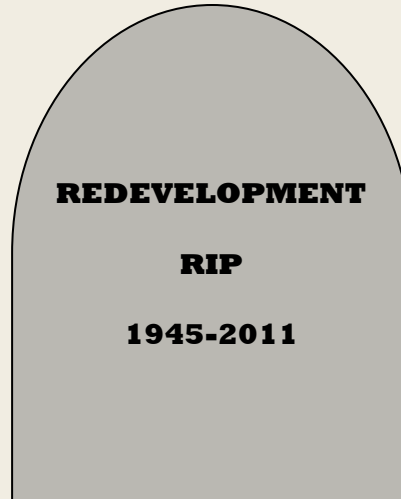


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THE DEATH OF REDEVELOPMENT IN CALIFORNIA



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PURPOSE

- ▣ Provide a mechanism to fight urban decay
- ▣ The Community Redevelopment Act (CRA), initially passed into law in 1954, focused on the redevelopment of “blighted areas,” as they were “injurious and inimical to the public health, safety and welfare of the peoples of the communities in which they exist and of the people of the State
- ▣ The CRL was upheld against numerous challenges, including challenges against the taking of private property for resale to private developers, the use of public funds for privately owned projects and the broad discretion provided to cities and redevelopment agencies to find blight

POWERS

- From 1945, until amendments to the CRA, including renaming it the Community Redevelopment Law (CRL) in 1951, redevelopment powers were limited
- Powers under the CRA included eminent domain, the use of public funds for private projects (with no separate ability to issue bonds) and the resale of condemned property to private persons; most projects were funded, at least in part, from federal funds
- The CRL, together with an amendment to the State Constitution, provided for a new funding source: Tax Increment

TAX INCREMENT FINANCING

- ▣ Tax increment financing allowed redevelopment agencies to receive and spend property tax revenues derived from the increase in assessed value that occurred after adopting a redevelopment project
- ▣ Although authorized in 1951, tax increment financing only became widely used in the late 1960s
- ▣ Tax increment financing has been adopted by other states

TAX INCREMENT FINANCING (cont'd)

- ▣ The availability of tax increment financing caused many counties and cities to form redevelopment agencies and adopt redevelopment project areas
- ▣ By 1976, there were 229 project areas in 111 cities and 2 counties; by 1994, there were 385 redevelopment agencies in California; and by 2002, there were 413 redevelopment agencies in California, with 764 project areas

TAX INCREMENT FINANCING (cont'd)

- ▣ During the 1980s, taxing entities, particularly counties in the case of redevelopment agencies established by cities, became increasingly concerned with the effect of tax increment upon their tax revenues
- ▣ In 1983, the State made several changes regarding the relationship between redevelopment agencies and taxing entities. These included:
 - 1) more complete information was required to be provided to taxing entities in a fiscal review process prior to the adoption of a redevelopment project
 - 2) required a set process for making amendments to redevelopment plans
 - 3) allowing taxing entities to receive property tax revenues that were the result of the inflationary increase in assessed value authorized by Proposition 13

TAX INCREMENT FINANCING (cont'd)

- From 1984 to 1993, major changes in the CRL concerned imposing an obligation on redevelopment agencies to assist in the provision of low and moderate income housing
- General requirement was added to CRL that not less than 20% of tax increment received by a redevelopment agency be deposited in a special Low and Moderate Income Housing Fund and spent on low and moderate income housing during a specified period of time
- In 1985, legislation required redevelopment plans to include a limit (the “cap”) on the amount of tax increment that could be collected during the life of a redevelopment plan; this covered not just new plans but existing plans
- Then, in 1993, the State made major changes to the CRL in Assembly Bill 1290 (AB 1290)

EXAMPLES OF REDEVELOPMENT PROJECTS

- ▣ Public space: San Francisco Yerba Buena Gardens
- ▣ Public/private spaces: AT&T Park
- ▣ Private spaces: big box retailers, auto dealers, infrastructure for tract single family developments

ASSEMBLY BILL 1290

- ▣ Starting in the 1980s, counties and school districts challenged the adoption of redevelopment projects
- ▣ These challenges were often settled with agreements pursuant to which a redevelopment agency agreed to “pass-through” a portion of the tax increment it received to the county and school districts
- ▣ Even with the popularity of these “pass-through agreements,” redevelopment was costing school districts money; under California law, this money ultimately needed to be made up by the State

ASSEMBLY BILL 1290 (cont'd)

- In 1992, State passed a law transferring \$205 million of tax increment to the schools in 1992 and \$65 million of tax increment to the schools in 1993 (so called “ERAF”) as the money was deposited in an Educational Revenue Augmentation Fund established in each county
- Despite legal issues relating to these transfers, they were not challenged by either the California Redevelopment Association (CalRA) or any of its member agencies
- CalRA understood how much redevelopment was costing school districts, and knew that challenging the ERAF take could lead to bigger problems

ASSEMBLY BILL 1290 (cont'd)

- ▣ CalRA sponsored AB 1290 in 1993, AB 1290 modified numerous provisions of the CRL
- ▣ AB 1290
 - 1) modified (tightened up) the definition of blight;
 - 2) terminated the fiscal review process and instituted statutory pass-through payments to affected taxing entities
 - 3) imposed new time limits on the life of a redevelopment project and the incurring of debt
 - 4) imposed new finding requirements for the disposition of land and the financing of public improvements
 - 5) included a “death penalty” for agencies that failed to use their low and moderate income housing funds
 - 6) eliminated tax increment caps for new plans

REDEVELOPMENT IN THE 1990s

- After the passage of AB 1290, redevelopment activities continued to increase throughout California
- As noted above, in 1994, there were 385 redevelopment agencies in California
- Biggest concern after the passage of AB 1290 was that the deadline to incur debt, which was the later of 20 years after the date of adoption of a redevelopment plan or January 1, 2004, was fast approaching for many redevelopment project areas

SB 211

- ▣ In 2001, seven years after the adoption of AB 1290, the CRA sponsored SB 211
- ▣ SB 211 gave redevelopment agencies the ability to unilaterally eliminate the time limit for establishing debt; the cost of this was an additional statutory pass-through payment that kicked in during the year after the former time limit would have taken effect
- ▣ SB 211 also gave redevelopment agencies the ability to extend the time limit to receive tax increment by an additional 10 years if a project area was adopted prior to 1994 and contained blight that could not be eliminated by the redevelopment plan termination date

SB 1045 – THE RETURN OF ERAF

- ▣ ERAF returned in 2003, with the passage of SB 1045
- ▣ The give-back to redevelopment agencies for their ERAF “contribution” was the ability to extend the time limit for the repayment of debt and the plan limit for redevelopment activities
- ▣ The three-year ERAF shift covered fiscal years 2003-04, 2004-05, and 2005-06

SB 1045 – THE RETURN OF ERAF

- ▣ The amounts of the ERAF shift were \$135 million for fiscal year 2003-04, \$250 million for fiscal year 2004-05, and \$250 million for 2005-06
- ▣ Amounts paid were not included in redevelopment agencies' tax increment caps
- ▣ In order to help redevelopment agencies come up with funds to pay their ERAF shift, the California Statewide Communities Redevelopment Authority established a pooled bond program

AB 1389 – ONE MORE YEAR OF ERAF

- ▣ In 2008, the ERAF shift was extended for one more year
- ▣ CalRA and several redevelopment agencies finally challenged the fiscal year 2008-09 ERAF shift
- ▣ In May, 2009, the California Superior Court (County of Sacramento) held that the required ERAF payments by redevelopment agencies violated the California constitution

THE RISE OF SERAF

- In July 2009, the State Legislature address the legal issues raised in the 2008 ERAF and created the Supplemental Educational Revenue Augmentation Fund (“SERAF”)
- The amounts to be deposited into SERAF, statewide, were **\$1.7 billion** in fiscal year 2009-10 and \$350 million in fiscal year 2010-11
- The SERAF legislation allowed redevelopment agencies, for the first time, to borrow from their low and moderate income housing funds to make their SERAF payments

REDEVELOPMENT AGENCIES FIGHT BACK

- CalRA and redevelopment agencies sponsored Proposition 22, which was approved by the voters of the State on November 2, 2010
- Proposition 22 had the effect of preventing the State from requiring a redevelopment agency to pay, remit, loan or otherwise transfer, directly or indirectly, taxes on ad valorem real property and tangible personal property to or for the benefit of the State or any other jurisdiction

AB 26/AB 27

- ▣ Governor Brown, in early 2011, proposed eliminating redevelopment agencies
- ▣ AB 26, which passed in late June, 2011, dissolved all redevelopment agencies
- ▣ In order to gain the votes needed to pass AB 26, AB 27 was also passed, which reconstituted redevelopment with fiscal safeguards (redevelopment agencies would have to pay to play)

AB 26/AB 27

- CalRA and several redevelopment agencies sued the State on the grounds that AB 26 and AB 27 violated Proposition 22 and other provisions of the State Constitution
- On December 30, 2011, the California Supreme Court held that AB 26 did not violate Proposition 22 or other provisions of the California Constitution
- However, the Supreme Court did hold that AB 27 violated Proposition 22

REDEVELOPMENT POST AB 26/27

- ▣ Redevelopment agencies are winding down activities, except to:
 - fund enforceable obligations (bonds, construction contracts, payments to third parties (other than the sponsoring city or county))
 - refund existing debt for savings
 - issue bonds for projects where there is a contractual obligation to do so and tax increment was already pledged to the project
 - spend pre-2011 bond proceeds once the State Department of Finance has concluded the redevelopment agency has turned over all the funds it was obligated to turn over, and has issued a “finding of completion”



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