



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Redevelopment Agency
Department No.: 993
For Agenda Of: January 10, 2012
Placement: Departmental
Estimated Tme: 20 minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Directors, Santa Barbara County Redevelopment Agency
Board of Supervisors, County of Santa Barbara

FROM: Agency Director: Chandra Wallar, County Executive Officer
Contact Info: Glenn Russell, Ph.D., Director, Planning and Development (x 2085)
Errin Briggs, Program Manager, Redevelopment Agency (x 2047)

SUBJECT: Report on California Redevelopment Agency Litigation

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence:

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

1. Receive a report on the California Supreme Court's December 29, 2011 action in the matter of *California Redevelopment Association v. Matosantos* (ABX1 26 and ABX1 27 Redevelopment Litigation); and,
2. Still take no action under Health & Safety Code Section 34173(d)(1). (Consistent with the Board's action on August 9, 2011, this would allow the County to automatically become the "Successor Agency" to the County Redevelopment Agency); and,
3. Pursuant to Health and Safety Code Section 34176(a), adopt a resolution through which the County of Santa Barbara retains the housing assets, functions and powers previously performed by the County Redevelopment Agency (Attachment A); and,
4. Receive a report on the requirement under Health & Safety Code Section 34179 that members be selected by May 1, 2012 for the seven-member Successor Agency Oversight Board.

Summary Text:

On December 29, 2011, the California Supreme Court decided the case of *California Redevelopment Association v. Matosantos* (S194861). In that litigation, California Redevelopment Association and others had challenged the State of California's amendment of California Redevelopment Law through ABX1 26 and ABX1 27. As enacted in June 2011:

- ABX1 26 barred redevelopment agencies ("RDAs") from engaging in new business and provided for their windup and dissolution; and
- ABX1 27 provided the alternative that RDAs could continue to operate if the city or county that created them agreed to make payments into state funds.

Summarized, the California Supreme Court's action on December 29th:

- Upheld almost all of ABX1 26, the "dissolution" measure;
- Invalidated all of ABX1 27, the "continuation" measure;
- Revised many deadlines within ABX1 26, to take effect four months later than stated within ABX1 26. This included extending the date on which RDAs become dissolved, from October 1, 2011 to February 1, 2011; and
- Extended to January 13, 2012 the County's deadline under Health & Safety Code Section 34173(d)(1) to elect not to serve as a "successor agency" to the County RDA.

Board Agenda Letters for hearings on August 9, 2011, September 6, 2011 and October 4, 2011 identified uncertainty then about how the California Supreme Court and/or Legislature might handle deadlines within ABX1 26 and ABX1 27 that would already have passed before this litigation resolved. Part of that uncertainty was caused by partial stays of ABX1 26 and ABX1 27 that the California Supreme Court issued during August 2011. Now that the California Supreme Court's action on December 29th removed that uncertainty and revised deadlines and dates within ABX1 26, Staff recommends that the Board of Supervisors:

- Still take no action under Section 34173(d)(1). Consistent with the Board's action on August 9, 2011, this would allow the County to automatically become the "successor agency" to the County RDA. Otherwise, the successor agency will be either another local agency, or a designated local authority whose governing board would be appointed by the Governor; and
- Pursuant to Health and Safety Code Section 34176(a), adopt another resolution through which the County of Santa Barbara retains the housing assets, functions and powers previously performed by the County RDA. This is similar to the resolution that the Board of Supervisors adopted on September 6, 2011, while the California Supreme Court's stays were in effect and during

uncertainty then over how the California Supreme Court and/or Legislature might revise those deadlines.

This Board Agenda item is focused on County of Santa Barbara's relationship with the County Redevelopment Agency, not County's potential roles with respect to other redevelopment agencies within the boundaries of the County of Santa Barbara. CEO will address County's roles with respect to those other redevelopment agencies in a future Board Agenda item.

Discussion:

The Successor Agency under RDA Dissolution:

On August 9, 2011, the Board of Supervisors took no action under Health & Safety Code Section 34173(d)(1) to opt out of the County automatically becoming the Successor Agency if the County RDA dissolved pursuant to Assembly Bill ABX1 26. Section 34173(d)(1) stated a deadline of September 1, 2011 for any "opt out" election. The California Supreme Court's action on December 29, 2011 revised this deadline to January 13, 2012, providing the Board of Supervisors an opportunity to revisit its decision to automatically become the Successor Agency.

The Successor Agency is required to expeditiously wind down the affairs of the former RDA after February 1, 2012, when the former RDA's assets are transferred to it. It is also required to dispose of those assets and make payments and perform other obligations of the former RDA.

As part of these responsibilities, the Successor Agency must remit most unencumbered RDA fund balances and proceeds from the sale of RDA assets to the County Auditor-Controller for distribution to local taxing entities. The Successor Agency is required to dispose of the former RDA's assets or properties expeditiously and in a manner aimed at maximizing value.

If the County elects not to become the Successor Agency of the dissolved RDA, the first city or special district in the County that submits to the County Auditor Controller a duly adopted resolution electing to become the Successor Agency shall be designated as such. If no local agency elects to serve as the Successor Agency, a "designated local authority" shall immediately be formed with all the powers and duties of a Successor Agency with a governing board comprised of three local residents appointed by the Governor.

Staff again recommends that the Board of Supervisors take no action under Section 34173(d)(1) to opt out of the County automatically becoming the Successor Agency to the RDA. Not opting out would allow the County to maintain control of the RDA's assets during the dissolution period.

Retention of Housing Assets:

On September 6, 2011, the Board of Supervisors adopted "a resolution retaining the housing assets, functions and powers previously performed by the Redevelopment Agency pursuant to Health and Safety Code Section 34176(a)." Now that the California Supreme Court's action has removed the deadline uncertainties that existed when the Board took that action on September 6, 2011, Staff recommends that the Board of Supervisors reaffirm this decision through adoption of a new resolution to retain the housing assets, functions and powers previously performed by the RDA. This would provide for the transfer of the housing functions and all related assets from the RDA to the County upon the RDA's dissolution on February 1, 2012. The County would then exercise Redevelopment Law housing powers to fulfill the RDA's housing obligations. If the Board chooses not to retain the RDA's housing

assets and functions, then such assets and functions would be transferred to the County of Santa Barbara Housing Authority.

Establishment of an Oversight Board:

Section 34179(a) of ABX1 26 requires the establishment of an Oversight Board which is generally intended to supervise the activities of the Successor Agency and ensure the RDA's assets are distributed to the taxing entities as discussed above. The Oversight Board has a fiduciary responsibility to holders of Enforceable Obligations of the RDA and to the taxing entities that would benefit from the distribution of revenues generated by the liquidation of RDA assets. The Oversight Board would consist of seven members, at least two of which would be appointed by the County Board of Supervisors. The Court-revised deadline for forming and reporting membership of the Oversight Board is May 1, 2012. The Governor may appoint individuals to any unfilled positions as of May 15, 2012 or to any member position that remains vacant for more than 60 days.

Staff will return to the Board of Supervisors well in advance of the May 1 deadline to further detail the process of selecting the Oversight Board members, as well as for the Board of Supervisor's appointment of members.

Potential Legislative Action:

Due to the significant effects of the California Supreme Court Opinion, there may be additional legislative action related to Redevelopment Agencies. Staff will keep the Board informed of any proposed legislation to modify redevelopment law.

Environmental Review:

The above actions do not constitute a "project" under the California Environmental Quality Act ("CEQA") but instead consist of governmental organizational activities and the creation and continuation of a governmental funding mechanism for potential future projects and programs pursuant to CEQA Guidelines Sections 15378(b)(4) and 15378(b)(5).

Fiscal and Facilities Impacts:

The Auditor-Controller's office previously provided the Board with a detailed financial analysis describing the RDA outcomes under ABX1 26 and ABX1 27 as Attachment 2 to the September 6, 2011 Board Agenda Letter. An updated financial analysis will be presented to the Board at a future date.

Attachments:

- A. Resolution to Retain Housing Assets, Functions and Powers previously performed by the RDA.
- B. Resolution Electing not to Become the RDA Successor Agency.

Authored by:

Dianne Black, Director of Development Services, Planning and Development
Errin Briggs, Program Manager, Redevelopment Agency

CC:

Bob Geis and Greg Levin, Auditor Controller

Mark Paul, Public Works

Michael Ghizzoni and Mary McMaster, County Counsel