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LAW ALERT

WHAT DOES THE DISSOLUTION OF REDEVELOPMENT AGENCIES MEAN FOR HOUSING AUTHORITIES?

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On December 29, 2011, the California Supreme Court delivered its decision in the *California Redevelopment Association v. Matosantos* case, finding ABx1 26 (the "Dissolution Act") constitutional and ABx1 27 (the "Alternative Redevelopment Program Act") unconstitutional.

The Court's bifurcated decision means that all California redevelopment agencies ("RDAs") will be dissolved under the constitutional Dissolution Act, and none will have the opportunity to opt into continued existence under the unconstitutional Alternative Redevelopment Program Act.

The Court also determined to push back the deadlines in the Dissolution Act arising prior to May 1, 2012 generally by four months. For instance, all RDAs will be dissolved and their successor agencies will begin to function on February 1, 2012 under the Court's decision (as opposed to the October 1, 2011 deadline specified in the Dissolution Act itself).

Below is a discussion of certain issues pursuant to the Dissolution Act which are specific to county and local housing authorities. For a detailed analysis regarding the court's decision and the Dissolution Act, please see our attached memo.

In regards to the non-housing aspects of redevelopment, unless a city or county that created the RDA ("Sponsoring Community") elects to not serve as the successor agency to a dissolving RDA by January 13, 2012 (next Friday), then the Sponsoring Community will be the successor agency. If the Sponsoring Community opts out, then it is a race among the taxing entities in the redevelopment project area to be the first to claim successor agency status.

The Sponsoring Community may also elect to become the successor housing agency. The Sponsoring Community has until January 31, 2012 to make the decision to be a successor housing agency. However, many Sponsoring Communities are likely to make that decision by January 13, 2012, the same date they will make the decision whether to become a successor agency.

If a Sponsoring Community decides not to become the successor housing agency, then the housing authority in the territorial jurisdiction of the former RDA, would become the successor housing agency. If there is more than one housing authority that operates in the territorial jurisdiction of a former RDA, for example a local city housing authority and county housing authority having the authority to operate in the same city, then the Sponsoring

Community would be able to select which housing authority would be the successor housing agency. In this situation, the Sponsoring Community, the local housing authority, and the county housing authority may want to have preliminary discussions before the Sponsoring Community selects a particular entity to be the successor housing agency. Although the Dissolution Act language purports to make the designation of a housing authority as the successor housing agency a unilateral decision by the Sponsoring Community, there remain some open questions regarding whether a housing authority can be designated without its consent, as well as the meaning of operating within the territorial jurisdiction of the Sponsoring Community.

If there is no local housing authority in the territorial jurisdiction of the former RDA, then the Department of Housing and Community Development would become the successor housing agency for that RDA.

Certain cities that have formed a housing authority may want to have the county housing authority act as the successor housing agency rather than the local housing authority, and that could be accomplished by the city and the county housing authority entering into or amending an existing cooperation agreement that would appoint the county housing authority as the housing authority for the city.

It is important to note that even though a Sponsoring Community elects to become the successor housing agency, the Sponsoring

Community might not have the resources to carry out the actual functions of the successor housing agency. In such a case, the county housing authority or the local housing authority could enter into a joint powers agreement or a contractual arrangement with the Sponsoring Community under which the county housing authority or the local housing authority would undertake the successor housing agency activities in accordance with standards set forth in the joint powers agreement or the contract.

Housing authorities that will be the successor housing agency will have to determine whether they have the resources to perform the housing related duties of the former RDA (such as monitoring housing developments financed by the former RDA). Under the Dissolution Act, existing unencumbered housing fund balances from the dissolving RDAs would not be transferred to the successor housing agency. However, certain future housing funds (such as borrowed SERAF payments or loan repayments made to the successor housing agency) would come to the successor housing agency for the purposes of conducting housing activities as required under California redevelopment law or to pay for administration expenses associated with these housing activities.

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