

REPORT TO SUCCESSOR AGENCY BOARD

DATE: FEBRUARY 22, 2012

TO: HONORABLE CHAIR AND MEMBERS OF THE SUCCESSOR AGENCY BOARD

FROM: GREG RAMIREZ, EXECUTIVE DIRECTOR

BY: NATHAN HAMBURGER, ASSISTANT EXECUTIVE DIRECTOR

SUBJECT: APPROVAL OF RESOLUTION NO. SA 12-05; MAKING AN ELECTION IN CONNECTION WITH HOUSING ASSETS AND FUNCTIONS UNDER PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE AND TAKING CERTAIN ACTIONS IN CONNECTION THEREWITH

This report addresses an outcome of the California Supreme Court's decision in *California Redevelopment Association, et al. v. Matosantos, et al.* (Case No. S194861), the litigation challenging AB X1 26 ("AB 26) and AB X1 27("AB 27"). AB 26 and AB 27, which were signed by the Governor of California on June 29, 2011, added Parts 1.8 and 1.85 to the Community Redevelopment Law.

The Supreme Court largely upheld AB 26 (which provides for the wind-up and dissolution of redevelopment agencies), invalidated AB 27 (which provided for an alternative voluntary redevelopment program), and held that AB 26 may be severed from AB 27 and enforced independently. The Supreme Court generally revised the effective dates and deadlines for performance of obligations in Part 1.85 (the dissolution provisions) arising before May 1, 2012, to take effect four months later. As a result of the Supreme Court's decision, on February 1, 2012, all redevelopment agencies were dissolved, and cities do not have the option of making remittance payments to enable the continued operation of redevelopment agencies. The City is the successor agency for the Agoura Hills Redevelopment Agency.

California Health and Safety Code Section 34176(a) authorizes a city that created a redevelopment agency to elect to retain the housing assets and functions previously performed by the redevelopment agency. If a city elects to retain the responsibility for performing housing functions previously performed by the redevelopment agency, Section 34176(a), as adopted, provides that all rights, powers, duties, and obligations, excluding any amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred to the City. This does not include unexpended housing bond funds, which will be retained by the City in order to call the bonds in 2018 or sooner if deemed possible. Staff is currently working with the City Attorney to resolve this issue but these bond funds will not be affected by the proposed action of transferring the housing duties and responsibilities.

Health and Safety Code Section 34176(b), as adopted, provides that if a city does not elect to retain the responsibility for performing housing functions previously performed by the redevelopment agency, all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the redevelopment agency, excluding any amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred as follows: (1) where there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, to the Department of Housing and Community Development; (2) where there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, to that local housing authority; and (3) where there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, to the local housing authority selected by the city that authorized the creation of the redevelopment agency. The Housing Authority of the County of Los Angeles is in the territorial jurisdiction of the former Redevelopment Agency and is the only such agency.

Health and Safety 34176(c) provides that the entity assuming the housing functions formerly performed by the redevelopment agency may enforce affordability covenants and perform related activities pursuant to applicable provisions of the Redevelopment Law, including, but not limited to, Health and Safety Code Section 33418.

The Agoura Hills Redevelopment Agency was in the planning and design process for two affordable housing developments at the time AB 26 was passed and, as such, had not acquired any property nor completed the proposed designs. Thus, there are no housing assets beyond the monies in the Fund previously known as the Housing Set-Aside Fund and some plans and related documents. The fact that the housing portion of the previous Redevelopment Agency had no large assets, combined with the fact that AB 26 does not appear to authorize a funding mechanism for performing housing functions in the future, leads to the recommendation to transfer the housing responsibilities to the Housing Authority of the County of Los Angeles, who has the capabilities to perform these duties in a more efficient manner.

RECOMMENDATION

Staff recommends the Board of Directors adopt Resolution No. SA 12-05, electing not to retain the responsibility for performing housing functions previously performed by the Redevelopment Agency, and determining that all of the rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Redevelopment Agency be transferred to the Housing Authority of the County of Los Angeles.

RESOLUTION NO. SA 12-05

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SUCCESSOR AGENCY FOR THE AGOURA HILLS REDEVELOPMENT AGENCY, MAKING AN ELECTION IN CONNECTION WITH HOUSING ASSETS AND FUNCTIONS UNDER PART 1.85 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE AND TAKING CERTAIN ACTIONS IN CONNECTION THEREWITH

RECITALS:

A. AB X1 26 and AB X1 27 were signed by the Governor of California on June 29, 2011, making certain changes to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) (the “Redevelopment Law”), including adding Part 1.8 (commencing with Section 34161) (“Part 1.8”) and Part 1.85 (commencing with Section 34170) (“Part 1.85”).

B. The California Redevelopment Association and League of California Cities filed a lawsuit in the Supreme Court of California (*California Redevelopment Association, et al. v. Matosantos, et al.* (Case No. S194861)) alleging that AB X1 26 and AB X1 27 are unconstitutional. On December 29, 2011, the Supreme Court issued its opinion in the *Matosantos* case, largely upholding AB X1 26, invalidating AB X1 27, and holding that AB X1 26 may be severed from AB X1 27 and enforced independently.

C. The Supreme Court generally revised the effective dates and deadlines for performance of obligations in Part 1.85 arising before May 1, 2012, to take effect four months later.

D. As a result of the Supreme Court’s decision, the Agoura Hills Redevelopment Agency (the “Redevelopment Agency”), a redevelopment agency in the City of Agoura Hills (the “City”), created pursuant to the Redevelopment Law, was dissolved pursuant to Part 1.85 on February 1, 2012.

E. Health and Safety Code Section 34176(a) authorizes a city that created a redevelopment agency to elect to retain the housing assets and functions previously performed by the redevelopment agency. Pursuant to Section 34176(a), if a city elects to retain the responsibility for performing housing functions previously performed by the redevelopment agency, all rights, powers, duties, and obligations, excluding any amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred to the City.

F. Health and Safety Code Section 34176(b) provides that if a city does not elect to retain the responsibility for performing housing functions previously performed by the redevelopment agency, all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the redevelopment agency, excluding any amounts in the Low and

Moderate Income Housing Fund, shall be transferred as follows: (1) where there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, to the Department of Housing and Community Development; (2) where there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, to that local housing authority; and (3) where there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, to the local housing authority selected by the city that authorized the creation of the redevelopment agency.

G. The Housing Authority of the County of Los Angeles is in the territorial jurisdiction of the former Redevelopment Agency.

H. Health and Safety 34176(c) provides that the entity assuming the housing functions formerly performed by the redevelopment agency may enforce affordability covenants and perform related activities pursuant to applicable provisions of the Redevelopment Law, including, but not limited to, Health and Safety Code Section 33418.

I. The City Council desires to adopt this resolution in connection with the housing assets and functions previously performed by the Redevelopment Agency.

NOW, THEREFORE, THE CITY COUNCIL HEREBY FINDS, DETERMINES, RESOLVES, AND ORDERS AS FOLLOWS:

Section 1. The above recitals are true and correct and are a substantive part of this Resolution.

Section 2. This Resolution is adopted pursuant to Health and Safety Code Section 34176.

Section 3. Pursuant to Health and Safety Code Section 34176(b), the Successor Agency Board hereby elects for the City not to retain the responsibility for performing housing functions previously performed by the Redevelopment Agency, and hereby determines that all of the assets, as allowed by law, and all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Redevelopment Agency shall be transferred to the Housing Authority of the County of Los Angeles.

Section 4. The officers and staff of the City are hereby authorized and directed, jointly and severally, to make all notifications of the Council's election, as set forth in Section 3 hereof, as deemed necessary or advisable and to execute all documents and take all actions which they may deem necessary or advisable to effectuate this Resolution, and any such actions previously taken by such officers and staff are hereby ratified and confirmed.

Section 5. The adoption of this Resolution is not intended to and shall not constitute a waiver by the City of any right the City may have to challenge the legality of all or any portion of AB X1 26 through administrative or judicial proceedings.

Section 6. This Resolution has been reviewed with respect to applicability of the California Environmental Quality Act (“CEQA”), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*, hereafter the “Guidelines”), and the City’s environmental guidelines. The City Council has determined that this Resolution is not a “project” for purposes of CEQA, as that term is defined by Guidelines Section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment. (Guidelines Section 15378(b) (5)).

Section 7. This Resolution shall take effect immediately upon its adoption.

APPROVED AND ADOPTED this 22nd day of February, 2012 by the following vote to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

John M. Edelston, Chair

ATTEST:

Kimberly M. Rodrigues
Secretary