December 29, 1994

Redevelopment After Reform: A Preliminary Look

Executive Summary

In the fall of 1993, the Legislature passed and the Governor signed Chapter 942, the Community Redevelopment Law Reform Act of 1993 (AB 1290, Isenberg). Since that time, there has been considerable interest in the measure's effect on local agency redevelopment activities.

This white paper reviews redevelopment activities undertaken between January 1993 and August 1994—and presents the following findings:

- *Local redevelopment agencies responded to the Legislature's reform efforts by accelerating their redevelopment plans—and adopting, extending or expanding them before Chapter 942 took effect. Altogether, redevelopment agencies placed about 100 square miles of land under redevelopment in 1993, about three times the land placed under redevelopment the year before.*
- *Several redevelopment agencies approved redevelopment plans and pass-through agreements in 1993 that appear inconsistent with the spirit—or perhaps even the letter—of the 1993 law.*
- *Contrary to predictions by redevelopment officials, we find no evidence that redevelopment project areas established in 1994 are smaller in size or more focused on eliminating urban blight than project areas adopted in earlier years.*
- *Redevelopment agencies adopted four redevelopment plans in early 1994 pursuant to the previously seldom-used Disaster Project*

Law—a law which provides broad exemptions from many Community Redevelopment Law (CRL) requirements.

These findings lead us to two primary conclusions.

- *First, because the state's redevelopment oversight system is decentralized and weak, the Legislature has no assurance that communities will follow its intent regarding the CRL—or that questionable redevelopment activities will be reviewed and challenged. Accordingly, we recommend the Legislature strengthen the state's CRL oversight system by enacting legislation requiring local agencies to submit proposed redevelopment plans to the state Attorney General for a finding of consistency with state law.*
- *Second, we believe that one impact of Chapter 942 will be an increased usage of the Disaster Project Law as the basis for adoption of redevelopment plans. We recommend that the Legislature modify or repeal the Disaster Project Law to avert this unintended result.*

Introduction

In enacting Chapter 942, the CRL Reform Act of 1993, (AB 1290, Isenberg), the Legislature and Governor acted to address long-standing concerns about misuse of redevelopment powers by local agencies. Since the measure was intended to dramatically reduce the potential for misuse of these powers, there has been considerable interest in reviewing local agency redevelopment activities occurring after the measure's January 1, 1994 effective date.

In addition, the prospect of the measure's enactment may have affected the activities of redevelopment agencies even prior to January 1, 1994, as local agencies sought to avoid application of the measure's restrictions to their activities. Accordingly, we examine redevelopment activity during both these periods.

Background

More than 40 years ago, the Legislature delegated to cities and counties two extraordinary powers to be used by local redevelopment agencies (RDAs) to eliminate blight from designated urban areas in their communities. These powers are:

Tax-Increment Financing. After a community establishes a redevelopment project area, the amount of property taxes flowing to taxing agencies serving the area generally are frozen. Cities, counties, schools and special districts continue to receive all of the property taxes they had received up to that point. All of the *growth* in property taxes in the project area, however, is allocated to the redevelopment agency as "tax-increment" revenue. Redevelopment agencies use tax-increment revenues to finance a broad array of urban renewal programs and to construct affordable housing. In order to partially offset the loss of "growth" in property taxes and other fiscal losses associated with redevelopment, the CRL requires redevelopment agencies to "pass

through" to other taxing agencies a specified portion of their tax-increment revenues. (Prior to Chapter 942, taxing agencies and RDAs had broad authority to *negotiate* the amount of tax-increment revenues contained in a pass-through agreement.)

Property Management. RDAs have broad property management powers, including the authority to acquire property by eminent domain and to sell, lease, clear or develop real property in the project area.

Over the decades, many cities and counties have used these delegated redevelopment powers to rejuvenate depressed downtown areas, restore historical districts and construct affordable housing. Some local agencies, however, have been criticized for using their redevelopment powers to undertake activities inconsistent with the CRL's objectives (such as the development of large tracts of vacant and agricultural lands in areas remote from the urban center or the subsidization of large retail businesses). In addition, some local agencies have been criticized for failing to spend 20 percent of their tax-increment funds for low- and moderate-income housing, as required by the CRL.

In order to address these perceptions of misuse of redevelopment powers, the Legislature has passed numerous measures over the years to clarify the CRL, to tighten its housing requirements, and to restrict the use of redevelopment to areas of a community which are:

- *Predominately urban,*
- *Seriously blighted,* and
- *Dependent upon redevelopment* to cure the conditions of blight.

Chapter 942, supported by the California Redevelopment Association, represents the most far-reaching redevelopment reform measure to be enacted in recent years. Figure 1 summarizes Chapter 942's requirements, as amended by its clean up legislation, Chapter 936, Statutes of 1994 (SB 732 - Bergeson).

Figure 1

Major Elements of Chapter 942 As Amended by Chapter 936

Stricter Blight Requirements

Chapter 942 specifies that a "blighted" area is one that is predominately urbanized and where certain problems are so prevalent and so substantial that they:

- Cause a reduction or lack of proper utilization of an area, and
- Constitute a serious physical and economic burden to a community that cannot reasonably be expected to be reversed by private or government actions, absent redevelopment.

Statutory Pass-Through Agreements

The measure establishes a statutory formula for sharing tax-increment revenues derived from newly created redevelopment project areas. This formula replaces the process of local taxing agencies and RDAs negotiating the amount of pass-through revenues on a case-by-case basis.

Linking Expenditure With Blight

Agencies must adopt implementation plans describing their goals and objectives, and programs and planned expenditures for the next five years. Agencies must explain how their goals, objectives, programs and expenditures will eliminate blight.

Redevelopment Time Limits

Chapter 942 institutes statutory time limits for redevelopment plans adopted before and after its effective date. Redevelopment plans adopted before January 1, 1994, for example, have up to 30 years to incur debt and up to 40 years to carry out activities. New redevelopment plans have no more than 30 years to establish debt or undertake programs.

Sales Tax Subsidies

Agency authority to adopt ordinances to receive sales tax revenues is eliminated. Agency ability to assist auto dealerships, large volume retailers, and other sales tax generators is limited.

Housing for Low- and Moderate-Income People

Chapter 942 increases the penalties that apply when an RDA fails to encumber monies in its housing fund in a timely manner. The measure also clarifies RDAs' affordable housing production requirements and provides RDAs with somewhat more flexibility in meeting them.

This white paper begins by testing two common assertions regarding redevelopment activities in 1993 and 1994. Specifically, we examine whether:

- Redevelopment agencies were unusually active during 1993, and whether they approved plans and activities in 1993 that were contrary to the law as it stood prior to reform.
- Redevelopment plans approved after the effective date of Chapter 942 are fewer in number, smaller in acreage and more focused on mitigating urban blight.

Given the focus of our review, this white paper does not discuss redevelopment activities in 1993 and 1994 which are fully consistent with both the CRL and the Legislature's intent for this urban renewal program. Rather, the paper focuses on the types of redevelopment activities that the Legislature sought to eliminate through the provisions of Chapter 942.

To undertake our analysis of local agency response to Chapter 942, we reviewed Board of Equalization and State Controller data on redevelopment plans adopted or expanded (1) prior to 1993, (2) during 1993, and (3) during the first eight months of 1994. In addition, when a redevelopment plan or other activity included a very large land area or other unusual characteristics, we also reviewed redevelopment documents (such as redevelopment plans, preliminary reports, pass-through agreements and analyses prepared by other taxing agencies) or conducted telephone interviews with redevelopment officials.

Redevelopment in 1993

In this section, we examine whether local agencies accelerated their activities in 1993 and whether local agencies approved activities that were contrary to legislative intent.

Apparent Acceleration of Redevelopment Activities

Local redevelopment agencies were unusually active in 1993. As Figure 2-A indicates, cities and counties placed significantly more land under redevelopment in 1993 than during the three previous years.

Specifically, local agencies placed under redevelopment in 1993 over 60,000 acres—or a land area greater than the cities of San Francisco and Oakland combined.

As Figure 2-B indicates, the large increase in land placed under redevelopment in 1993 reflects:

- A rise in the number of redevelopment project areas established or expanded.
- The adoption or expansion of an unusual number of project areas encompassing 3,000 or more acres of land. (As a point of reference, 3,000 acres is equivalent to a business district that is one-half mile wide and nine miles long. Only four percent of all redevelopment project areas adopted prior to 1993 encompass greater acreage.)

While we were not able to gauge the total time used to adopt and amend redevelopment plans in 1993, we did examine the time between two key milestones: (1) the date the local agency submitted its proposed redevelopment plan to the State Board of Equalization and (2) the date the redevelopment plan became effective. The local agencies are largely in control of the process during this period. As Figure 2-C indicates, this time period was approximately three months or 25 percent shorter in 1993 than in 1992—and roughly 10 percent (or 1.5 months) shorter than in 1992 and 1991.

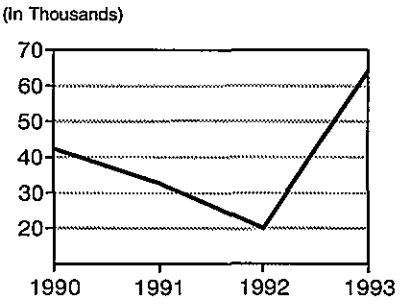
In summary, the data on the size, number, and timing of redevelopment activities in 1993 suggests that local agencies accelerated the adoption or expansion of redevelopment plans in 1993. By completing action on these redevelopment activities in 1993, local agencies avoided the stricter plan adoption requirements of Chapter 942.

Figure 2

Redevelopment Activities
1990 Through 1993

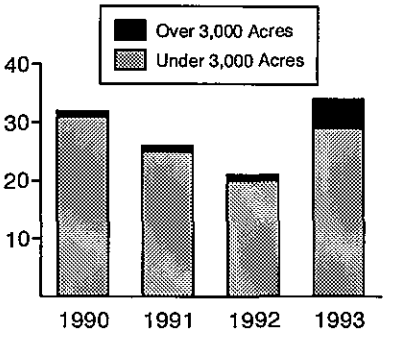
A

Acres of Land Placed Under Redevelopment



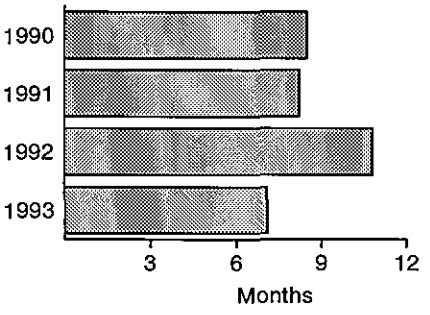
B

Number of Redevelopment Plans Adopted or Expanded



C

Months to Adopt or Expand A Redevelopment Plan



Over-Stepping the Intent of the CRL

There are indications that some redevelopment activities in 1993 may not be fully consistent with the spirit—or the letter—of the CRL as it stood prior to the adoption of Chapter 942 (the "1993 CRL"). We discuss several examples below.

Farmland in a Redevelopment Project Area. As discussed earlier, the Legislature has enacted measures over the years restricting the use of redevelopment to areas of a community that are predominately urban. While the 1993 CRL provided certain exceptions to this urbanization requirement (for instance, for land that is integrally linked to adjacent urban areas; or land that places a serious burden on a community because it is improperly subdivided, deficient in public infrastructure, or replete with parcels with depreciated land values), the Legislature clearly intended these exceptions to permit the development of limited areas of distressed land—not vast tracts of vacant and agricultural lands.

Contrary to this legislative intent, in December 1993 the City of San Jacinto expanded its 1,100 acre redevelopment project (created in 1983 on land which was predominately vacant) by adding:

- 2,400 acres of farmland (including 1,700 acres of farmland protected under Williamson Act contracts).
- 500 acres of vacant land.

The City of San Jacinto asserts that this plan expansion meets 1993 CRL requirements because the land area lacks adequate flood control and other public facilities and contains some irregularly shaped parcels. We note, however, that the 1993 CRL specified that the existence of inadequate public improvements may be used to justify redevelopment only in cases when the problem "cannot be remedied by private or government action, without redevelopment." Many other California communities have financed flood control improvements with financing

tools such as improvement or benefit assessment districts. In addition, according to an analysis prepared by the County of Riverside, virtually all of the parcels identified as "irregular" in the San Jacinto redevelopment expansion area are owned in conjunction with adjacent parcels by the same owners. Should the irregular nature of the land parcels impede the land owners' ability to use them productively, therefore, private parties could request the city to modify the parcels' boundary lines.

Accordingly, the addition of 2,900 acres of agricultural and vacant land to the San Jacinto redevelopment plan appears contrary to the spirit—if not the letter—of the 1993 CRL.

Marginally Troubled Areas. The 1993 CRL defined a "blighted area" as one that suffers from economic dislocation or disuse because of one or more specific urban problems. The 1993 CRL further specified that the community's problems must be so significant that they place a serious economic, physical or social burden on the community that cannot reasonably be expected to be alleviated by the private sector acting alone. While these requirements of the 1993 CRL are qualitative and subject to differing interpretations, it is evident that the Legislature intended for communities to reserve redevelopment powers for problems which are serious and difficult to remedy.

In contrast with this intent, the City of San Diego approved a redevelopment plan for land near San Diego State University which does not appear to suffer from severe or intractable problems. Specifically:

- There is no evidence that the condition of the buildings in the project area is detrimental to public health, safety, or welfare.
- The city acknowledges that property values in the project area are comparable to other established San Diego neighborhoods.
- Two of the redevelopment project's five non-contiguous sub-areas are being used productively for San Diego

State University offices, parking and other educational activities.

In response to these and other observations regarding its redevelopment project area, the city explained that the project area suffers from parking shortages, traffic congestion, single-family homes being used inappropriately as student residences, and inadequate maintenance of buildings and yards. While we have no basis to dispute these assertions, we note that many of these problems are subject to the city's land use and general police powers, and thus could be alleviated without redevelopment. In addition, many of the problems cited by the city are not evident in each of the sub-areas, particularly the two sub-areas owned or leased by the University. In conclusion, while the city's redevelopment plan may meet the technical requirements of the CRL, the magnitude of the problems confronting the redevelopment project area does not appear sufficient to warrant the use of redevelopment powers.

Two Unusual Pass-Through Agreements. As discussed earlier, prior to Chapter 942, local taxing agencies were authorized to negotiate with RDAs regarding the payment of pass-through revenues. Section 33401 of the 1993 Health and Safety Code specified, however, that redevelopment agencies may not pass through to a taxing agency any amount greater than the taxing agency would have received in the absence of a redevelopment plan.

Despite this requirement, our review indicates that the RDAs of the City of San Jacinto and the City of Los Angeles signed pass-through agreements in December 1993 which provide their counties with 20 to 50 percent *more* revenues than they would have received in the absence of a redevelopment plan.

In response to our concern that these pass-through agreements appear contrary to the requirements of the 1993 CRL:

- The County of Riverside responded that no state law *currently* limits the amount of pass-through revenues it may receive. This is because Chapter 942 eliminated the 1993 CRL limit on pass-through revenues—and Chapter

942's statutory pass-through formula applies to only redevelopment plans adopted on or after January 1, 1994.

- The City of Los Angeles responded that its RDA will deposit all excess tax-increment funds into a separate "County Designated Project Fund" and that the monies will be used for redevelopment-eligible projects. (We note, however, that no monies from the fund may be spent without the agreement of the County—and that any excess money at the end of the redevelopment project reverts to the County. Thus, all the excess tax increment money is effectively controlled by the County.)

In conclusion, contrary to the Legislature's intent for both the 1993 CRL and current law, the RDAs of San Jacinto and Los Angeles agreed to provide their respective counties with greater revenues than they would have received in the absence of a redevelopment plan.

Summary of Redevelopment Activities in 1993

Our review found that local agencies greatly accelerated the adoption and expansion of redevelopment plans in 1993. This enabled redevelopment agencies to undertake redevelopment activities without meeting the stricter plan adoption requirements being developed by the Legislature. Our review also indicates that some local agencies approved redevelopment plans and pass-through agreements in 1993 that appear inconsistent with the intent or requirements of the 1993 CRL.

Redevelopment During the First Eight Months of 1994

After passage of Chapter 942, many redevelopment officials and observers expressed the belief that (1) the measure's requirements would lead to a significant reduction in the number and acreage of

future redevelopment plans and (2) new redevelopment plans would focus to a greater extent on the elimination of urban blight. In this section, we examine redevelopment plans adopted between January 1 and August 30, 1994, relative to these assertions.

Are Redevelopment Agencies Adopting Fewer Redevelopment Plans?

Seven communities adopted or amended redevelopment plans during the first eight months of 1994. While many more communities are poised to adopt or amend redevelopment plans before the end of 1994, our review indicates that it is likely that the number of plans adopted or expanded in 1994 will be significantly lower than in 1990, 1991 or 1992. This reduction appears to be the natural result of the acceleration of activity in 1993. Specifically, because many redevelopment agencies accelerated the adoption and amendment of redevelopment plans into 1993, relatively few plans were ready for approval in early 1994. From our review to date, we are unable to draw any conclusions about the likely levels of activity after 1994.

Are New Redevelopment Project Areas Smaller Than in Previous Years?

Our review indicates that the acreage of redevelopment project areas established during the first eight months of 1994 appears very similar to the project areas established in 1990, 1991 and 1992. Specifically, two project areas established in 1994 encompass fewer than 100 acres, three project areas encompass 100 to 3,000 acres, and two project areas encompass more than 3,000 acres.

As Figure 3 indicates, one of the project areas adopted in 1994 encompasses 18,000 acres—or 28 square miles—making it the state's third largest redevelopment project area.

Figure 3

California's Ten Largest Redevelopment Project Areas

City	Acres	Year Adopted
California City	22,000	1988
Hesperia	20,489	1993
Santa Clarita	18,000	1994
Inland Valley	14,300	1990
Lancaster	12,290	1989
Fontana	8,960	1982
Rancho Cucamonga	8,500	1981
Cathedral City	8,260	1984
Poway	8,200	1983
Ridgecrest	7,988	1986

Source: State Controller's Office, except Santa Clarita information which was estimated by Sikland Engineering—a firm that assisted the city in developing a map of the project area.

Are New Redevelopment Plans Closely Focused On Mitigating Urban Blight?

In examining the seven redevelopment plans adopted during the first eight months of 1994 relative to this question of urban blight, it is important to note that four of the seven plans were adopted pursuant to the Community Redevelopment Financial Assistance and Disaster Project Law. Due to significant differences between disaster plans and traditional redevelopment plans, we exclude disaster-related plans from our analysis in this section and focus on the three non-disaster redevelopment plans shown in Figure 4. (We discuss the disaster projects later in this paper.)

Figure 4

1994 Redevelopment Plans Reviewed

Jurisdiction	Acres	Land Uses in Project Area
City of Murrieta	3,500[a]	Predominately vacant and very low density residential land
City of Perris	2,207	Predominately vacant and residential land
City and County of Sacramento	925	Residential and commercial land

[a] Acreage estimated.

To explore the extent to which 1994 redevelopment plans focus on mitigating urban blight, we reviewed each plan relative to three questions:

- Is the project area urban?
- Is the project area blighted?
- What activities does the redevelopment plan propose to mitigate blight?

Is the Project Area Urban? While the Sacramento redevelopment project area consists of developed parcels adjacent to a commercial corridor, the project areas established by the cities of Murrieta and Perris include substantial amounts of non-urban land.

The City of Murrieta, for example, included large amounts of vacant and agricultural land in its project area. (In fact, the County of Riverside asserts that fully *half* of Murrieta's 3,500 acre project area is vacant or agricultural land.) The city explains that these undeveloped areas may be included in its project area because they meet the CRL definition of land "integrally connected" to adjacent urban areas. We note, however, that the "urban" areas identified in the city's plan are not land areas typically considered urban. Specifically, roughly half of this urban land is residential land developed at very-low densities (such as one home per three acres)—and some of the land is zoned

"equestrian residential," reflecting the desire of some city residents to maintain horses on their property. The city acknowledges the rural nature of most of the project area, but contends that "if a specific parcel of land is zoned residential and that parcel . . . has one house built on it . . . that parcel is 'urbanized' for purposes of the CRL" regardless of the size of the parcel. Accordingly, the city asserts that its 3,500 acre project area of undeveloped and scarcely developed land meets the CRL's definition of "urban."

The City of Perris also established a redevelopment project area with land that does not appear to be urban. One of the project area's nine non-contiguous sub-areas, for example, consists almost entirely of vacant land around a freeway interchange. A second sub-area consists primarily of vacant and agricultural land surrounding an airport. The city acknowledges that these land areas are not developed, but contends that these areas may be included in a redevelopment project area because they are subject to flooding and ground shaking and contain irregularly shaped parcels. Our review indicates that these are the types of land parcels the Legislature has long intended be excluded from redevelopment.

Is the Project Area Blighted? Chapter 942 eliminated the authority for communities to adopt redevelopment plans upon a finding that an area lacked adequate public infrastructure. Instead, Chapter 942 requires communities to demonstrate that a project area suffers from at least one specified condition of *physical* blight. The Sacramento redevelopment plan, for example, indicated that its project area meets the first physical condition enumerated by the CRL—namely, that its area contains *"buildings in which it is unsafe or unhealthy for persons to live or work"*—because 30 percent of the buildings in the project area need repairs or reconstruction to correct structural deficiencies.

In the case of the City of Murrieta, our review indicates that the city faces significant public infrastructure needs, but has not amply demonstrated physical blight in its project area. The city asserts, for example, that its project area suffers from unsafe buildings, yet only 4 percent (43) of the buildings in the project area need repairs or reconstruction to correct structural deficiencies. According to the State

Department of Housing and Community Development, this rate of building deficiency is *lower* than exhibited in most California communities. It is not clear, therefore, how Murrieta's building problems could cause such a serious hardship to the city and justify the use of its redevelopment powers. The city responds to these criticisms by asserting that the project area also contains many other buildings which have minor deficiencies, such as peeling paint, worn roofs or cracked stucco. While this may be the case, Chapter 942 did not identify *minor* physical deficiencies as sufficient evidence for a finding of physical blight.

The City of Perris's redevelopment plan openly acknowledges that it includes unblighted residential land in its project area. In explaining its actions, the city contends:

- The CRL authorizes communities to include in a project area any land which currently is being used for low- or moderate-income housing. Specifically, the city states that the CRL defines such land to be "necessary for effective redevelopment."

- Given the average income of Perris residents, the unblighted residential parcels *probably* are being used to house people whose incomes do not exceed the state's definition of "moderate" income.

Thus, the city concludes that its unblighted residential areas may be included in the redevelopment project.

Our review indicates that the city's interpretation of the CRL is not consistent with legislative intent. Specifically, the Legislature did not intend to grant communities blanket authority to include in a redevelopment project any land *currently* being used for low- or moderate-income housing. Rather, the Legislature intended to facilitate the *development* of such housing by giving broad authority to communities to include land in a project area if the land will be developed for this purpose.

What Activities Does the RDA Propose to Mitigate Blight? In reviewing the expenditures proposed by the three redevelopment plans, we found that most of the money will be spent on basic municipal infrastructure. The Murrieta plan, for instance, proposes to spend eight percent of its revenues to rehabilitate deficient buildings—and 57 percent of its revenues to provide water and sewer lines, storm drains, traffic signals, circulation improvements, and underground utilities. Comparatively little of the expected tax-increment revenues in Murrieta, Sacramento or Perris will finance commercial or industrial rehabilitation or community development activities—programs commonly expected in an urban renewal program such as redevelopment.

All California communities face a need to provide and improve urban infrastructure. Most cities and counties finance this infrastructure through a combination of local general revenues; Mello-Roos and transportation special tax funds; benefit assessments; developer fees and exactions; and state and federal loans, grants and subventions. While each of these financing sources has limitations, the Legislature has never intended for redevelopment to be used to provide basic municipal infrastructure. Rather, the Legislature has consistently indicated its intent that communities limit the use of redevelopment to the correction of extraordinary conditions of urban decay.

Summary of Redevelopment Activities In Early 1994

Our preliminary review of redevelopment activities in 1994 found no evidence that the acreage of redevelopment plans has fallen as predicted. Our review found that four communities received broad exemptions from CRL requirements because they adopted their redevelopment plans pursuant to the previously little-used disaster law. Finally, we did not find evidence supporting the assertion that redevelopment plans adopted in 1994 are closely focused on mitigating urban blight.

Oversight of the CRL

California does not have a formal system for reviewing redevelopment plan adoptions—or the approval of other redevelopment activities (such as implementation plans and pass-through agreements). Rather, CRL oversight rests upon the independent efforts of three parties:

- Local taxing agencies—the county, special districts, and school and community college districts serving the redevelopment project area.
- The state—principally, the state Department of Finance (DOF).
- Public—local residents and businesses.

State law generally permits each of these parties to challenge specific local agency redevelopment actions within prescribed time periods. Figure 5 outlines state law governing court challenges to the adoption or amendment of redevelopment plans. Other redevelopment activities and documents also may be challenged through taxpayer and California Environmental Quality Act (CEQA) lawsuits, the referendum process, and other means.

Figure 5

Challenging a Redevelopment Plan

	Option	
	Referendum Petition	Lawsuit
Basis for challenge	Consistency with desires of local residents	Conformity with state and federal laws
Time line	Within 30 days of redevelopment plan adoption	Within 60 days of redevelopment plan adoption
Parties with clear authority to bring challenge	Local residents	Local taxing agencies State Department of Finance Local residents and businesses

Below, we discuss the efforts of these three parties to review and enforce redevelopment activities in 1993 and in early 1994.

Local Agency CRL Oversight Was Minimal in 1993

Local taxing agency CRL oversight activity in 1993 was minimal. Specifically, local taxing agencies reviewed or challenged only those redevelopment activities which posed fiscal threats to the agencies (plan adoptions, extensions or expansions). Our review indicates that local agencies did not review a wide range of other redevelopment activities such as the expenditure of housing funds, sale of land to developers and the adoption of pass-through and other mitigation agreements because these activities seldom imposed a fiscal or other threat to them. Moreover, local taxing agencies withdrew any challenge to the adoption, extension or expansion of a redevelopment plan whenever an RDA agreed to pass through to them substantial tax increment revenues. (Both the Counties of San Diego and Riverside, for example, dropped lawsuits challenging the validity of city redevelopment plans immediately after negotiating substantial pass-through agreements with the city RDAs.)

As discussed earlier, Chapter 942 limited RDA authority to provide pass-through revenues to local taxing agencies. As a result, many

taxing agencies will receive *lower* future tax revenues when land is placed under redevelopment than they could have received under the 1993 CRL. Local taxing agencies, therefore, will have a greater fiscal interest to review the merits of a proposed redevelopment plan. Will local taxing agencies boost their CRL oversight efforts in response to this fiscal incentive created by Chapter 942? Our preliminary review indicates that this limitation has prompted some local taxing agencies to increase their efforts to review and challenge redevelopment plan adoptions, extensions and expansions. We note, however, that this restriction on pass-through agreements is unlikely to guarantee local taxing agency oversight of all CRL activities because:

The Fiscal Incentive Focuses on a Narrow Range of Activities. The pass-through restriction does not create a fiscal incentive for local taxing agencies to review or challenge redevelopment activities other than plan adoptions, extensions and expansions. For example, local taxing agencies will not face a fiscal incentive to review an RDA's implementation plan to ensure that its programs and projects address the area's blighted conditions.

Few Local Agencies Will Perceive the Fiscal Incentive. Specifically, few school districts or special districts will discern the fiscal incentive because school funding is essentially guaranteed by state school financing formulas—and special district property tax revenues are not significantly affected by the creation of redevelopment projects due to their low overall share of the property tax base. Thus, in many cases, the only entity which will perceive a fiscal incentive to expand their CRL oversight efforts will be the county, because its share of the local property tax is generally a significant portion of their revenue base. In cases in which the county is the entity adopting the redevelopment plan, *no local agency* may be sufficiently motivated to review or challenge the plan's adoption.

The Fiscal Incentive May Be Circumvented. While Chapter 942 attempts to foster a system whereby local taxing agencies review and challenge questionable redevelopment projects in court, local agencies may resolve redevelopment disputes in a different manner. Local agencies, for example, may settle redevelopment disputes during inter-

local agency negotiations on completely unrelated matters, such as annexation or service delivery issues. Alternatively, redevelopment agencies could circumvent the fiscal incentive in Chapter 942 by providing to a challenging local agency infrastructure development worth more than the value of future pass-through revenues. (Chapter 942 limits the amount of pass-through revenues to local agencies, but does not place a similar ceiling on the value of infrastructure.)

DOF Does Not Play an Active CRL Oversight Role

The DOF played virtually no CRL oversight role in 1993. In some cases, the DOF indicates that it was not active because it lacked information about redevelopment activities until after the statutory 60-day period for challenging the adoption of a redevelopment plan had expired (a complaint voiced by other parties as well). Our review indicates, however, that even when this information was provided to the administration, the DOF took no action.

For example, on March 9 and May 12, 1994, Assembly Member Isenberg and Senator Bergeson wrote to the Governor, informing him of the Los Angeles RDA efforts to add 27 years to the life of its Central Business District redevelopment project. Despite evidence that this action indirectly would increase the state's costs for school apportionments by $1.7 billion over the 27 years and that the pass-through agreement may exceed statutory limits, the DOF did not pursue an enforcement action. Similarly, Senator Bergeson notified the Department of Finance on February 17, 1994, concerning the large amount of prime agricultural land included in the San Jacinto redevelopment plan amendment. Again, the DOF did not pursue an enforcement action.

Local Residents and Businesses Seldom Pursue Redevelopment Challenges

Local residents and businesses frequently commented on proposed redevelopment activities in 1993, and local agencies sometimes modified or withdrew proposals in response to this public input. In cases when a local agency approved a redevelopment plan or other activity

despite local opposition, however, few residents or businesses pursued their redevelopment challenge in court or through the referendum process. For example, despite considerable local opposition to the redevelopment project area near San Diego State University, local residents and business officials did not commence a lawsuit or referendum challenging the plan adoption, citing the high cost of such actions.

In two unusual cases in which local residents *are* challenging 1993 redevelopment activities in court, the lawsuits may not be resolved on the merits of the redevelopment activity. Specifically, two residents, the Riverside County Farm Bureau and the State Resources Agency, are challenging the San Jacinto plan expansion of 1993. Motions to dismiss two of these claims, however, are currently before the court, asserting that (1) the taxpayers were not sufficiently active in challenging the redevelopment plan during the administrative process, and (2) the Resources Agency lacks standing to challenge the redevelopment plan. Similarly, a former Los Angeles city council member is challenging the action to extend the life of the LA Central Business District redevelopment project. This challenge, however, is limited to allegations of Brown Act violations and does address the other public policy issues.

Summary of CRL Oversight Efforts

In summary, the three groups with authority to review and challenge local redevelopment activities—local taxing agencies, the DOF, and local residents and businesses—did not carry out these activities to any significant extent in 1993. As a result, the Legislature can not be assured that the 1993 redevelopment plans and activities that seem contrary to the spirit and intent of the CRL will ever be corrected.

The Legislature's decision in Chapter 942 to limit pass-through revenues strengthens local taxing agencies' fiscal incentive to take an active role in CRL oversight in 1994 and the future. We do not believe,

however, that this change will be sufficient to ensure oversight of the broad range of redevelopment activities because the fiscal incentives:

- Are limited to a narrow range of redevelopment activities.
- Apply only to counties and some special districts.
- May be circumvented.

Finally, Chapter 942 did not strengthen the incentives for the DOF or local residents and business owners to take an active role in CRL oversight.

Recommendation: Develop a State Redevelopment Review Authority

Our review indicates that the CRL oversight efforts by local agencies, the DOF and private parties are not sufficient to protect the state's fiscal and policy interests in redevelopment. Moreover, shortcomings in the CRL oversight system can result in the implementation of questionable redevelopment actions, such as those discussed earlier in this paper. Accordingly, we recommend that the Legislature take steps to establish a consistent, statewide CRL review system—and to continue to monitor local redevelopment activities to determine whether changes beyond strengthening the CRL oversight system are necessary.

Specifically, we recommend that the Legislature pass legislation requiring local governments to submit all proposed redevelopment plans, pass-through agreements, and five-year implementation plans to the state for a finding of consistency with the CRL. Because this state review function would be essentially a legal review, we recommend that this responsibility be assigned to the state Attorney General. (The Department of Finance would continue to have the authority to protect the state's interests by challenging in court questionable redevelopment plans.)

In order to offset the Attorney General's costs for this review, we recommend that the Attorney General be given authority to charge fees to local agencies. Finally, we recommend that the Legislature give the Attorney General explicit legal standing to take independent action on any redevelopment activities that are contrary to state law—and that the Attorney General submit an annual report to the Legislature and the Governor on the office's CRL oversight activities.

Redevelopment After a Disaster

Community Redevelopment Financial Assistance and Disaster Project Law authorizes communities which have damage from a disaster occurring after February 1964 to adopt redevelopment plans *without meeting* the following CRL requirements:

- The project area is blighted.
- The local agency must prepare a preliminary redevelopment plan, consistent with the locality's general plan.
- The public must be given 30 days notice prior to adoption of the redevelopment plan (instead, only 10 days notice is required).
- The redevelopment plan is subject to the referendum process.

Although the Disaster Project Law has been used rarely over the last three decades, we are concerned that cities and counties are likely to adopt more plans pursuant to this law in the future. This is because Disaster Project Law exempts local governments from some of the strictest requirements of Chapter 942, while allowing local agencies to finance a broad program of disaster reconstruction *and* traditional municipal improvements. In addition, we note that Disaster Project Law is not limited to *future* disasters, but may be used by all communities which have substantial unrepaired damage from any disaster occurring since 1964.

Recommendation: Modify Disaster Project Law

Our review indicates that continuation of the Disaster Project Law—as it is currently in statute—is inconsistent with the Legislature's efforts in recent years to:

- Limit redevelopment activities to blighted areas needing economic revitalization.
- Link redevelopment expenditures to the specific community problems giving rise to the creation of the redevelopment project area.
- Increase public awareness and input into the redevelopment process.

Accordingly, we recommend that the Legislature modify Disaster Project Law as described in Figure 6. Alternatively, the Legislature may wish to consider repealing the disaster law and providing disaster recovery assistance to communities in a more direct fashion.

Figure 6

Recommendations for Changes to Disaster Project Law

- Limit the cumulative receipt of tax-increment funds to the amount needed to pay local net costs for high priority disaster recovery projects.
- Institute a time limit on plan adoption after a disaster.
- Require preparation of a preliminary redevelopment plan for public discussion and review.
- Lengthen to 30 days the period of public notification of intent to adopt a redevelopment plan.
- Allow the adoption of the redevelopment plan to be subject to the referendum process.

Conclusion

Redevelopment agencies responded to the Legislature's reform efforts in 1993 by accelerating their redevelopment plans—and adopting, extending or expanding them before Chapter 942 took effect. Some agencies approved redevelopment plans and pass-through agreements which appear inconsistent with the spirit, and even the letter, of the 1993 CRL.

Redevelopment agencies established seven redevelopment project areas during the first eight months of 1994, including four plans pursuant to a previously seldom used disaster law which provides broad exemptions from CRL requirements. Contrary to predictions by redevelopment officials, redevelopment project areas adopted in 1994 are not smaller than project areas established in earlier years. Moreover, two of the three redevelopment project areas we examined include land which does not appear to be urban or blighted, as required by the CRL.

Because the state's redevelopment oversight system is decentralized and weak, the Legislature has no assurance that communities will follow its intent regarding the CRL—or that questionable redevelop-

ment activities will be reviewed and challenged. Accordingly, we recommend that the Legislature take action to strengthen the state's CRL oversight system by enacting legislation requiring local agencies to submit proposed redevelopment plans and other documents to the state Attorney General for a finding of consistency with state law. Finally, in order to close an unexpected loophole in the CRL, we recommend that the Legislature modify or repeal the Disaster Project Law.

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