

UPDATED AUGUST 22, 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. The Court revised its order on August 17, 2011 and this summary reflects those modifications.

All of the Dissolution Act has been stayed except for 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 stayed the entire Voluntary Redevelopment Program Act except the provisions requiring the state to calculate remittance payments and allowing agencies to appeal those amounts. The stay does include 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"), and also retains language requiring agencies to adopt an EOPS by August 29, 2011. Goldfarb & Lipman recommends that all

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

RDAs, even those that have completed the opt-in process, timely adopt an EOPS. After August 29, an RDA can only make payments on bond obligations until it adopts its EOPS. The CRA's Technical Committee has published a template EOPS which is available at [www.calredevelop.org](http://www.calredevelop.org) under the "Legislative Updates" tab.

The Court's order did not stay the language authorizing an appeal of the remittance payment amount. If RDAs are planning to file an appeal and did not do so by the August 15, 2011 deadline, we recommend that they file as quickly as possible in the event that extra time is ultimately granted in light of the confusion caused by the stay. 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](http://www.goldfarblipman.com) under "Current Issues" tab.

RDAs must also prepare a draft Recognized Obligation Payment Schedule by September 30, 2011 and prepare and file the annual Statement of Indebtedness by October 1, 2011. The Court's order has no impact on the deadlines.

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/>