CP&DR

VOL. 28, NO.12 — DECEMBER 2013 CALIFORNIA PLANNING & DEVELOPMENT REPORT

Brand-New City Considers Municipal Suicide

BY LARRY SOKOLOFF

A Riverside County city will take the first steps to disincorporate itself in January, with the blame being pointed at Sacramento and state government decisions about how new cities are financed. Several other cities in the Inland Empire have discussed disincorporation, but no others appear to be close to taking such an action.

The city, named Jurupa Valley, could be any city in California. But most observers say the disincorporation is due to the fact that it was the last city to incorporate before state laws changed in 2011.

Located north of the City of Riverside, Jurupa Valley has 95,000 people and encompasses 44 square miles – a jumble of homes, apartments, some manufacturing and commercial uses. For many years it was an unincorporated community, with voters only approving incorporation in 2011.

Those same city voters may soon have the final word on the city's disincorporation in an election. But first, the city has to jump through several hoops to actually disincorporate. Jurupa Valley's City Council votes on January 16 to begin a study on disincorporation. That action may force the hand of Sacramento legislators and Governor Jerry Brown, since one outcome is that state

– CONTINUED ON PAGE 7

insight
WILLIAM FULTON

Can Riverside County's Single-Family Brand Survive?

There's no question that Riverside County is still the single-family home capital of California. Between 2010 and 2013, more single-family detached homes were built in Riverside than in any other county in the state – a lot more.

According to the Department of Finance Demographics Research Unit, the number of single-family detached houses increased by almost 9,000 in Riverside County – almost double the number in the No. 2 county, San Diego, and close to triple the number in any other county in the state. Other inland counties such as Fresno and Sacramento had comparable percentages of single-family home construction – about 75% of new units in each case – but Riverside's raw numbers are in the stratosphere.

So, as it has been for 30 years, Riverside County is the mecca of affordable single-family housing in California, especially Southern California. The question is how much that's worth in

– CONTINUED ON PAGE 9

inside

THE HOLLYWOOD COMMUNITY PLAN has been struck down by a Superior Court judge who found several flaws with the environmental impact report.

In a 41-page tentative ruling [http://argylecivic.org/pdf/statement%20of%20decision-12-10-13.pdf], Los Angeles County Superior Court Judge Allan J. Goodman found that the City of Los Angeles had not used updated population estimates which suggest that the community plan will increase the population greather than expected, and that the EIR's alternative analysis was flawed.

On the question of population, the EIR used SCAG's 2004-05 population estimate of approximately 224,000 residents in the Hollywood Community Plan Area and forecast a 2030 population of approximately 244,000 people. However, the 2010 Census concluded that only 198,000 people live in the area, meaning the community plan would increase the population by twice as much as the EIR estimated. Goodman concluded that the city should have used the Census figure.

Goodman also ruled that the city's alternatives – the 1988 community plan and an alternative based on SCAG's 2030 population estimate of 249,000 – were not sufficiently different from the proposed plan to constitute true alternatives. He said the city should have considered an alternative put forth by the plaintiff, a citizen group called Fix The City, that acknowledged the Census Bureau's lower population figure and called for additional downzoning.

THE URBAN LAND INSTITUTE has proposed a series of changes in state law that would give local governments more flexibility to use their own resources to pursue redevelopment. [http://urbanland.uli.org/news/california-district-councils-call-for-rebirth-of-redevelopment/]

In a report issued by the San Francisco District Council but signed off by other ULI councils in the state, the ULI proposes that the state permit cities and counties to bond against their own "tax increment" for redevelopment purposes – essentially, recreating the old redevelopment system without permitting a city or county to unilaterally appropriate the tax increment of other taxing entities. ULI proposes that the state permit cities and counties to use not only property tax in this way but also sales tax and transient occupancy tax.

ULI also proposes reducing the voter threshold for general bond issues to 55% to facilitate redevelopment projects.

The ULI proposal is not unlike the proposal contained in Senate leader Darrell Steinberg's SB 1, which will likely be forwarded to Gov. Jerry Brown next year. After eliminating redevelopment, Brown vetoed a similar bill in 2012.

RIVERSIDE COUNTY SUPERVISORS have approved a community plan aimed at protecting the Temecula Valley wine country and facilitating future wine industry development there. [http://www.pe.com/local-news/riverside-county/temecula/temecula-headlines-index/20131203-wine-country-supervisors-adjust-then-approve-community-plan.ece]

The 19,000-acre community plan will include a 20-acre minimum lot size for wineries seeking to engage in commercial activities, in part to protect and encourage on-site grape-growing. The supervisors dealt with a variety of disputes in approving the plan, including the inclusion of 1,000 acres in

– CONTINUED ON PAGE 3

CP&DR

William Fulton
Editor and Publisher

Josh Stephens
Associate Editor

Susan Klipp
Circulation Manager

Morris Newman, Kenneth Jost
Contributing Editors

Abbott & Kinderman, LLP
Legal Digest

is published semi-monthly by

Solimar Research Group
Post Office Box 24618
Ventura, California 93002

Telephone / Fax: 805.652.0695

Subscription Price: $238 per year

ISSN No. 0891-382X

Visit our website:
WWW.CP-DR.COM

You may e-mail us at:
INFO@CP-DR.COM

Copyright © 2012. All rights reserved. This publication may not be reproduced in any form without the express written consent of Solimar Research Group.

– CONTINUED FROM PAGE 2

southern Temecula, a requirement that half the grapes included in Temecula Valley wine be locally grown, a two-story limitation on wine country buildings, and an exemption for a 30-acre church site. One vintners group has threatened to sue over the church exemption.

More detail about the wine country plan can be found here: http://www.socalwinecountryplan.org

NEWPORT BEACH DID NOT FOLLOW its own general plan procedures and violated the California Environmental Quality Act in approving the 1,375-home Banning Ranch project, a temporary Orange County Superior Court judge has ruled. [http://articles.dailypilot.com/2013-11-29/news/tn-dpt-me-1130-banning-ranch-ruling-20131129_1_coastal-commission-banning-ranch-conservancy-general-plan]

The Banning Ranch project includes a large amount of open space. But the Banning Ranch Conservancy claimed that the city was obligated under its own General Plan to consult with the Coastal Commission in working out the details of the open space. City officials argued that it was up to the city to determine how to implement the General Plan.

The Banning Ranch Conservancy declared the court ruling a great victory, while city officials said the decision would be moot because they are consulting with Coastal Commission staff anyway. But the judge signaled otherwise, saying that consultation should have occurred before project approval. "So then, are we to go through the whole process of approving the [environmental impact report] without carrying out the policy of coordination to identify the wetlands and habitats to be restored, preserved or developed, and particularly without coordinating with the Coastal Commission to identify potential [environmentally sensitive habitat areas], only to get to the permit stage and have the project denied a permit?" he wrote ■

is now on Twitter and Facebook!

Please follow our tweets @Cal_Plan,
and search for us and become a fan on Facebook.

legal digest

Clean energy group can sue San Jose general plan

BY WILLIAM FULTON

The Sixth District Court of Appeal has unraveled a confusing set of events surrounding the certification of the environmental impact report for San Jose's new general plan, concluding that an environmental group exhausted all administrative remedies and can sue over the EIR.

The California Clean Energy Committee sued over the certification of the EIR, saying that it should not be penalized because of the confusing way San Jose certified the EIR. The Sixth District agreed.

Under the San Jose municipal code, the city planning commission is empowered to certify EIRs. However, the CEQA Guidelines, § 15025, subd. (b)(1), say that the decision-making body for a project cannot delegate the authority to certify the EIR to an "inferior" body. There's no conflict on most entitlements where San Jose's planning commission is the final decisionmaking body and applicants have the right to appeal to the city council. But in the case of the general plan, the planning commission's role is advisory. The decision-making body in that case was the San Jose City Council.

Nevertheless, in approving Envision San Jose, the city at first followed the procedure called for in the municipal code. The draft EIR was released and comments by groups such as the California Clean Energy Committee were presented to the planning commission. The committee's letter [http://planning.sanjoseca.gov/planning/eir/ESJ2040_GP/EIR_comments/clean_energy_cmte_7_28.pdf] covered a wide variety of topics, including traffic, energy conservation, and the city's ability to finance all the proposed actions. Following the municipal code, the planning commission certified the EIR. But of course the planning commission didn't have power to approve the plan. Rather, the commissioners made recommendations to the city council.

Subsequently the city council approved the general plan. However, the council also certified the EIR.

The Clean Energy Committee subsequently sued, claiming the EIR was inadequate and should have been recirculated. The city argued that the Clean Energy Committee had not exhausted its administrative remedies because neither the committee – nor anyone else – appealed the planning commission's certification of the EIR. The committee argued, essentially, that it was not possible to appeal the EIR certification because, under the municipal code that certification was final. The committee also argued that the planning commission certification was not legal and that the city

– CONTINUED ON PAGE 5

ABBOTT & KINDERMANN, LLP
ATTORNEYS AT LAW

Abbott & Kindermann, LLP
Land Use, Environmental and Real Estate Law
Counseling, Advocacy and Litigation

2100 21st Street, Sacramento, California 95818
916-456-9595

– CONTINUED FROM PAGE 4

council's certification was done with knowledge of the committee's comments.

The Sixth District ruled for the committee. "We conclude that the EIR was not properly certified by the planning commission, as the planning commission could not be delegated the duty to certify a final EIR given that it is not a decision-making body with respect to the Envision San Jose project," the court wrote, adding: "We conclude that CCEC exhausted its administrative remedies with respect to the challengest o the sufficiency of the EIR and CCEC‟s argument that the draft EIR should have been recirculated, as these points were adequately raised with the city council via CCEC‟s comment letter."

The San Jose case was a good example of a case in which one side – the city in this situation -- had to make a tortured argument in order to defend its actions.

Under Section 15090 of the CEQA guidelines. certification of a final EIR requires the lead agency to certify that:

1. The final EIR has been completed in compliance with CEQA;

2. The final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project; and

3. The final EIR reflects the lead agency's independent judgment and analysis.

The municipal code states that once the planning commission has certified the EIR, it may then either act on the matter at hand or make recommendations to the city council.

In court, San Jose made the argument that certification in the case of the Envision San Jose plan was bifurcated. The planning commission, the city argued, provided certification of #1 above, while the city council provided certification of #2 and #3.

The court saw through this tactic and basically concluded that the municipal code did not comply with the CEQA guidelines.

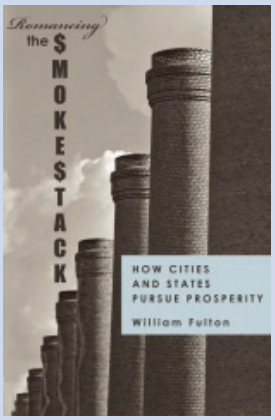
"For all intents and purposes," the court wrote, "the certification of the final EIR by the planning commission is meant to be final for the purposes of CEQA, as the San Jose Municipal Code provides that after the planning commission 'certifies the final EIR, it may then immediately act or make recommendations on the project associated with the EIR.'"

The court added: "An alternate reading of the municipal code would produce a strange result where the planning commission has made only one out of the three required findings under CEQA Guidelines section 15090, subdivision (a), for all projects requiring CEQA approval, with no provisions for further CEQA certification by the planning commission or the lead agency. Logically, the planning commission would not be able to 'immediately act' if it did not make all three of the requisite findings under CEQA Guidelines section 15090, subdivision (a)."

The case: California Clean Energy Committee v. City of San Jose, Sixth District Court of Appeal Docket # H038740 ■

Romancing the $moke $tack
How Cities And States Pursue Prosperity

Bill Fulton's Book On Economic Development



First District Upholds Categorical Exemption For S.F. Plastic-Bag Ban

In an unpublished opinion, the First District Court of Appeal has rejected an attack on San Francisco's single-use plastic-bag ban, saying that the city did not violate the California Environmental Quality Act and that local plastic-bag bans are not overridden by the state's Retail Food Code.

San Francisco adopted a single-use plastic-bag ban in 2012. The city concluded that the plastic-bag ban was categorically exempt from CEQA under 15307 and 15308 of the CEQA Guidelines, saying that the plastic-bag ban would have a net positive impact on the environment.

The city was quickly sued by the Save The Plastic Bag Coalition, which has challenged plastic-bag ordinances around the state. The Coalition argued that the plastic-bag ban should not fall under the categorical exemption because life-cycle studies show that plastic bags are not as harmful to the environment as paper bags. The Coalition also argued that plastic-bag ordinances should be pre-empted by the state's Retail Food Code, which occupies the field of health and sanitation regulation.

The First District did not buy the Coalition's arguments – and, in the case of the CEQA argument, was not persuaded by the Coalition's approach given the outcome of previous cases. In arguing that the plastic-bag ban should not be categorically exempt, the Coalition relied on the California Supreme Court's ruling in *Save the Plastic Bag Coalition v. City of Manhattan Beach* 52 Cal.4th 155 (2011).

"In the present case," the First District wrote, "the Coalition's reliance on Manhattan Beach is perplexing.

The Coalition's argument relied heavily on the Supreme Court's statement in a footnote which noted that the plaintiff – the Coalition itself – argued that a plastic-bag ban required "comprehensive environmental review." In the San Francisco case, the Coalition concluded that "comprehensive environmental review" precluded the use of a categorical exemption.

"In the present case," the First District wrote, "the Coalition's reliance on *Manhattan Beach* is perplexing. The fact that the city of Manhattan Beach was able to enact its plastic bag ban without preparing an EIR certainly does not strengthen the Coalition's position here. Furthermore, we find nothing in that opinion which supports the Coalition's specific contention that the City cannot rely on a categorical exemption in this case because it is larger than the city of Manhattan Beach. Indeed, Manhattan Beach was not a categorical exemption case at all; during the second step of its CEQA inquiry the city conducted an initial review which resulted in a negative declaration."

The Coalition also argued that the Supreme Court upheld Manhattan Beach's plastic-bag ban partly because Manhattan Beach was such a small city and the impact of its ban on the global environment would be minimal – the implication being that a ban in a larger city would be prohibited. But the First District didn't bite. Indeed, the appellate court seemed somewhat miffed that the Coalition used the exact same arguments about life-cycle impacts in the San Francisco case that the Supreme Court had rejected in the Manhattan Beach case.

The First District also noted that the San Francisco case was essentially the same case the court had already decided earlier this year in *Save the Plastic Bag Coalition v. County of Marin,* 218 Cal.App.4th 209 (2013).

As for the Retail Food Code, the Coalition argued that because that state law pre-empts local regulation on health and sanitation of single-use carry-out items (plastic utensils and paper plates, for example), it also pre-empts a local plastic bag ban. Again the First District was not sympathetic. It affirmed the Superior Court's judgment that the plastic-bag ban is a regulation focused on environmental issues, not health and sanitation issues ■

The Case: *SAVE THE PLASTIC BAG COALITION, Plaintiff and Appellant, v. CITY AND COUNTY OF SAN FRANCISCO, et al., Defendants and Respondents.*

A137056 (December 10, 2013).

>>> Brand-New City Considers Municipal Suicide

– CONTINUED FROM PAGE 1

legislators could vote to provide long-sought fiscal relief.

The city has about two years to complete disincorporation before it runs out of cash, according to recent press reports.

"Nobody connected with the city wants to disincorporate," said Mayor Verne Lauritzen. "We realize we have to take this action to meet the legal timeline."

Jurupa Valley appears to be the only city in the state headed towards disincorporation. Two years ago, three other Riverside County cities were claiming they too would have to disincorporate, but all have backed away from that action. At the same time, other cities in San Bernardino County have also discussed the option. The last time cities disincorporated in California was in the early 1970s when two small cities did so.

Jurupa Valley's woes stem from passage of SB 89, a 2011 last-minute state legislative deal that diverted vehicle license fee money from city budgets, sending it instead to prison realignment. Its brunt was felt on new cities that had incorporated under a previous law that had sent VLF money to them to help jump-start their newly formed governments. Jurupa Valley lost nearly half the money it counted on for its new budget, and things have been tight ever since.

The other newly formed Riverside County cities which felt the effects of SB 89 and warned that they, too, might disincorporate were Eastvale, Wildomar and Menifee.

Carol Jacobs, city manager of Eastvale said her city is no longer considering disincorporation. It incorporated in 2010.

"We got one payment of Vehicle License Fees of $3.2 million, just barely enough to get us over the fence,"she said. Jacobs explained that Jurupa Valley never got that early VLF money, and it is a bigger city than hers.

Wildomar is also not planning to disincorporate, said city manager Gary Nordquist.

"Disincorporation for the city is not forecasted, but a recovery to wanted municipal service levels is years away with the taking of revenues by the state," he said in an email. Nordquist said police services have been cut in his city.

Menifee also is not planning on disincorporating due to significant commercial development, said George Spiliotis, executive officer for Riverside County's LAFCO.

In San Bernardino County, Kathleen Rollings-McDonald, head of that county's LAFCO, has also spoken to local groups interested in disincorporation. Rollings-McDonald said she made a presentation about the topic to the city council of Grand Terrace, a city of 12,000. Rollings-McDonald also said that several cities in the northern part of the county have informally asked about it, but she declined to name them.

Grand Terrace, she said, is dealing with the end of redevelopment and a long-ago failure to pass a utility tax. The city incorporated in 1978, making it a seasoned player compared to the newly incorporated Riverside County cities.

Rollings-McDonald said she made a presentation on disincorporation for San Berrnardino to a private civic group in that city, after that city went into bankruptcy in 2012.

Rollings-McDonald said disincorporation doesn't allow cities to walk away from obligations on things like bonds. Instead, cities lose their ability to renegotiate contracts under disincorporation. That's a major contrast to filing for bankruptcy, which allows such tactics.

– CONTINUED ON PAGE 8

"It's said that great minds think alike.
Sometimes great firms do, too."

NEW GROWTH
from deep roots

The merger of two major planning firms, The Planning Center of Costa Mesa, CA, and DC&E of Berkeley, CA.

The Planning Center is a full-service consulting firm specializing in community planning, environmental services, and land planning and design. DC&E provides a comprehensive range of planning and design services, with an emphasis on urban design and smart growth.

THE PLANNING CENTER | DESIGN, COMMUNITY & ENVIRONMENT

www.planningcenter.com | www.dceplanning.com

– CONTINUED FROM PAGE 7

"You negotiate through a bankruptcy process,"she said. "Disincorporation simply does away with an entity."

Another Riverside County city, Desert Hot Springs, has also recently discussed filing for bankruptcy after facing a budget gap of $4 million.

Dan Carrigg, legislative director for California League of Cities, said Jurupa Valley's case may preclude future incorporations of cities, a situation he laments.

"Incorporation is an example of local democracy in action," he said, noting it begins with local citizens who are concerned about government services and land use issues.

"Incorporation is a really good form of growth management," he said, noting that cities are the most urbanized areas of the state and "densify over time."

Without incorporation, he said, "I don't know how that meshes with state goals of carbon reduction and preserving farmland and open space."

Carrigg traces the problems of Jurupa Valley to the passage of SB 89, which took money from new cities. In a case of bad timing, Jurupa Valley was incorporated two days after the law went into effect. An attempt to fix the situation came via AB 1098 in 2012, which passed the legislature, but was then vetoed by Brown.

In the current legislative session, SB 56 is attempting to make the same legislative fix to VLF funding. The bill is sponsored by Sen. Richard Roth, D-Riverside.

"I anticipate another effort to pass SB 56 in January," Carrigg said.

If SB 56 passes, Jurupa Valley will be saved. But if it doesn't, a process begins in January that that will require votes on disincorporation by both LAFCO and the County Board of Supervisors, and then city's voters, said Mayor Lauritzen.

Jurupa Valley's woes stem from passage of SB 89, a 2011 last-minute state legislative deal that diverted vehicle license fee money from city budgets, sending it instead to prison realignment.

What happens if Jurupa Valley voters turn down disincorporation?

"Nobody in the state has an answer to that one," said Lauritzen.

Spiliotis of Riverside County LAFCO answers differently.

"If city voters vote no, it's up to city council to make a go of it with what they have," he said.

Most of the city's money goes to a contract with the Riverside County Sheriff for police services, Spiliotis noted. "Public safety levels would be reduced," he said ■

Planning & Visioning Websites Internet Marketing

URBAN INSIGHT

Phone 877-872-6150 Fax 877-944-6792
www.urbaninsight.com

insight WILLIAM FULTON

>>> Can Riverside County's Single-Family Brand Survive?

– CONTINUED FROM PAGE 1

the future. How big will the single-family market be? Can Riverside County continue to capture and outsized share of that market? And, if not, how in the world can a county with hundreds of thousands of post-1980 single-family homes – wide streets, three-car garages, cul-de-sacs, and so forth – compete in California's 21st-century housing market?

Riverside County keeps growing – but only by capturing an enormously large share of a declining segment of the housing market.

Every indicator suggests that the market for single-family detached housing in California – and, indeed, throughout the United States – will be on the decline in decades ahead. The combination of demographic and economic change means that fewer people will want single-family houses and many who want them won't be able to afford them.

The now-famous estimates of Professor Arthur C. Nelson suggest that the United States – and, by extension, California – already has enough single-family homes to meet demand for the next 20 or so years. Nelson's numbers are subject to debate, of course, and there's no question that some single-family housing development will continue. After all, even if there are enough houses theoretically available in the aggregate, there are probably still gaps in single-family housing type, size, location, and price. And as we all know, some people just like new houses and are willing to drive a long way to own one.

But this segment of the market is in decline. Indeed, for the first time, you can even begin to think of it as a niche. And that poses a problem for Riverside County.

Indeed, the most recent Department of Finance statistics – which seem to tell the compelling story of Riverside County as the single-family mecca – also document the rapid decline in the single-family market. The six counties of Southern California – the five-county Los Angeles market plus San Diego – represent a discrete regional housing market. There's a lot of commuting within this enormous region, but very little commuting in and out of it. And this six-county area represents about half of the overall state housing market.

Between 2010 and 2013, according to DOF, this region added about 59,000 housing units. Of these, only about 38% were single-family detached homes. More than half were apartment and condominium buildings of five or more units. The rest were either single-family attached units or small multi-family buildings such as duplexes.

Of all the single-family homes built in this six-county region between 2010 and 2013, almost 40% of them – 8,600 – were built in Riverside County. Riverside County built more single-family homes than Los Angeles, Orange, and San Bernardino counties combined.

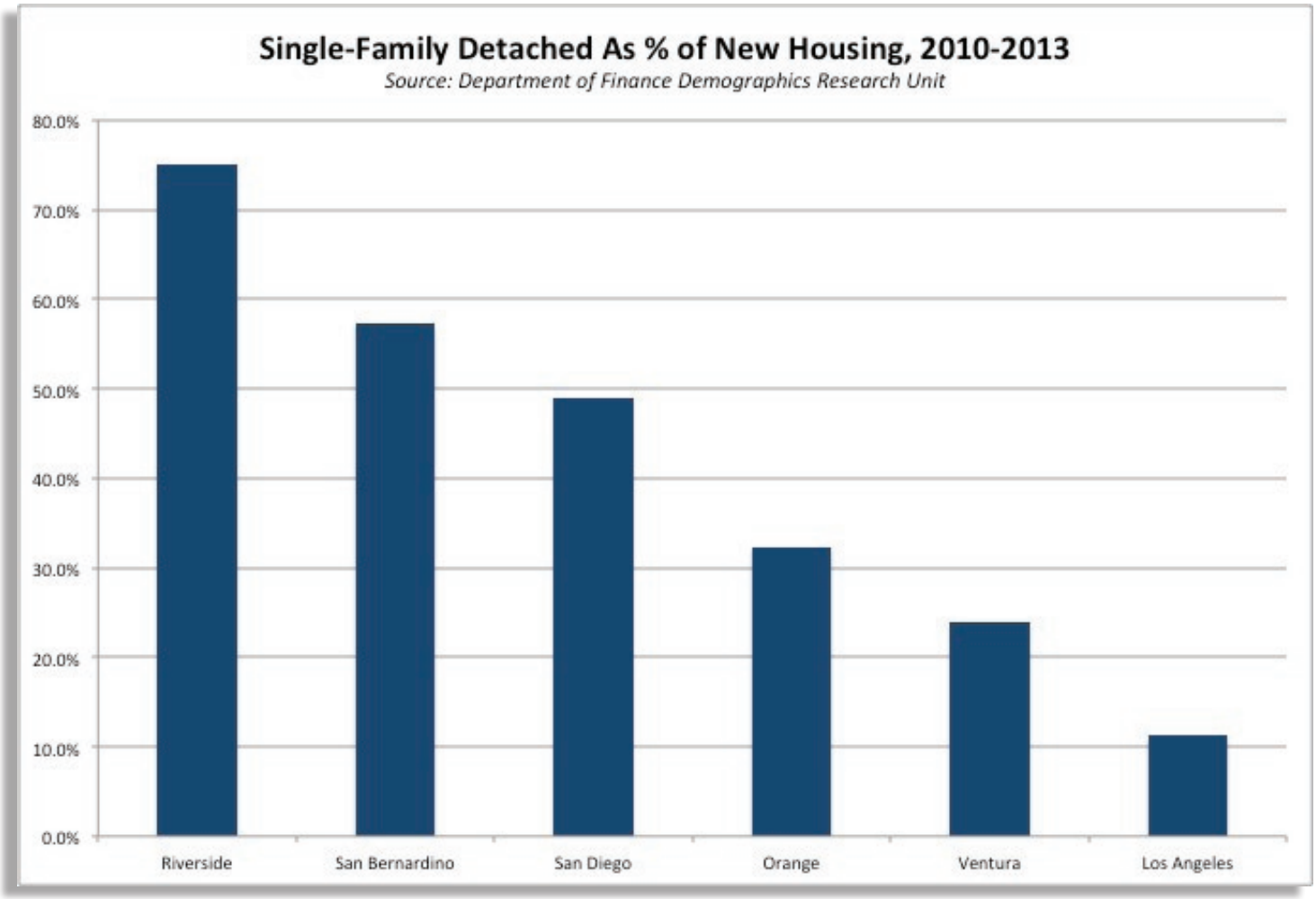
Think about this for a minute. Riverside County – with about 2.2 million people in 2013 – has about 12% of Southern California's population. Riverside has 11% of the region's housing stock, and – all told – about 13% of the single-family homes. Yet during the recent upturn in the housing market, the county captured almost 40% of all single-family construction. In other words, the county kept growing – but only by capturing an enormously large share of a declining market segment.

To some extent, this pattern will probably continue indefinitely. There's definitely a market for new detached single-family homes in Southern California. There aren't very many other places in Southern California where such housing can be built affordably. And there's a long-standing pattern of self-selection within this market segment. For decades, single-family homebuyers have shown a willingness to move to Riverside County and commute long distances – to L.A, Orange County, and San Diego – in order to to maintain that lifestyle.

So there's no doubt that Riverside County can continue to capture a large share of the single-family market in Southern California. It's got brand-name recognition and can probably continue to increase its

– CONTINUED ON PAGE 10

– CONTINUED FROM PAGE 9



market share even as the market segment continues to decline for the foreseeable future.

But what happens when Riverside County hits the wall? After all, the remaining available single-family land in southwest Riverside County – along the I-15 and I-215 corridors – is being gobbled up quickly. And even if Riverside doesn't hit the wall soon, does it have to diversify its housing stock in order to remain competitive?

Because underneath all the numbers and trends, there is one intangible: People. Will the people that Riverside County needs to prosper want to live there if the only choice is single-family living? And can the people who live in the county's single-family neighborhoods now – who are getting older and older – continue to live in their houses indefinitely?

The two biggest drivers of the housing market these days are Millenials and aging Baby Boomers. Both are necessary for a region's prosperity. And both are trending heavily toward urban living – in other words, both are trending in the complete opposite direction of Riverside County. So Riverside County faces a choice: focus on the self-selected suburbanites and remain a bedroom suburb; or diversity its housing stock and its selection of neighborhoods to become more competitive with the people who can bring jobs and broader prosperity to the county.

It's worth remembering that, not so long ago, Orange County faced a similar challenge: It was the quintessential bedroom suburb in a rapidly changing world. But Orange County had some advantages that Riverside does not. Jobs were decentralizing into suburban Edge Cities (that's not happening anymore) and the county had a few large landowners willing to move heavily in the direction of employment centers and master-planned communities

– CONTINUED ON PAGE 11

insight WILLIAM FULTON

– CONTINUED FROM PAGE 10

(which Riverside does not).

Is Riverside up to the challenge? Maybe hip neighborhoods will emerge in certain locations – near the University of California in the City of Riverside, for example, and a few other locations. Maybe aging homeowners stuck in their subdivisions will become creative – doubling up, sharing kitchens, selling each other goods and services in an informal economy, and so on. Or maybe Riverside County will follow the same pattern as many old brand names in mature industries – mining a declining customer base for as much short-term profit as it can extract before the mines are played out ■