

AUGUST 11, 2011

LAW ALERT

WIN, LOSE, OR DRAW? California Supreme Court Issues Partial Stay and Agrees to Review CRA/League of California Cities' Petition Challenging Redevelopment Restructuring Acts

Redevelopment Agencies ("RDAs") will have their day in court!

On August 11, 2011, the California Supreme Court agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of AB x1 26 (the "Dissolution Act") and AB x1 27 (the "Voluntary Redevelopment Program Act", collectively with the Dissolution Act, the "Redevelopment Restructuring Acts"). The Court's order also stays specified portions of the Redevelopment Restructuring Acts, indefinitely postponing certain provisions' effectiveness.

All of the Dissolution Act has been stayed except for most of the RDA suspension provisions found in Part 1.8. This means that while RDAs will not automatically be dissolved on October 1, 2011, they have no authority to conduct new redevelopment activities during the pendency of the stay. The Court also appears to have stayed the entire Voluntary Redevelopment Program Act. This includes the opt-in provisions as well as the obligation to make remittance payments. The stay remains in effect until the Court issues a decision on the merits of the petition. Goldfarb & Lipman attorneys are working with other redevelopment

professionals and with the CRA Legal Committee to seek further clarification on the effects of the stay.

The Court's order requires the State to respond to the petition by September 9, 2011. The CRA and the League are required to file a reply by September 24, 2011. Friend of the court briefs are due by September 30, 2011, with State replies due by October 7, 2011. This schedule is designed to facilitate a decision on the merits by January 15, 2012, indicating that the Court is aware that a final resolution is desirable before remittance payments are due.

The effect of the stay on an RDA's ability to adopt an opt-in ordinance is unclear. Please consult your attorney regarding this process.

The stay leaves in place language prohibiting RDAs from making any payments after the date 60 days from the effective date of the Dissolution Act, other than bond payments and payments listed on an adopted enforceable obligation payment schedule (the "EOPS"). Goldfarb & Lipman recommends that all RDAs, even those that have completed the opt-in process, adopt an EOPS by August 29, 2011. After that date, an RDA can only make payments on bond obligations

M David Kroot
John T. Nagle
Polly V. Marshall
Lynn Hutchins
Karen M. Tiedemann
Thomas H. Webber
John T. Haygood
Dianne Jackson McLean
Michelle D. Brewer
Jennifer K. Bell
Robert C. Mills
Isabel L. Brown
James T. Diamond, Jr.
Margaret F. Jung
Heather J. Gould
Juliet E. Cox
William F. DiCamillo
Amy DeVaudreuil
Barbara E. Kautz
Erica Williams Orcharton
Luis A. Rodriguez
Xochitl Carrion
Rafael Yaquian
Josh Mukhopadhyay
Vincent L. Brown

Facsimile
510 836-1035
San Francisco
415 788-6336
Los Angeles
213 627-6336
San Diego
619 239-6336

Goldfarb & Lipman LLP

until it adopts an EOPS. The CRA's Technical Committee has published a template EOPS which is available at www.calredevelop.org under the "Legislative Updates" tab.

The Court's order may stay the language authorizing an appeal of the remittance payment amount. The CRA recommends that RDAs planning to file an appeal do so by August 15, 2011. The Department of Finance has indicated it will review the appeals and issue advisory opinions during the pendency of the stay.

Until the Court issues a final decision, RDAs are suspended and cannot conduct new redevelopment activities or enter into new obligations. RDAs may continue to make payments due and to perform under

enforceable obligations. RDAs may also continue to enforce existing covenants and obligations. Please see our [summary](#) of the Redevelopment Restructuring Acts for more detailed information on the definition of enforceable obligations available at www.goldfarblipman.com under "Current Issues" tab.

RDAs must also prepare and file the annual Statement of Indebtedness by October 1, 2011. The Court's order has no impact on this deadline.

For more information, please call any Goldfarb & Lipman attorney at 510-836-6336. We will provide updates as more information becomes available.



To receive Law Alerts by E-Mail, please visit:
<http://goldfarblipman.com/law-alert-sign-up/>