST** (formerly DesertXpress) and the Los Angeles County Metropolitan Transportation Authority are conducting initial discussions about the possibility of running same-train service between downtown Los Angeles and Las Vegas. DesertXpress’ will route from Las Vegas to Victorville at 150 miles per hour and commuter trains will run between Los Angeles’ Union Station and Palmdale. The proposal would allow Xpress West trains to continue from the line’s terminal in Victorville on to Palmdale and Union Station, albeit at conventional speeds. DesertXpress’ construction costs are estimated around \$6.9 million and the company is seeking a \$5.5 billion taxpayer loan via the Federal Railroad Administration.

**PLYMOUTH RESIDENTS** are opposing the possibility of having three casinos in Amador County. Earlier this year, the U.S. Bureau of Indian Affairs ruled in favor of the Lone Band of Miwok Indians’ proposal to build a \$250 million gambling resort just off Highway 49 in Plymouth on 228 acres of land. Previously, Amador County, already home to the Jackson Rancheria Casino & Hotel, failed to stop the construction of a third

casino by the tribe, Buena Vista Rancheria, near the town of Ione. The Lone Band of Miwok Indians argue that the new casino would increase tourism and bring hundreds of jobs to Amador County and the Shenandoah Valley wine region. Others contend that the development would generate congestion and crime.

**THE LOS ANGELES CITY COUNCIL** approved a controversial new zoning code that would significantly increase density in Hollywood by adding high rises and thousands of units of housing. Allowable floor-to-area ratios on certain parts of Sunset and Hollywood boulevards could potentially be doubled. Opposition from Hollywood preservationists argues that the new regulations will cause congestion on both residential and arterial streets. Planners contend that Hollywood can accommodate greater density because of its intensive public transit service, including several Red Line subway stops.

**TRANSIT ADVOCACY GROUP** Reconnecting America released a report concerning the need to preserve affordable housing as Los Angeles County embarks on its “30/10” plan to develop major elements of transportation and public transit infrastructure. The report contends that low-income residents are often displaced when high-end residential development accompanies new transit stops, thus creating pockets of gentrification in transit-oriented areas. To prevent this displacement, the report recommends that cities take stock of their current number of Rent Stabilization Ordinance properties and ensure that owners and landlords understand their obligation to maintain their affordable units, rather than allow them to be torn down and replaced with market-rate housing.

**THE CITY OF SACRAMENTO** won a \$15 million federal grant to restore the historic downtown Sacramento Valley Station. The city will renovate the 86-year old brick building into a modern-day, mixed-use building leading to the downtown railyard. Another project, an \$11 million earthquake update paid for by state transportation funds, is schedule to be completed next summer. Construction will begin next summer and the project will build a rail service in the city, fix the depot, and create space in the building to lease for offices, retailers and other businesses.

**THE CITIES OF** Santa Ana, Garden Grove and the Orange County Transportation Authority are discussing a streetcar system that links Santa Ana Regional Transportation Center with a soon-to-be-built transportation center in Garden Grove. The project would cost an estimated \$180 million for the streetcar to run to Ratt Street and an additional \$250 million to connect to Garden Grove. Santa Ana is currently conducting an environmental report on the project.

**THE PROPOSAL FOR A NEW COSTCO** in the controversial Napa Pipe development is under review by the Napa County Planning Commission. County officials will examine how a new Costco would fit with an expansion of up to 945 housing units. A three-person panel approved the construction of 700-945 units to be built on the western half of the area. The environmental impact report for Costco is still being researched.

**THE LOS ANGELES** Metropolitan Transportation Authority has chosen LA-based Gruen Associates and UK-based Grimshaw Architects to develop a master plan for a mixed-use redevelopment of Union Station and the 40 acres around it. Though no design concepts have been approved or presented in detail, the project promises to be one of the largest, if not the largest, transit oriented development in the United States. The two firms beat out several international practices for the opportunity to redesign Downtown Los Angeles. The plan is to link the surrounding neighborhoods to the transit station, making the rail system more accessible to pedestrians.

**WITH ONE GLARING EXCEPTION**, California cities dominated a recently released report on the quality of parks and open space in the 40 largest U.S. cities. ParkScore, a project of the Trust for Public Land, ranked San Francisco, Sacramento, San Diego, and San Jose first, second, eighth, and thirteenth, respectively. The report’s methodology is based on three main factors of park acreage, services and investment (such as playgrounds), and access (within a ten-minute walk) and ratings are expressed on a 100-point scale. San Francisco scored 74.0. In addition to providing comprehensive city profiles, the website

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provides ESRI-integrated maps that show areas needing parks the most, and those serviced by parks, and provides layers such as population and land use for the user to overlay and examine the relationships between these factors and park availability. With a rating of 21.5, Fresno ranked last among the 40 cities.

**IRVINE MAY ALLOW** more than 10,000 to be built around Orange County's Great Park in exchange for \$200 million from the developer. The city is currently releasing a draft of the environmental impact report on the proposal by developer Fivepoint Communities Inc. The project would double the number of residences constructed on the property bordering the Great Park that was previously designated for commercial use and offices.

**CALIFORNIA CITIES** fared well in the 2012 City Livability Awards, given by the U.S. Conference of Mayors. The cities of West Hollywood and Napa both received "outstanding achievement" among cities with populations of less than 100,000. West Hollywood was recognized for its new library, which serves as a multipurpose community center embracing the city's diverse population; it includes a career center, an LGBT collection, an HIV and wellness collection, disabled accessibility equipment and software, as well as community meeting and performance spaces. The Napa River Flood Protection Project/Downtown and Riverfront Revitalization was recognized as a critical public works project that has doubled as a catalyst for an explosion of economic growth along the river, known as "downtown Napa's renaissance". In the large city category, San Diego received "outstanding achievement" for its car2go program, the first all-electric car sharing program in North America.

**A LAWSUIT** filed by Syncora Guarantee in Sacramento County contends that the dissolution of redevelopment agencies in California is a violation of existing contracts and cheats bondholders and insurers. However, the Department of Finance claims the state had

the right to dissolve redevelopment agencies, and assures that existing bond obligations will be met.

**ARTPLACE AMERICA** announced its second annual round of grants intended to promote creative placemaking across the United States. Six of the 47 grants, totaling \$14.7 million, went to civic and nonprofit organizations in California. The California recipients include: Cal State Stanislaus' College of the Arts in Modesto; the City of Los Angeles Department of Cultural Affairs; the City of San Jose Public Art; and the Cornerstone Theater Company, Esperanza Community Housing Corp., and Southern California Institute of Architecture, all in Los Angeles. Funded projects include the installation of artistic illumination in downtown San Jose, theater projects about the local food movement at Cornerstone Theater, and new public performance and lecture spaces in and around Sci-Arc. The grants are intended to promote the expression of art in the public realm.

**IN ADDITION TO** traditional vulnerabilities, a new study by The Pacific Institute contends that incorporating social vulnerability in climate change response strategies is critical to California's adaptation plans for the future. Effects of climate change can range from extreme heat and wildfires to coastal flooding and water scarcity; however, social and economic factors such as age, income and access to transportation can have an effect on communities' ability to prepare for and to respond to climate change events to come. The involvement of these communities in the planning of adaptation plans is critical to understanding potential impacts, as well as gaining the participation of socially vulnerable persons in their own protection.

**AFTER YEARS OF NEGOTIATIONS**, Oakland City Council approved a developer agreement that paves the way for the conversion of the Oakland Army Base, shuttered in 1999. Under the agreement, the 366-acre facility will become a major industrial and logistics hub, as a packaging, warehousing, and distribution

facility to complement the adjacent Port of Oakland and rail facilities. The recent council vote secures a \$242 million state grant, which will contribute to the \$484 million first phase. California Capital and Investment Group of Oakland will be the master developer.

**THE STATE AUDITOR** contends that the beleaguered City of Vernon is scarcely less beleaguered than it was last year when charges of corruption nearly led to its forced disincorporation. A recent report by the auditor found that the tiny industrial city near downtown Los Angeles has failed to implement promised reforms. It continues to have weak internal controls for keeping the salaries of city employees in check, and the city's finances are in disarray, with a \$28 million structural deficit; the city-owned utility is itself facing a \$24 million deficit.

**THE HOUSING AUTHORITY OF LOS ANGELES** has selected the team of Michaels Development Company and its non-profit partner, Bridge Housing, to undertake the redevelopment of its South LA public housing community Jordan Downs, which has long been known as one of the most troubled housing projects in the city. The Master plan, drafted in 2010, calls for the replacement of the existing 700 public housing units and the addition of affordable and market-rate housing. The plan also includes a comprehensive Human Capital Plan to provide family support, job training, and community programs for residents to move toward self-sufficiency. Current plans include the new construction of approximately 1,400 units of mixed-income rental and for-sale housing, nearly 10 acres of open space, a new community center and gym, and a significant retail component.

—Compiled by  
Eleanor Fang and Amber Kong



# legal digest

## Concern for Corn Sets Back AB 32's Regulation of Carbon

BY GLEN C. HANSEN

AS CALIFORNIA SEEKS to reduce greenhouse gas emissions in the state's industries in order to implement provisions of California's Global Warming Solutions Act of 2006 (Assembly Bill 32), entities and trade groups both inside and outside the state have looked to the "dormant" Commerce Clause in the U.S. Constitution as a legal means to challenge those efforts. The dormant clause implies that states cannot take actions that would, implicitly or explicitly, restrict interstate commerce – such as when California legally compels residents to consume less fuel.

In December 2012, the U.S. District Court for the Eastern District of California held in *Rocky Mountain Farmers Union et al v. Goldstene* that California's Global Warming Solutions Act violates the Commerce Clause because it impermissibly discriminates on its face against out-of-state corn ethanol. A suit by the Rocky Mountain Farmer's Union was consolidated with those of nearly a dozen other agricultural and petroleum-related groups; the respondent was James N. Goldstene, in his official capacity as Executive Director of ARB, and other state officials.

That constitutional argument presented by the Farmers Union could remain potent. As Professor Deborah A. Sivas of Stanford Law School explains: "It could become impossible for states to do anything for regulating greenhouse gas emissions if there's an invigorated

dormant Commerce Clause, because states can't really get their arms around emissions unless they look at what other states are doing."

This decision is important as the California Air Resource Board (CARB) expects the Low-Carbon Fuel Standards (LCFS) to yield about 10 percent of the total GHG reductions required by AB 32. Numerous farmer groups, ethanol producers and petroleum interests filed actions in the U.S. District Court for the Eastern District of California challenging the LCFS. On cross-motions for summary judgment, the District Court held on December 29, 2011, that the LCFS violates the dormant Commerce Clause because it impermissibly discriminates against out-of-state corn ethanol.

The District Court explained that the LCFS assigned over 10% more favorable carbon intensity scores for corn-derived ethanol produced in California than it does for corn-derived ethanol produced in the Midwest. Because those scores ultimately will affect the price of the product, the District Court held that "the LCFS impermissibly discriminates on its face against out-of-state entities."

CARB argued that the difference in scores was due to the California-produced fuels benefiting from "shorter transportation distances and lower carbon intensity electrical sources," since CARB assumed that, compared to Midwestern producers, California producers will not use coal in their processes and will have better access to electricity produced from hy-

dropower and nuclear power. The District Court found that argument unavailing because "California is attempting to stop leakage of GHG emissions by treating electricity generated outside of the state differently than electricity generated inside its border." The court stated that, although CARB's goal to combat global warming may be "legitimate," it cannot "be achieved by the illegitimate means of isolating the State from the national economy."

In December 2011, the District Court granted plaintiffs' preliminary injunction motion and enjoined enforcement of the LCFS during the pendency of the litigation. In April 2012, the Ninth Circuit stayed that judgment and the preliminary injunction pending the State's appeal.

There is no indication as to when the Ninth Circuit will issue its final ruling on the merits of the case. It is likely that the legal challenge to the LCFS case will end up in the U.S. Supreme Court in light of the impact on the LCFS on the national ethanol industry that generates tens of billions of dollars of economic activity in other states. ■

*Glen C. Hansen is an attorney with the Sacramento law firm of Abbott & Kindermann, LLP.*

► **The Case:**

*Rocky Mountain Farmers Union v. Goldstene*, slip opinions (E.D.Ca. 2011, cases nos. CV-F-09-2234, CV-F-10-163), 2011 U.S. Dist. LEXIS 149593, on appeal with Ninth Circuit as case no. 12-15131



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# Conversion to Charter Status Exempts Cities from Prevailing Wage Laws

*The California Supreme Court charts new ground on the municipal affairs doctrine, allowing charter cities to exempt themselves from prevailing wage requirements for locally funded projects*

BY WILLIAM W. ABBOTT

IN A NOTABLE DECISION narrowing the potential application of prevailing wage requirements, the California Supreme Court ruled that charter cities may exempt themselves from paying prevailing wages for locally funded projects.

*State Building and Construction Trades Council of California, AFL-CIO v. City of Vista* involves the City of Vista which, by voter approval, enacted a .5% sales tax to fund construction and renovation of several public buildings. At the time, Vista was a general law city. In 2007, the city attorney advised the city council that in the event that the city converted to charter status, then the city would have the option of exempting itself from prevailing wage requirements for projects funded with the sales tax proceeds. The exemption would have rested on the basis that locally funded projects were not matters of statewide concern, and pursuant to charter law authority, the city

would not be obligated to follow general statutory requirements.

The city council authorized a special election to decide whether to convert to charter city rule. An impartial analysis for the ballot measure identified, among other points, that charter city status would give the city the option to exempt itself from prevailing wage requirements. Similar points were made in the ballot arguments in favor of the ballot measure. The matter passed with 67% of the vote. Following passage of the measure, the city council amended city procedures providing for an exemption from prevailing wages unless otherwise required by law.

In October of that year, the city approved construction contracts for locally funded projects, and no requirement for prevailing wage was included in the contracts. The state Building and Construction Trades Council filed suit seeking to enforce the prevailing wage requirements. The legal question turned on whether or not locally funded public works projects constituted municipal affairs which would not be subject to statewide general laws.

The trial court rejected the union's argument, as did the court of appeal in a 2-1 decision. The California Supreme Court granted a petition for review.

Justice Kennard, writing for the majority, ruled for the city, concluding that there was insufficient showing to support the argument that payment of prevailing wages on locally

funded projects was a matter of statewide concern. Accordingly, the City of Vista, as a charter city, was not bound by the prevailing wage requirements for locally funded projects.

## COMMENTARY

How this will play out remains to be seen. A significant portion of the state's population is within the boundaries of charter cities. As union influence varies from city to city, it cannot be assumed that every charter city will immediately position itself as exempt from prevailing wage projects. Finally, projects funded with blended (state or federal and local funds) will not qualify, inviting charter cities to pursue structured projects, with locally generated funds separately earmarked and contracted out. ■

*William W. Abbott is a partner in the Sacramento law firm of Abbott & Kindermann, LLP.*

### ► The Case:

*State Building and Construction Trades Council of California, AFL-CIO v. City of Vista* (July 2, 2012, S173586) \_\_\_ Cal.4th \_\_\_.

### ► The Attorneys:

Altshuler Berzon, Stephen P. Berzon, Scott A. Kronland and Peter E. Leckman for Plaintiff and Appellant.

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## Impact of Campus Expansion on Fire, Safety Not Considered Under CEQA

*A programmatic EIR can defer analysis of site-specific impact analysis until the next CEQA tier until the specifics of the later project are known*

BY WILLIAM W. ABBOTT

CALIFORNIA STATE UNIVERSITY East Bay undertook a dual-purpose environmental impact report for its campus master plan and two construction projects, meant to enable the campus to grow from roughly 12,000 to 18,000

students in the next 30 years. The construction projects consisted of a housing complex and a parking structure. The EIR included alternatives at both the master plan and construction project level.

The City of Hayward and public interest groups filed suit challenging the sufficiency of the EIR, apparently out of concern for costs that it might bear, such as those for fire and safety, when the university expands. The trial court found the EIR to be deficient and issued an order granting the petition for writ. The university subsequently appealed.

With the exception of one issue, the appel-

late court reversed the trial court in *City of Hayward v. Trustees of the California State University*, generally upholding the sufficiency of the EIR. The appellate decision provides helpful guidance in the use of a programmatic EIR (for the master plan) and recognizes that despite the somewhat predictable claim of the project opponents that more detail should have been included in the programmatic document, that those details were properly left for the next CEQA tier.

The appellate court found that substantial evidence supported the conclusion that the

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## >>> Cal State Campus Fends Off Lawsuit by City of Hayward

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construction of an additional fire station would have less than significant impacts as the anticipated construction of a station in an urban setting was not anticipated to cause impact. Notably, the appellate court concluded that the lead agency was not required to mitigate for the socio-economic impacts such as station staffing. The court wrote, “The need for additional fire protection services is not an *environmental* impact that CEQA requires a project proponent to mitigate [emphasis original].”

With respect to traffic impacts, the master

plan EIR was a programmatic EIR, and was not required to analyze neighborhood street impacts as those impacts would be analyzed in conjunction with the next CEQA review and consideration of specific projects, which would be the basis for more detailed evaluation. A mitigation requirement for a transportation demand management program did not result in deferred mitigation, as the mitigation measure included a required performance standard.

However, there was a lack of substantial evidence to support the EIR’s conclusion that the

impacts to area parks would be less than significant and on that basis the matter was remanded back for additional analysis as part of a revised EIR. ■

*William W. Abbott is a partner in the Sacramento law firm of Abbott & Kindermann, LLP.*

► **The Case:**

*City of Hayward v. Trustees of the California State University* (June 28, 2012, A131412) \_\_\_ Cal. App.4th \_\_\_, 2012 Cal.App. LEXIS 761

## Homeowners Assoc. Can Strike Supermajority Voting Restriction

BY GLEN C. HANSEN

In *Quail Lakes Owners Assn. v. Kozina*, the Court of Appeal for the Third Appellate District affirmed a trial court’s decision to grant a verified petition by a homeowners’ association for an order under Civil Code section 1356. The petition asked to modify the association’s governing laws to reduce a supermajority voting restriction.

As described in the ruling, the organic charters for many older homeowners associations required supermajority votes for amendments. However, voter apathy and other reasons often make achieving such a supermajority impractical. Civil Code section 1356 of the Davis-Stirling Common Interest Development Act creates a court procedure for lowering the supermajority requirement. Section 1356 provides that a homeowners association, or any member, may petition the superior court for a reduction in the percentage of affirmative votes required to amend the governing documents if they require approval by “owners having more than 50 percent of the votes in the association.”

The court may, but need not, grant the petition if it finds all of the following: (1) notice was properly given; (2) the balloting was properly conducted; (3) reasonable efforts were made to permit eligible members to vote; (4) owners having more than 50 percent of the votes voted in favor of the amendment; (5) the amendment is reasonable; and (6) granting the petition is not improper for any reason stated in subdivision (e), of section 1356.

In this case, the Quail Lakes Owners Association filed a petition under section 1356 that alleged an inability to make changes to its “Covenants, Conditions and Restrictions” (“CCR’s”), despite majority support among the homeown-

ers, due to a supermajority requirement. The petition alleged that in a 2009 election, of 1,958 “membership votes,” 1,409 votes were cast, of which 1,209 voted in favor of the new CCR’s.

Petitioner Vladimir Kozina initially filed an objection on the grounds that the evidence attached to the unverified petition was not properly authenticated, and that the manner of notice was insufficient to satisfy due process. The trial court denied that initial petition without prejudice for lack of verified evidence. In response, the association filed a verified amended petition. Kozina then filed an opposition to the amended petition that did not address any procedural and substantive deficiencies in the amended petition, but instead “reserve[ed] expressly the right to submit” additional briefing.

At the hearing on the amended petition, Kozina conceded the association’s president had verified the amended petition, but argued that she had not stated her competence or authenticated the documents attached to the amended petition. The trial court declined the Association’s offer to present live testimony. The trial court granted the amended petition. Kozina appealed. The Court of Appeal affirmed.

On appeal, Kozina argued that the trial court’s hearing on the petition violated due process because the time to oppose the petition was too short. However, the Court of Appeal noted that Kozina never contended that he was unable to articulate all of the arguments he wanted to make, or unable to muster the evidence he wanted the trial court to consider, due to time constraints, and therefore he failed to show how he was prejudiced by the response time set by the trial court.

The Court of Appeal rejected Kozina’s argument that other homeowners might have

been prejudiced by the briefing order, because Kozina lacked standing to assert the due process rights of other homeowners. The court explained that the Association is the de facto representative of the homeowners, and Kozina did not purport to represent a subgroup within the association. Contrary to Kozina’s argument, the rules for derivative shareholder suits are not analogous in this context because his appeal did not challenge any action or omission by the association – it challenged the court’s order amending the CCR’s – and because a derivative action does not advance the rights of individual shareholders, as Kozina’s analogously sought to do here.

The Court of Appeal further held that the trial court’s findings were sufficient regarding each of the six requirements provided in section 1356. The record on appeal demonstrated that the trial court was aware of the requirements of exercising its discretion under section 1356. In addition, the trial court was not required to recite the evidence pertaining to its findings under each of the six requirements. Therefore the trial court did not abuse its discretion in granting the amended petition. ■

*Glen C. Hansen is an attorney with the Sacramento law firm of Abbott & Kindermann, LLP.*

► **The Case:**

*Quail Lakes Owners Assn. v. Kozina* (2012) 204 Cal.App.4th 1132. Filed March 8, 2012, published April 12, 2012.

► **The Attorneys:**

Bruce Ray Inman, Inman Law Group, LLP, and Laurie S. Poole, Peters & Freedman, LLP, for Plaintiff and Respondent.

Paul A. Kozina, Law Offices of Mayall, HuSmith & Green, for Defendant and Appellant.



# Demise of Redevelopment Leaves Scorched Earth Instead of Green Spaces



U.S. DEPARTMENT OF ENERGY

BY JOSH STEPHENS

**WHEN VOTERS** in Orange County approved the creation of the 1,300-acre Orange County Great Park out of the shuttered Marine Corps Air Station El Toro, they had every reason to believe the estimated \$1.2 billion cost would come, partially, from redevelopment monies. Such was the status quo in 2002.

Since then, the self-described “first great metropolitan park of the 21st century” has run into a problem that is itself becoming the hallmark of the 21st century: lack of funds, specifically \$1.4 billion in redevelopment funds. Reports indicate that construction of the Great Park may drag on indefinitely.

Great Park officials attempted to claw back some former redevelopment monies, arguing that such an iconic project should not be left unfunded. Irvine had asked for a temporary restraining order to prevent the taking of funds earmarked for the park, but those attempts were

rejected by a Superior Court judge in June.

Though may be one of the biggest casualties of the demise of redevelopment, the Great Park is but one of untold hundreds of park and open space projects statewide that are not iconic and yet are suffering similar fates.

Long a part of redevelopment agencies’ efforts to combat blight, parks frequently received redevelopment funds, and parks departments frequently partnered with redevelopment agencies. They did so under the theory that parks could not only directly combat blight by replacing derelict properties with clean, safe, useable spaces, but also by making entire neighborhoods more attractive.

Now, the weeds are only going to keep growing in spaces where parks would have gone.

“It’s the loss you have of not only the agency and its ability to be nimble, but also its staff and its knowledge, the staff, and the com-

munity contacts they have,” said Los Angeles Recreation and Parks planner Darryl Ford, of the demise of the Los Angeles Community Redevelopment Agency. “That’s going to be, over time, a big hurdle to get past.”

Like hundreds of its counterparts statewide, LA/CRA played a key role in developing new parks because within redevelopment project areas it could act not only as a funder but also as a developer.

“CRA was an implementing entity, so not only could they apply for them, but also build the park,” said Sian Leong, director of development and marketing at the Los Angeles Neighborhood Initiative. “Because of that, they were uniquely poised to be able to deliver real results that sometimes the city, because of limited capacity, can’t always provide.”

That kind of assertiveness, said Leong, is crucial in a city that has historically had trou-

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ble shoehorning open spaces into dense, needy neighborhoods — places where new parks are often considered not amenities but, in fact, necessities.

“Some of our neighborhoods are so densely built and compacted that there isn’t that green space available,” said Leong.

In other cases, their contributions have been somewhat opaque, because city parks and recreation departments affix their name to all of the properties under their management. But

in many cases, redevelopment monies were part of a vast mix of local and state funds that parks departments cobble together to develop new facilities.

Even when redevelopment contributed only fractions of a project’s budget, it was often considered crucial.

“(It) was really devastating because we get tons of leverage out of \$500,000 when we’re doing park improvements,” said J.P. Tindell, manager of park planning and development

services for the City of Sacramento Parks and Recreation.

Tindell said that sometimes redevelopment money could be the first money spent on a project — and therefore it could serve as the impetus for winning further funds from other sources.

“When we get other people’s money — redevelopment, CBDG, grants — I always spend somebody else’s money first,” said Tindell. “I

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## Los Angeles Goes Small with 50 New Parks

BY JOSH STEPHENS

**IN A STATE WITH THE LIKES** of Yosemite, Griffith, Balboa, and Golden Gate, the development of a neighborhood park scarcely larger than a Trader Joe’s parking lot may not seem particularly noteworthy. But the pocket parks, community gardens, and micro-recreation areas of the City of Los Angeles’ 50 Parks Initiative are intended to be landmarks in some of the state’s neediest communities.

Announced by Mayor Antonio Villaraigosa in November as an ambitious plan to develop 50 neighborhood parks, the program is already coming to fruition in less than a year. Three parks have opened, and 20, in total, are projected to have opened within nine months. Thirty-nine sites have been secured, and 14 more are in the process of being acquired, for a total of 53 sites in various stages of planning and development.

At a total of 170 acres, the 50 parks are less than 0.5% the size of the city’s Griffith Park, but planners say that these tiny parks will have a profound impact on their neighborhoods. They are located in low-income neighborhoods throughout the city, with the largest cluster in South Los Angeles.

“Because the city of LA is a very dense, built-out city, this is one of the strategies — and in my mind the only strategy — we can follow in terms of looking at small-scale parks and gardens as a way to address the park disparity issue,” said Alina Bokde executive director of the Los Angeles Neighborhood Land Trust.

Los Angeles’ inner-city neighborhoods have long posed a challenge to park planners — and been a source of ridicule for the city. While recreational opportunities abound in the surrounding beaches and mountains, neighborhoods like South L.A. have suffered. Because many of these neighborhoods were built-out decades ago, the department has had trouble identifying locations for traditional recreation centers.

The economic downtown, however, inspired the mayor and Rec and Parks to pursue an opportunistic, if unorthodox strategy of acquiring properties and developing many parks all at once.

“It was not something that we waited for like a bond measure,” said Darryl Ford, a management analyst at the Los Angeles Department of Recreation and Parks and the department’s point person for the 50 Parks Initiative. “There’s an

immediate need, a unique moment in time with where the economy was, at least when we started this program that gave us a singular moment to strike and try to acquire property now.”

Many of the properties being used are underutilized land that had already been owned by the city or by the Department of Water and Power. The centerpieces of the program, however, are lots that had been foreclosed upon. Funded by a Neighborhood Stabilization grant from the federal Housing and Urban Development department, the Los Angeles Housing Department has been spending \$153 million buying what it considers some of the city’s most derelict foreclosures.

“We’re targeting the worst of the worst to remove that blight in the community and rehabilitating these homes,” said Rushmore Cervantes, executive officer of the Los Angeles Housing Department.

While LAHD is rehabilitating some of those properties, it offered a handful of unsalvageable properties to Rec and Parks. Many of these were — not coincidentally — in ideal locations for neighborhood parks.

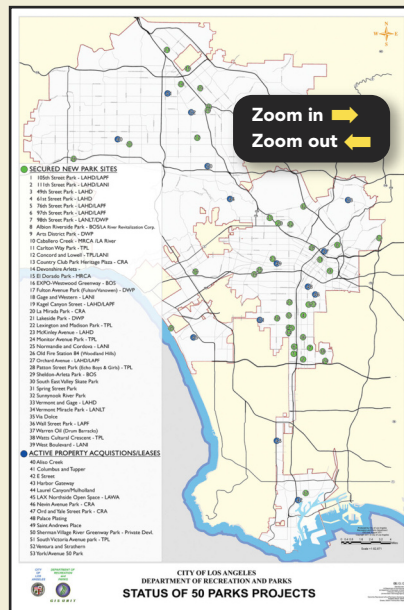
“They did their own study as to where the deficiencies were as far as park space,” said Cervantes. “When that targeted area map was overlaid where the Neighborhoods Stabilization Fund was, there was almost an exact overlay.”

This lemonade-from-lemons strategy will, say planners, result in exactly the sort of places that will attract old and young alike, for activities ranging from holding community meetings to perhaps even setting up lemonade stands.

“Many times these small parks that aren’t actively programmed can become a place where community members get together,” said Bokde. “They can do community-led programs, have events, have meetings, meet with their local council office representative. It becomes a meeting space and a community gathering space.”

Despite the parks’ twee nature, and the speed with which they have been developed, planners say that they are not necessarily any easier to establish than are their larger counterparts. Rec and Parks planners say they have been doing the same sort of public outreach as they would with any other projects.

— CONTINUED ON PAGE 14



## >>> Cities Lose Seed Money for Parks

— CONTINUED FROM PAGE 8

protect my own money and spend other people's money, so I don't leave that money sitting because I don't know if it's going to be there again."

The City of Long Beach followed a similar strategy.

"RDA has always been a big part of that, if for no other reason than to provide matching funds," said Robert Zur-Schmiede, deputy director of Development Services for the City of Long Beach.

Even individual departments cannot even tell how many projects will be affected by the loss of redevelopment.

"We had earmarked redevelopment funding for certain projects, but none of it had been appropriated by Council action," said Deborah Sharpe, provisional supervisor of long-range park planning at the City of San Diego Park and Recreation Department. "That's why it's hard to put your finger on exactly how many projects are going to be affected."

Sharpe said that some clear impacts include the loss of funding for streetscape improvements surrounding the department's North Park Mini-Park. On the other end of the spectrum, the large Pershing Square Sports Complex was supposed to take the place of a city maintenance yard. But without redevelopment funds to relocate the maintenance yard, the sports park is all but dead, according to Sharpe.

Sharpe added that planned parks in the downtown area were intended to complement a projected residential population increase in the tens of thousands. Properties had been set aside but were not on the city's approved Recognized Obligation Payment Schedule and therefore could be sold off — even though the city's master plan says that the parks are necessary to support the population increase.

Bakersfield Economic Development Director Donna Kunz said that her city had been pursuing a similar strategy.

"Redevelopment has been a major player in park development since its inception," said Kunz. "If you want to attract a 24-hour downtown you have to have residential development...have to have the same amenities that they're going to get out there in suburbia."

In San Jose, Park Manager David Mitchell estimated that redevelopment contributed roughly \$25 million to a current capital budget of \$200 million total. He highlighted Guadalupe Gardens, near the San Jose/Mineta Airport, which would have covered dozens of acres at full build-out.

"It's a blow in the sense of providing a des-

ination place to come to," said Mitchell. "When you go past the airport...you see vacant land instead of seeing a vibrant park."

On an even larger scale, the Hunters Point project — a massive mixed-use redevelopment in San Francisco — is relying on redevelopment funding to develop its open space. Fortunately, for the city, all of the redevelopment funds for those projects were secured prior to dissolution. Had the project been approved even a few months later, it might have been a vastly different story.

"(RDA funds were) totally crucial," said Wells Lawson, project manager at the successor to the San Francisco Redevelopment Agency. "For Hunters Point, it's the largest park construction project since Golden Gate park...parks are parks; they're really important for civic life and are the picture of sustainability and...of the city."

As with all projects formerly related to redevelopment, cities and other agencies are now turning to other sources of funding. Two of the major sources of state funding, however, are about to dry up. Proposition 1C and Proposition 84 both included funds for open space and parks, but most of those funds have been disbursed already.

Without abundant supplies of seed money, from redevelopment and other sources, cities may have to rely on nonprofit partnerships or simply put parks projects on hold indefinitely.

"Ultimately a lot of that gap is going to be filled in by more nonprofit organizations; the public planning and park functions and community beautification functions...will sort of be filled in over time," said Ford. ■

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# League of Cities Seeks Stability for Local Governments

BY JOSH STEPHENS

**AT TIMES**, city officials in California couldn't be blamed for wanting to revert to bygone times, such as 14th century Italy. City-states would be one solution to what seems to be persistent rancor between Sacramento and cities. At the heart of that fray lies the League of California Cities, whose mission is to lobby for the diverse interest of the state's 600-plus cities. This past year, the League took on added prominence as it essentially replaced the California Redevelopment Association, and this year's League agenda includes heavy emphasis on finding new economic development tools for cities. Longtime Pasadena Mayor Bill Bogaard will be helping to lead these efforts as the newly installed president of the League's board. *CP&DR* spoke with Bogaard about the League's agenda.

**CP&DR:** What are your goals as president of the League this coming year?

**BILL BOGAARD:** These have been difficult times in California for local government. There have been significant battles over the protection of local revenues. And, more recently, the elimination of redevelopment has been a major effort on everyone's part over the last 18 months. My hope for the year is that we will stabilize the situation for local government, that we will develop new tools for economic development at the local level, and that we will strengthen our working relationship with the state legislature.

**CP&DR:** The League has been heavily involved in the redevelopment fight and now that California Redevelopment Association is gone, the League has stepped into that role. What agenda should the League and cities be pushing to respond to the loss of RDA?

**BB:** We recognize that redevelopment was the subject of elimination because it had a fiscal impact at the state level, and I support Gov. Brown's efforts to achieve a balanced California budget. As we react to the loss of redevelopment, I hope what we can do is to develop new tools that have cost implications that are workable for Gov. Brown, and still provide an incentive to local government to take the risks and make the effort involved in the kind of redevelopment efforts that have traditionally existed in California until now.

**CP&DR:** How do you describe the redevelopment situation now that we've passed AB 1484 and gone through the Recognized Obligation Payment Schedule process? Are cities resigned to their fate, or is there still a fight left to be fought?

**BB:** There has been a degree of resolution or acceptance achieved in the last year as far as the loss of redevelopment is concerned. The legislation that was enacted to provide something of a cleanup for this transition created some new problems of its own, like the claw-back provisions. I can't say for certain what the League will do in regard to those provisions, but it is conceivable that there will continue to be controversy around, and some resistance to, those provisions that appeared in AB 1484.

**CP&DR:** What are the interests of other cities, such as the more suburban, inland, or Central Valley cities that are struggling? What are the common interests between Pasadena and those kinds of cities?

**BB:** One example of how the interests of local governments overlap widely across the state is in regard to pension reform. Significant progress was made prior to the end of the recent legislative session (Assembly Bill 340, signed by Gov. Brown Sept. 12). That kind of commonality where the League and cities were working together and worked closely with the governor's office and legislature to develop legislation, was as good as it could be under the circumstances – and no one suggests that it's

perfect. I think that the interests of CA cities are common to a great extent, even though different cities have different priorities and different opportunities.

**CP&DR:** There's been a lot of heated rhetoric about the discord between the cities and Sacramento. Does that combative rhetoric help, or is there a way to be more conciliatory?

**BB:** The executive officers of the League began 2012 with a meeting with the leadership of the state Senate and Assembly to establish lines of communication and to offer assurances that the League intends to be a constructive and helpful participant in what goes on in Sacramento. That didn't eliminate all of the rhetoric, but a lot can be accomplished. Legislators are interested in achieving good legislative developments for cities and are prepared to work hard to overcome the differences. The rhetoric will continue, at least to some extent, and it almost never proves to be an extremely positive factor, but the fact that it occurs doesn't mean that good progress can't be made.

**CP&DR:** Especially with the focus on redevelopment, it could be argued that other land use issues have had to take a back seat. Are there other land use issues that you think the League will focus on this year?

**BB:** Yes. On a broad basis, the League is committed to protecting local control but also to help re-establish California as the Golden State. The organization takes a broad view to what's going on in the state. CEQA (California Environmental Quality Act) reform is a subject that got left on the table this year in the legislative session, but we all recognize that the

subject needs attention. There are almost certainly ways in which improvements can be made in the current law that would not undermine the fundamental purposes of protecting the environment in a responsible way, but would make the administration of CEQA somewhat more manageable for those who are subject to its rules.

I'm cautiously optimistic that the time has come for attention and actual change in CEQA. Even though I'm a longtime, strong supporter of CEQA, I believe that its essence deserves continued support.

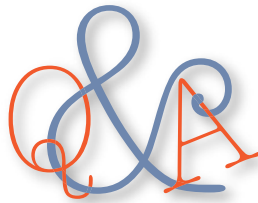
**CP&DR:** What are some highlights of what's going on in Pasadena, especially as the city considers its own replacement for redevelopment?

**BB:** In Pasadena we're within 8-12 months of adopting a new general plan. The land use and mobility elements are the primary parts of that effort. I think we will emerge from that process with general plan policies that are in accordance with the thinking of our community at this point in time.

Do I expect significant changes? No, because the guidelines that we have in our general plan today have served us well, and what we are doing is now validated by thousands of public comments. The principles that Pasadena wants to pursue include: protecting single-family neighborhoods, supporting transit and transportation, the preservation and protection of Pasadena's legacy of architecture and history, to have family values and to serve as a regional center for employment and professional services. Those are the principles that have guided the city for the last 15 years, and I think we want to continue down that path.

We're working hard on non-redevelopment financing, because we're committed to investing in the community. But, at this point in time we don't have a substitute for redevelopment and are simply going to proceed more slowly with some of the investments that we would otherwise make in infrastructure as well as on affordable housing until the economy strengthens. ■

*This interview has been edited and condensed.*



WITH **BILL BOGAARD**



Bill Bogaard,  
Mayor of  
Pasadena,  
incoming  
President,  
League of  
California  
Cities

# Effort to Reform CEQA Burns Brightly, Briefly in Sacramento

BY JOSH STEPHENS

AFTER 42 YEARS of occasional tweaks, frequent criticism, and allegedly rampant abuse, serious CEQA reform came forcefully, but briefly, to the forefront of California's legislative agenda last month. Senate Bill 317 emerged Aug. 20, only ten days before the end of this year's legislative session. Despite the bill's defeat, observers on both sides say that it may mean that CEQA reform is no longer the verboten topic that it has often been.

To the consternation of opponents, SB 317 (Michael Rubio, D-Shafter) was introduced as a gut-and-amend bill with little advance notice or discussion. The new law would not have changed CEQA itself, but rather would introduce a companion law called the Sustainable Environmental Protection Act, which would have dictated how CEQA is enforced. It would have restricted certain types of lawsuits and it would exempt some projects from CEQA review as long as those projects conform with local planning and zoning codes.

SB 317 died in committee, partly at the urging of Senate Pro Tem Darrel Steinberg (D-Sacramento). Supporters of SB 317 contended that the bill was designed to retain many of CEQA's environmental protections, but opponents – mainly from the environmental and labor communities – felt otherwise.

"There wasn't a single person (on our side) who looked at that language and thought anything other than that it renders CEQA all but moot," said Bruce Reznik, executive director of the Planning and Conservation League. "It really (would have taken) the heart out of one of California's oldest and pre-eminent environmental laws and bypass all the normal protocols of the legislature."

Supporters acknowledged that the bill had little chance for success, and said that it was also a long time in coming.

"We're talking about nothing short of rewriting one of the defining laws of California, and the notion that it would happen with a last-minute, hastily drawn measure is almost unthinkable," said Mott Smith, a board member of the Infill Builders Federation, which supported the bill. "On the other hand, it's like this is a last-minute CEQA reform bill that was drawn up hastily after 40 years."

Supporters noted that CEQA sometimes frustrates efforts to implement SB 375. SB 317 seeks to ease the way for infill projects that

would likely conform with Sustainable Communities Strategies. The bill was designed, in part, to shield projects with demonstrable environmental benefits from lawsuits.

"If there's a competitor or a neighborhood extortionist or anybody who wants to stop my project for any reason, I'm no more protected against lawsuits if I do something that's environmentally beneficial or if I do something that's not," said Smith. "By giving protection

lot of people in the environmental community CEQA is seen as an important check on government incompetence and malfeasance."

The defeat of SB 317 may foreshadow more deliberative discussions in coming years, with supporters of reform feeling more emboldened than they have in years past. Though CEQA reform is generally supported by business and real estate interests, Smith likened it to a liberal social cause.

"There wasn't a single person (on our side) who looked at that language and thought anything other than that it renders CEQA all but moot. It really (would have taken) the heart out of one of California's oldest and pre-eminent environmental laws ... ."

– BRUCE REZNIK, PLANNING AND CONSERVATION LEAGUE

simply for doing things that are environmentally beneficial, it would substantially increase the environmental quality of land use projects in the state."

Both sides went on the offensive nearly instantly, with environmental groups decrying any weakening of CEQA, and developers, business groups, and labor groups insisting that reform is long overdue. Gov. Jerry Brown has said that he supports CEQA reform and has in the past supported efforts to exempt a limited number of large projects from CEQA review and lawsuits.

The impetus for CEQA reform stems from claims that frivolous lawsuits, filed by opponents who are not necessarily motivated by environmental protection but rather by more parochial and even personal interests, drastically complicate and delay the development process across the state. Developers have claimed that CEQA costs them considerable time and money.

Environmental groups, however, have maintained that CEQA – in mandating that developers discover, disclose, and propose mitigation for environmental impacts – offers the best defense against development that could harm natural resources or exert other undesirable impacts on the environment, including traffic, noise, and pollution. Smith admitted that, "to a

"What we're seeing with CEQA is not entirely different than what we saw with gay marriage: the first step is even to ask the question, which was unimaginable 20 years ago," said Smith.

Whether SB 317 will lead to consensus is another matter entirely. The swift, unified mobilization of the environmental community suggests that the two sides may still be far apart – and that the bill may have pushed them apart further.

"There are going to be some hard feelings when that kind of stuff happens," said Reznik. "That being said, we're all big boys and we're willing to reach out and work if the goal is to better CEQA."

Reznik added that the environmental community was unlikely to support measures that would fundamentally alter CEQA.

"We recognize CEQA is not perfect," said Reznik. "It generally works well and needs some minor tweaks to improve decision-making, community engagement and promoting greener projects." ■

*(Editor's Note: This article is a modified version of one that was first published on the CP&DR website Aug. 23.)*

# >>> Five Cities to Roll Out Bike Sharing by mid-2013

– CONTINUED FROM PAGE 1

that first-mile, last-mile....it allows people to go out to lunch without having to worry about re-parking.”

Established overseas in Paris, Barcelona, and Vienna in the mid-2000s, and more recently introduced in American cities such as Denver, Boston and Washington, D.C., bike sharing is scheduled to arrive soon in Anaheim, Long Beach, Los Angeles, Santa Monica, plus San Francisco and other cities along the Cal-train corridor.

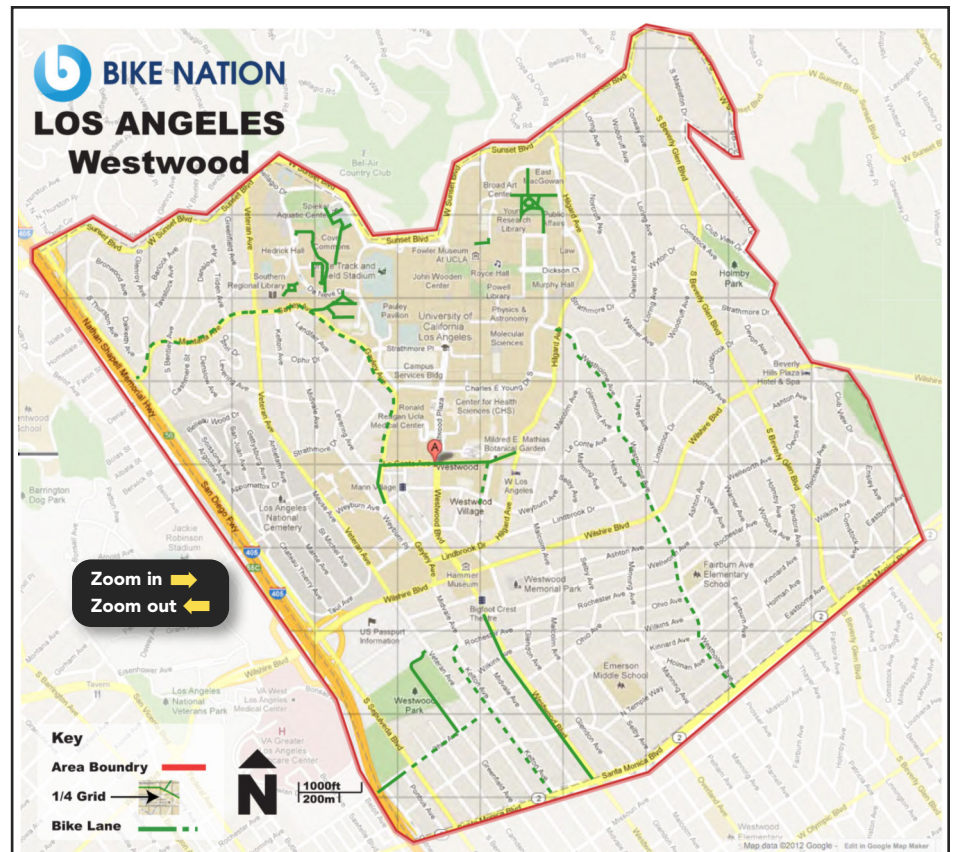
Bike advocacy groups, which have long lobbied for making California’s streets more friendly to cyclists, are hailing bike sharing’s arrival – even if planned improvements to cities’ respective bicycle infrastructures remain years away.

“I think the time is now to install these bike sharing systems even though we have a long way to go changing the streets to be safe enough for most people,” said David Snyder, executive director of the California Bicycle Coalition. “It’s like a gateway drug to practical bicycling.”

Promoters attribute the rapid deployment of bike sharing in California to the success that other cities have enjoyed. Enough test cases have succeeded – with expansion and steady increases in ridership – in more compact, bicycle-friendly cities that California cities are now willing to test the concept. As well, new state laws aimed at curbing climate change, such as Assembly Bill 32 and Senate Bill 375, give new weight to any program that encourages the use of alternative transportation.

“I think with (AB 32) coming down the pipeline, cities are looking at how cities might be able to gain some offset credits for carbon,” said Derek Fretheim, CEO of Tustin-based

– CONTINUED ON PAGE 13



Map of possible bike station locations in the Westwood area of Los Angeles.

**Area Information**  
**Westwood, CA**  
**Area: 3.1 sq mi**  
**Population: 52,125**  
**Pop. Density: 15,411/sq mi**  
**Enrolled Students: 40,675**

**Bike Nation May 2012**

**Major Streets**  
**Sunset Blvd.**  
**Wilshire Blvd.**  
**Santa Monica Blvd.**  
**S. Beverly Glen**  
**Westwood Blvd.**

**Preliminary Station Info**  
**• 1/4 Mile Saturation**  
**• 55 Stations**  
**• 550 Bicycles**  
**• 825 Docks**

**Additional stations required around UCLA Parking Structures, Main Halls, & Student housing**

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## >>> Planners Prepare for Advent of Bike Sharing

— CONTINUED FROM PAGE 12

bike sharing vendor Bike Nation.

By the end of 2013, Anaheim is expected to have installed 100 bikes at ten stations, while the Bay Area, Long Beach, and Los Angeles are planning to install several hundred bikes each, at dozens of stations.

“There are two kinds of mayors: mayors with a bike sharing system and mayors that want one,” said Maddox.

Though these represent dramatic increases over California’s current bike share offerings — which amount to the few dozen bikes of UC-Irvine’s Zotwheels — they still pale in comparison to the systems in place elsewhere. Worldwide, nearly 200 cities have bike share programs. Paris’ Vileb’ now has more than 20,000 bikes, while Huangzhou, China’s system has more than 60,000, making it the largest such system in the world.

Though it lags far behind those places, California may be, in many ways, an ideal place for bike sharing.

“First of course, our climate: how can you beat Southern California?” said Allan Crawford, sustainability coordinator for the City of Long Beach, on reasons why Long Beach is embracing the concept. “And its topography: we’re flat, so it makes it incredibly easy to get around.”

One of the driving forces is Fretheim’s Bike Nation, which is aggressively marketing its bike share system to California cities. Bike Nation is vertically integrated, developing its own bicycles, stations, and software. Company officials say that they expect to have roughly 5,000 bikes at roughly 500 stations in the next few years.

Bike Nation is staking its growth on a business model that may be too attractive for cities to pass up.

Whereas most bike sharing programs worldwide have been public-private partnerships, funded in part with public monies and grants (systems in Boston and Washington, D.C., received federal grants of \$3 million and \$6 million, respectively), Bike Nation will be operating in Los Angeles, Long Beach, and Anaheim entirely at their own expense. The company has simply asked the respective cities to make licensing agreements that allow the company to set up stations and then to keep whatever user fees and advertising revenue it collects.

“Los Angeles has the perfect opportunity at this point in time to look at an actual working model before we go out to RFP,” said Lisa Sarno, executive director of Environment and Sustainability for Los Angeles Mayor Antonio Villaraigosa.

The vending stations, which use solar power and wireless communications, are free-standing and can be set up almost anywhere. They will be established on both private property, such as in parking lots or plazas, and in the public right of way, such as on sidewalks or in curbside parking spaces, with city approval.

“The city is going through the process internally to determine what the permit process would be for both private property and public property,” said Sarno. “If there’s an issue or a problem with any of the bike share stations, the city still reserves the right to revoke that permit.”

As well, even cities that are welcoming private vendors insist that they will still do their part to promote bike sharing and ensure that it is serving the public interest.

“We will also be actively involved in community engagement,” said Crawford. “While it’s a private enterprise, it will be viewed as an integral part of what the city does and what the city is.”

Maddox said that bike stations are likely to be sited and permitted in much the same way that parklets or bicycle corrals are. In most cases, the initial cluster of stations will be placed in relatively active areas such as San Francisco’s downtown and South of Market district.

“We’re really trying to focus on a dense blanket of these stations over a limited area,” said Heath Maddox, a senior planner with the San Francisco Municipal Transit Agency.

Freitheim said that many of the bike station locations will be in predictably high-traffic areas such as tourist attractions and transportation centers. In that sense, the planning is nearly self-evident.

“Finding locations are probably the easiest part in terms of saying ‘we would like to provide connectivity from, say, the Blue Line to Shoreline Village’ — looking at an end destination,” said Freitheim.

In some cities, Bike Nation will be focusing on discrete destinations, including tourist attractions and transportation hubs. Further down the Caltrain line, bike stations will be placed at the Caltrain stations and in downtowns of cities along the peninsula to serve commuters.

For its part, the City of Los Angeles reserves the right to alter this arrangement as it sees fit, including issuing a request for proposals from other firms that might supplant or compete with Bike Nation.

Despite its fiscal benefits, full privatization has its problems, according to some bike advocates. By giving the vendor free rein, cities cannot ensure that the system will serve the broad public interest, as opposed to serving only the vendor’s need to sell advertising.

“It restricts our ability to say, ‘there’s a de-

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## >>> Bike Sharing May Spur Demand for Street Improvements

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mand for it in South LA; we'd like to see you there," said Bruins. "We're going to see potentially restricted deployment to areas where it's economically feasible at the expense of social equity criteria."

If Bike Nation and its counterparts in the Bay Area succeed, then bike sharing may be a gauntlet thrown down to urban planners and transportation planners. While Long Beach has been developing a network of bike lanes and other bike-friendly infrastructure for some time, cities such as Los Angeles are only beginning to implement ambitious, multiyear programs. There, bike sharing could introduce thousands of new riders annually on to a street grid that is not yet optimized for them.

Bike advocates say that there is good reason for cities to adopt bike sharing programs even in the face of a seemingly dangerous situation, in which tourists are competing for road space with indifferent, fast-moving cars.

"People will discover that bicycling is easier and safer than they thought it was," said Snyder.

Informal studies around the world suggest that bike sharing is relatively safe, and even safer than riding personal bicycles. Transport for London reported last year that its bike sharing system had experienced zero serious injuries or fatalities in 4.5 million trips. Washington, D.C.'s, Capital Bikeshare also reported no serious incidents in its first 300,000 trips.

In fact, advocates say that bike sharing will

create a whole new constituency of cyclists who may, in turn, create political pressure needed to speed up the implementation of cities' bike plans.

"I think we're at the point now where most of the pilot locations will have enough to allow people to use it and it will help provide us justification for why we need to complete the networks in each of those areas," said Bruins. Fretheim said that cities are now including bike sharing in their transportation and land use elements of their general plan updates.

Advocates of bike sharing hope that it, and other efforts to promote bikes, will have ripple effects throughout the built environment. Many areas throughout the state that are already bike-friendly have experienced increased development and population growth in recent years, and in keeping with a wider trend of urban revitalization and gentrification.

"We have seen that any city that invests in innovative bicycle and safety improvements is a popular neighborhood for development," said Snyder. Snyder cited the arrival of tech companies Zynga and Twitter in downtown San Francisco suggests that bike-ability can correlate with economic growth.

Once these initial programs begin operations, the next step, according to Snyder, is to ensure that they operate well, not just within cities, but also between cities. He envisions an integrated system in which a bike share memberships in

one California city would automatically grant users access to systems in every other city.

"One of the things that we're concerned about is a hodgepodge of different systems throughout the state," said Snyder. Fretheim said that users of Bike Nation will enjoy that sort of inter-city access, but integration among different vendors may be further off.

Regardless, supporters are hopeful that bike sharing — unlike other bike-related fads that have come and gone — will become a permanent, practical option for commuters in California.

"Will lycra-clad bicycling wax and wane? Without a doubt, it will" said Crawford. "This is something that truly becomes part of the sustainable urban fabric." ■

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## >>> 50 Parks Plan Avoids Land Assembly Problems

— CONTINUED FROM PAGE 8

"They take as much planning effort as a larger park does," said Ford. "You still need to do community outreach, you still need to do the meetings...be it an 8,000-sq foot park or an 80-acre park."

They also do not come cheaply. Rec and Parks combined this real estate windfall with funds from a ragout of sources, including Quimby fees, foundation monies, and Proposition 84 grants totaling \$81 million.

Ford said, however, that one aspect of the 50 Parks Initiative is a godsend for planners: the program was designed explicitly to avoid land assembly.

"We try to avoid some of those things that hamper large, visionary projects that get too aggressive about land assembly," said Ford. "Land assembly is always difficult no matter what the economy is like."

For that reason alone, the department has been able to deliver on what otherwise might have seemed like an outlandish goal.

"That in and of itself is unique: when you come up with an ambitious program like a 50 Parks Initiative, that is something that raises attention to the issue,

which for us has been a welcome thing," said Bokde.

Although Cervantes said that it would be hard for other cities to replicate the 50 Parks Initiative — especially the foreclosure component — in the absence of a Neighborhood Stabilization Fund, Ford said that developing such a program does not necessarily depend on money.

"What can be exported to other cities is the attitude towards 50 Parks," said Ford. "When there is a moment to make a permanent effort to change communities, you just sort of go with that moment." ■

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## >>> SB 375 Changes Stakes of CEQA Reform

– CONTINUED FROM PAGE 1

Commerce. The anti-CEQA arguments are always trotted out in a recession, as developers and business leaders championing the idea that if only CEQA went away, California would benefit from unalloyed prosperity.

With advocates like those in Sacramento, it's surprising nothing much has happened. In 42 years, CEQA has never undergone major legislative reform. Whenever traditional Republican constituencies attack CEQA, traditional Democratic constituencies defend it, and the law – frustrating and cumbersome though it may sometimes seem – remains more or less untouched.

The current reform effort is different. For one thing, it's being championed not by Republicans but by a combination of progressive and moderate-to-conservative Democrats. The labor movement has split on the issue. A new generation of environmental laws – principally AB 32 and SB 375 – have begun to change the focus and orientation of California's approach to protecting the environment. As a result, traditional environmental defenders of CEQA are on the run.

The August assault came about after a coalition of CEQA reformers – led by the Silicon Valley Leadership Group, a progressive business group representing high-tech companies among others – released a proposed set of legislative changes and State Sen. Michael Rubio, a moderate Democrat from Bakersfield, said he was going to “gut and amend” an existing bill to incorporate the proposed changes.

Many of the proposed CEQA reforms have been kicking around Sacramento for years and – depending on how they are crafted and implemented – make a lot of sense. The proposals include:

- Limiting the scope of review to a narrower set of truly environmental issues – eliminating, for example, the need to review aesthetic impacts are part of CEQA.
- Narrowing CEQA review of individual projects that conform with existing plans that have previously obtained CEQA clearance.
- Tying significance thresholds under CEQA to standards in other environmental laws.
- Limiting the ability of third parties to file CEQA lawsuits.

You could quibble with any of these ideas. For example, environmental standards contained in other laws were not all created with the same goal in mind – some are very proactive and some are reactive – and therefore some

are not well suited to serve as significance thresholds. Overall, however, the coalitions ideas are headed in the right direction.

Almost immediately after Rubio's announcement, Gov. Jerry Brown – who once said he “had never met a CEQA exemption he didn't like” – said that CEQA was doing “the Lord's work.” Within hours Rubio and Senate

get the funding they want. To reform CEQA now would be to weaken this bulwark – sort of a filibuster in the form of a lawsuit.

Ultimately, the combination of the traditional business and developer interests who have always sought to reform CEQA – and a governor with unassailable environmental credentials – and you've got the possibility of leg-

A new generation of environmental laws – principally AB 32 and SB 375 – have begun to change the focus and orientation of California's approach to protecting the environment. As a result, traditional environmental defenders of CEQA are on the run.

Pro Tem Darrell Steinberg were holding an impromptu press conference, saying the reform effort would not be pursued in the waning hours of the legislative session – though it would be back on the table next year.

What's most interesting about the current CEQA reform effort is the politics of who's in favor of it. As I suggested above, we are a long way away from troglodyte Republicans and wildcat subdivision developers. The Silicon Valley Leadership Group is perhaps the state's most sophisticated and progressive business group; representing the world's leading high-tech companies, it often supports such positions as higher taxes to pay for infrastructure and considers itself pro-environment. It's not the kind of group that would one would traditionally think of as anti-CEQA.

Then there are the building trades, represented in the coalition by Jim Earp, who don't see much value in CEQA if it holds up building projects. This puts the building trades at odds with service workers unions – such as the United Food and Commercial Workers – who have used CEQA lawsuits to try to block the construction of non-union stores such as Wal-Mart.

Meanwhile, ironically, Republicans may now be opposed to CEQA reform because of their opposition to high-speed rail. Until Republicans kill the bullet train they want to retain CEQA so that they and their allies can use the law block the train even if Democrats do

isolation that could get adopted next year.

But the bigger-picture question is not whether CEQA will be reformed, but whether that reform will be calibrated – simply and elegantly – with implementation of the regional “sustainable communities strategies” that have been prepared under SB 375.

CEQA is a fundamentally reactive law, and not only has it created unpredictable costs for developers but it has also pulled public agencies away from pro-active planning and into a reactive mode. By contrast, SB 375 is the latest in a long series of legislative efforts in California designed to nudge planning in the state back toward a pro-active approach. (There are narrow CEQA exemptions in SB 375 for projects that comply with the SCSs, but the exemption has so many requirements it probably won't amount to much.)

Ultimately, a lot of this boils down to Darrell Steinberg. During his 12 years in the Legislature, the Senate President Pro Tem has tried hard to reform California planning – as his sponsorship of SB 375 and significant post-redevelopment legislation suggests. And he's termed out in 2014, meaning the next two years will be legacy time for him. But as the Senate leader, he is always expected to carry the water of traditional Democratic constituencies, and that might pull him back toward the status quo. Stay tuned. ■

## It's No Chongqing, But California Remains a Global Player

AT LEAST SOMEONE thinks California is going to emerge from its mess.

According to the recent issue of the venerable *Foreign Policy* magazine, 11-figure deficits, municipal bankruptcies, shrinking beaches, and a train to nowhere will not dim California's spotlight on the world stage. According to *FP*'s recent ranking of the 75 "Cities of the Future," no fewer than three California heavyweights are going to guide the world economy into the 21st century. The magazine describes all of these cities as "powerhouses of the urban revolution," under the premise that economic growth both at home and abroad will be housed in cities.

In case you're holding out hope for Stockton or Mariposa, you can relax. It's the usual suspects: Los Angeles (12th), San Francisco (57th), and San Diego (70th).

*FP*'s exuberance points to a paradox that plagues many pleasant places. Whereas cities in Texas and North Dakota face few strains, many of California's cities are a wreck precisely because they are so attractive. There's the population burden, but that's not all. As Paul Peterson wrote three decades ago in *City Limits*, the most attractive cities can, in essence, get away with the most.

Cities can get away with fiscally risky moves like offering generous social services and pension plans because they know that the demand for real estate and the influx of new residents will keep them vital. San Francisco has played this hand skillfully, though at the expense, say some, of becoming a "boutique city." Los Angeles, however, is just hanging on. As for San Diego, let's just say that things have been looking up since 2008. That's what happens after your economy nearly hits rock-bottom.

What the *FP* list suggests is that to the rest of the world, California remains as attractive as ever. So, for all the lumps the California Dream has taken, this news should be heartening, inspiring, and sobering. It should remind us that if we can fix our fiscal messes – at both the state and local levels – that brighter days may yet be on the horizon. Especially since, in the coming generation, the brightness will be coming at us from the west.

On a not unrelated note, *Forbes* magazine recently released one of its ubiquitous city-ranking lists, and this time California also cleans up. Among US cities with the "happiest young professionals," California takes spots 1-3, 5-6, and 9. In order, that's Los Angeles, San Jose, Sunnyvale, San Diego, Irvine, and San Francisco. I can't help questioning a ranking that puts Irvine's toddler-fest above a place that permits public nudity. Nevertheless, young adults are probably the ones who are going to connect with the global economy, and if they're still happy here – per-

haps because they're oblivious to many of the state's bigger challenges – then more power to them.

The news is even more heartening when you judge California against the world's other mere mortals – i.e. those cities that aren't in China. I'm sure you can't name 29 American cities of over 1 million people (because there aren't), but that's how many Chinese cities are going to be dominating the global economy before you can say ni how.

Shanghai tops the list, and six other Chinese cities populate the top 10. Beijing, Guangzhou, and Shenzhen are there, but you only have to look as far as No. 3 to find a city (Tianjin) that, as far as its global reputation goes, might as well be a thatched hut and a rice paddy. Of course, that's exactly what many of them were 30 years ago.

I'm writing this in part because last month I visited No. 1. I feel like a Parisian writing about New York in 1900. With scant exceptions, the streets of China offer little charm. I, for one, would be happier in an Irvine McMansion than in a Chinese superblock – and so would most other young adults, I think. The business of China is business. Nowhere is that more true than Shanghai, where the richness of Chinese culture dissolves into a vascular network of surface streets, elevated highways, and the world's most rapidly constructed subway system all designed to maximize the use of human capital.

(I envy only the Maglev, which actually exists. If you've heard of Maglev, you'd be forgiven for thinking it sounds like a middle school science experiment. But, as it turns out, the Pudong Airport "demonstration line" is not the 1/4-scale model that its name implies but rather a smooth, silent projectile that covers 30 kilometers in seven minutes. You do the math. Its only moving parts are the doors.)

I'm glad, then, that California cities are still investing in infrastructure despite their financial desperation. We have to keep up appearances as long as we can, even if that means telling people in Beverly Hills to sit down and just eat their caviar. That might also mean figuring out a replacement for redevelopment ASAP. China probably redevelops more acres in a month than California did in 55 years.

Ultimately, Shanghai can have its global dominance. I'll take the beach, the Mission, and a burger at Father's Office. But given the mistakes we have made in California, I think we all should be excited – and thankful – just to still be in the game.

– JOSH STEPHENS | SEPTEMBER 10, 2012 ■

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## 'Amazon Tax' Puts Positive Spin on Fiscalization of Land Use

ON SATURDAY, California tax law finally catches up with the 21st century: some online retailers – most notably, juggernaut Amazon.com – will start charging sales tax for items sold in California if they have warehouse space in the state. Though we always knew there was something fishy about the tax exemption, as a consumer this development does not thrill me. As a citizen of the state, I suppose it's fine. The more money we can raise, the better.

As an urbanist, however, I say bring on the tax.

I don't think that humanity will ever be able to take full stock of the impact that e-commerce has had on the urban landscape. The extreme version holds that the Amazon's and Shopzilla's of the world have siphoned customers off from mom, pop, and even the terrestrial chain stores. It has turned the most social aspect of capitalism into something that can be performed in one's boxer shorts, usually at a relative discount. This collision of frugality and convenience has enriched the likes of UPS and FedEx while devastating Main St. and even the malls.

Then again, no one will ever be able to disaggregate the impacts of e-tailing from those of countless other factors including the rise of big boxes, the expansion of the suburbs, and many Americans' chronic indifference to living their lives in public. Nevertheless, the 7.25% that Amazon wasn't collecting did not help matters (reports indicate that few other e-tailers will be affected by the new law because they do not have physical presences in California).

Gov. Jerry Brown and bill sponsor Charles Calderon (D-Whittier) presumably weren't necessarily thinking about land use when they approved AB 155, which was passed following negotiations with Amazon and other big retailers. They wanted the cash – as did lawmakers in the 13 other states with similar laws. But in a roundabout way, the instatement of sales tax offers a new – and potentially positive – twist on the fiscalization of land use.

As *CP&DR* publisher Bill Fulton has written, tax structures often inadvertently dictate the types of land uses that cities and planners promote. If you stand to collect a lot of revenue from auto sales, then an auto mall is your best bet. If Main St. requires a lot of city services but doesn't exactly rake in the tax money for selling baubles like books and lightbulbs, then maybe it's OK to let them fade away. And if tract homes fill city coffers more than downtown apartments do, then let's rev up those bulldozers.

The great thing about the e-commerce tax is that pretty much no one is buying cars on the internet in the first place. It's the small appliances, clothing, office supplies, and books that are going to get relatively more expensive. I'm not sure how elastic all of these goods are – or if there's even such thing as cross-elasticity between online retail and brick-and-mortar stores – but it's tempting to think that somehow, in the aggregate, at least a few customers will be drawn back out into the daylight now that Amazon doesn't have a built-in 7.25% price advantage over everyone else.

Usually, fiscalization of land use refers to the competition between cities to lure big retailers, but in this case, the entire state benefits.

In my fantasy world, that margin should be enough to make a thousand stores bloom, ideally in those small vacant storefronts that have been multiplying statewide ever since the recession first hit. These stores would all be locally owned – since many big chains, most notably Borders and



Amazon currently ships to California from facilities in Las Vegas and Reno. The company is building a new series of fulfillment centers nationwide, including California, partly in response to the state's new sales tax law.

Barnes & Noble, are in trouble – and they'd be the types of places where neighborhoods would bump into each other. The money they spent would go right back into other locally owned businesses. Amazon would thrive ever-so-slightly.

That fate is not, of course, what Amazon has in mind.

The company is now building a new series of "fulfillment centers" (i.e. warehouses) nationwide, partially in response to the new California law, in order to assure faster shipment of its goods. The first of several planned for California will be in Patterson, 85 miles east of San Francisco, and the next will be in San Bernardino. Amazon currently ships to California from facilities in Las Vegas and Reno. Amazon is shooting for delivery in two days once the network is up and running. While warehouses might not be planners' favorite typology, at least some construction jobs and permanent jobs will come with them.

It's funny, though. If my local bookstore hadn't closed four years ago, I could have taken a five-minute walk to pick up that new copy of *Small Is Beautiful* or *The Economy of Cities* instead of writing this blog. And the state deficit would have been smaller by two bucks.

## What Is the Cure for Foreclosures, if not Eminent Domain?

A PROPOSAL TO USE EMINENT DOMAIN to ward off foreclosures in two cities in San Bernardino County has been slammed almost unanimously by both Wall Street and federal regulators. The most powerful dissenter was Edward J. DeMarco, acting director of the Federal Housing Finance Agency, who said on August 7 that he would resist any effort by local governments to “take” homes owned by Fannie Mae and Freddie Mac, the two agencies under his supervision; those agencies buy the majority of US home loans and repack them as mortgage-backed securities. Coupled with an earlier rejection by the same official to reduce the unpaid balances on “underwater” mortgages, few options appear available to homeowners sliding into foreclosure, except to deed the properties back to the lender.

With an estimated 13.5 million American households underwater on their mortgages – that is, owing more on their mortgages than the market values of their homes – foreclosure remains the greatest single barrier to the recovery of the housing market – and arguably to the economy itself. Homes that are “underwater” are perceived to be right at risk of foreclosure, particularly for homeowners who view their mortgage payments as “throwing good money after bad,” to quote a neighbor of mine who just went through the process. The lukewarm response of the Obama administration to the foreclosure crisis is one the shortcomings of the president’s first term.

In inland California, the housing crisis has hit families and cities alike. The bankruptcies of cities like Stockton and San Bernardino are due in no small part to the plunge in home values and even the abandonment of otherwise perfectly good homes. It’s hard to collect taxes when your populace has fled for someplace they can afford.

At the national level, the administration’s most effective response, to date, is the HARP 2.0 loan, a government-backed loan program able to refinance mortgages for more than 100 percent of the mortgage balance. (Otherwise, homeowners who are underwater can’t refinance.) Introduced in October 2011, the program represents nearly one in four re-financings currently, according to the Mortgage Banking Association. (Limiting the program’s effectiveness, however, is a requirement that homeowners be current on their mortgage payments for 12 months; that limitation, while prudent from the lender’s perspective, leaves millions of at-risk homeowners without the means to refinance their home loans to affordable levels.)

If impolitic, the idea of using eminent domain is an ingenious response to a genuine crisis: the destructive effect of foreclosure on cities and neighborhoods. Mass foreclosure is the broken window syndrome in block-high letters: Empty houses become playgrounds for antisocial activity and for squatters; the same neighborhoods are shunned by families and investors. In the hardest hit cities, such as working class neighborhoods in Cleveland, entire blocks have been emptied as a result of falling home values and the inability of many homeowners to refinance. Property values implode, and neighborhoods become dilapidated slums for decades.

It’s not surprising that San Bernardino County, along with the City of Fontana in the same county, might look at eminent domain as a way to stanch the bleeding. The concept has been devised by a San Francisco firm, Mortgage Resolution Partners. Here’s how it works: The city identifies homes that are underwater. With the cooperation of the home owner, the city condemns the property, takes possession, and then transfers ownership to the investor. The investor, in turn, creates a new mortgage for the home owner with a lower balance and lower monthly payments. The investor gets

\$4,500 per successful turnover. The winners are the home owner, local government and the investor. The loser is Wall Street, Fannie Mae, Freddie Mac and the bond holders who own mortgage-backed securities.

Legal and even constitutional questions abound. Defenders of the take-the-foreclosures proposal say that eminent domain exists to advance public purposes. What could be more public than preventing mass foreclosure and neighborhood degradation? Opponents point out, however, that mortgages are not real property, and that mortgages have never before been “taken” by government. Moreover – and this is a powerful argument – government intrusion into a contract between two private entities – here, the lender and the home owner – could potentially violate the contract clause of the Constitution.

Further, the ability to “take” properties from their owners, which are most often Fannie Mae, Freddie Mac or giant, private buyers like GMAC, could have a harmful impact on the way that mortgage finance works in the US. The majority of lenders sell their mortgages to second-market agencies like Fannie Mae for cash; the lender’s replenished funds are then used to finance new loans. While many left-leaning observers may understandably look askance at this system – mortgage-backed securities, after all, were at the center of the financial meltdown of 2008 – it probably does not make sense to compromise the integrity of the bonds, by saying that local governments can forcibly take possession of properties when markets go south.

Why would local governments, then, embrace eminent domain in the first place? My assumption is that government could identify the homes in greatest danger, while policing the investor who buys the loan. The obvious error is to introduce eminent domain into the agreement, which is unnecessary. One could imagine a somewhat similar arrangement, in which the city and the bond investor form a private, not-for-profit corporation that buys a home from a willing seller as a short sale; again, the city is the guardian of both public policy and the home owner, while the investor puts up the money. After the short sale is completed, the investor provides a new mortgage with a reduced balance to the home owner, and pockets his fee. In this scenario, nobody’s ox is gored, at least theoretically.

Even better is a proposal from Sen. Jeff Merkley (D-Oregon) who has proposed a large-scale refinancing scheme called Rebuilding American Homeownership. (The proposal was praised in a recent *New York Times* editorial by economists Joseph Stiglitz and Mark Zandi [↗].)

Under the Merkley proposal, homeowners who are current on their mortgage payments could refinance at extremely low rates, perhaps 2 percent higher than the Treasury rate, the super-low rate that the government uses for borrowing. The trust making the super-low-interest refinancing would accept refinance applications for three years, then “wind down,” according to Stiglitz and Zandi. In other words, if buyers cannot get lenders to lower their balances, perhaps the government can make interest rates affordable. Again, this solution offers little for people in financial trouble. Still, this seems like an orderly process in which no oxen are harmed – even though the authors speculate that some lenders may complain about losing the income from performing loans with high interest rates. The next question is whether a rational proposal that assists millions of homeowners and helps revive the economy, has a chance in an election year – or with an opposition determined to defeat any proposal by the current administration.

