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Tax Reform Will Hit Redevelopment Hard

Tax reform is likely to bring radical changes to the way redevelopment agencies do business. For the first time, agencies seeking to issue tax-exempt tax increment bonds will have to compete with industrial development bonds for authorization — and the tax reform bill has cut California's authorization in half.

Furthermore, the use of tax-exempts has been greatly restricted, meaning that agencies will have to rely heavily on taxable bonds. In fact, two redevelopment agencies in Southern California have already issued taxables.

The redevelopment consequences of the tax bill were laid out by several experts and lobbyists at Katz Hollis's annual redevelopment legislation conference in Los Angeles in mid-October.

Tax-increment bonds have confused the Washington tax writers because they resemble the often-abused industrial development bonds. IDBs, however, are secured by a private business, while tax-increment bonds are secured by incremental increases in tax revenue within a redevelopment area. Washington lobbyist Tony Edwards told the conference that if California's redevelopment agencies had not lobbied vigorously in Washington, the new bill probably would have revoked the tax-exempt status of all redevelopment bonds.

Under the tax reform bill, bonds used for facilities owned and operated by government agencies will still be tax exempt. But new tax-increment bonds will *Continued on page 4*

Plans May Become Sensitive to Market

Cities and counties are entering a "brave new world" where they have such a financial stake in all real estate developments — even completely private ones — that their planning decisions may have to become much more market-oriented.

That's because the need for local governments to "pay as you go" on infrastructure for new developments is forcing them to fuse the flexible concepts of planning and the rigid financial requirements of tax-exempt bonding. And the situation is teeming with potential risks for local jurisdictions, their financial advisers, and developers.

These were the themes of the Fourth Annual Donald G. Hagman Commemorative Program at UCLA in early October. The conference honors the memory of the late UCLA law professor, who was nationally recognized as an innovative thinker on issues relating to land-use law and urban development.

The featured speaker was Hagman protege Dean Misczynski, principal consultant for the state Senate Office of Research and one of the organizers of the conference. In approving new real estate projects nowadays, Misczynski said, cities and counties must take responsibility for setting up the financial mechanisms to construct the infrastructure. Because new residential subdivisions are getting bigger and bigger, "pay as you go" development fees are often not enough. Increasingly, jurisdictions are having to turn to assessment districts and long-term bonding. *Continued on page 4*

Sacramento Arena Close to Approval

A court hearing on Nov. 25 appears to be the only stumbling block for approval of Sacramento's new baseball stadium and basketball arena, which would open up development in the mostly agricultural North Natomas area outside the city.

The sports arena/North Natomas proposal, near the intersection of I-5 and I-80, has been the subject of debate for several years in Sacramento. The crux of the dispute has been the fact that the Sacramento Sports Association is closely linked to a group of developers who own thousands of acres of agricultural property in North Natomas. The group moved the Kings basketball team from Kansas City last year, and plans to use the arena and stadium, which they will build without public assistance, as a centerpiece of development in North Natomas. Opponents have argued that infill developments should occur close to the city first, with development of raw land in North Natomas coming later.

Last spring, the City Council approved the community plan for 9,000 acres of land in North Natomas, including the sports complex. The Planning Commission approved the sports complex in early October, and it was scheduled to go to the City Council by the end of the month. An effort to place the issue on the ballot as an initiative has failed.

However, the Environmental Council of Sacramento has sued the city over a series of planning and environmental issues, and a court hearing is scheduled for Nov. 25. The litigation has persuaded the Sacramento Local Area Formation Commission (LAFCO) to postpone a decision on annexing part of North Natomas to the city.



NEGOTIATION

Duke Vetoes Bill to Create State Mediation Office

A bill to establish a state office that would advise local governments in mediating land-use and environment disputes has been vetoed by Gov. Deukmejian. In his veto message on SB 2588, Deukmejian said that while he believed in alternate methods of resolving siting disputes, he did not see "a clearly demonstrated need" for the Office of Mediation Assistance, and noted that state agencies have "ample authority" under existing law to set up mediation processes.

The bill was the brainchild of Michael Seaman, who teaches public administration and political science at National University in Sacramento. While working for the Solid Waste Management Board in the Brown Administration, Seaman arranged negotiations in 1981

to resolve the siting dispute over the Riverside Sanitary Landfill in Crestmore Heights. The mediation office would have been placed in the lieutenant governor's office and given a \$100,000 loan from the state treasury as seed money.

While acknowledging that state agencies don't make good use of the negotiation authority granted to them already, Seaman had harsh words about Deukmejian's action. He questioned the governor's rationale for vetoing the bill while, at the same time, calling the Legislature back into session several times to wrestle with the East Los Angeles prison siting problem. "How graphic an example do you need to make a case for this office?" he said.

New Tahoe Plan Nears Approval After Lengthy Negotiation

Meanwhile, a negotiated agreement on land-use issues in the Lake Tahoe area is working its way toward approval — and could lead to the end of a court-imposed moratorium that has virtually halted development there since 1984.

The new regional plan and its accompanying zoning ordinances should be passed by the Tahoe Regional Planning Agency in January, according to TRPA Executive Director William Morgan. At that time, the plaintiffs in the lawsuit — including the California Attorney General's Office and the League to Save Lake Tahoe — and U.S. District Court Judge Edward J. Garcia may decide to dismiss the lawsuit against the old regional plan, which led to the judge's moratorium.

The unusual negotiations began more than a year ago, when 30 or so Tahoe-area interest groups — including everyone from the attorney general's office to the South Tahoe Gaming Commission — opened the first of 35 bargaining sessions. They were guided by

Geoffrey H. Ball, a professional "facilitator" whose principal job was simply to keep the discussions going.

According to those involved, not everyone is happy with the agreement. In particular, commercial property owners are not satisfied and could challenge the agreement in the future.

The principal points of agreement that came out of the negotiations include these:

- No building may cover more than 50 percent of a site.
- Some 17,000 subdivided but vacant lots will be reviewed to determine which ones are environmentally sensitive and which ones are buildable.
- Hundreds of landowners who were partway through the permitting process when the injunction was issued can proceed.
- A transferrable development rights system will be established, and landowners may offset development on some property by purchasing other pieces of property for preservation.

income jurisdictions into action. Rancho Palos Verdes is negotiating with a developer to provide "affordable" townhouses (in the \$135,000-\$150,000 price range) after its city attorney warned of the possibility of a similar lawsuit in that city, which has some 1,000 acres of undeveloped land.



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ECONOMIC DEVELOPMENT

Convention Centers: Anaheim to Expand, San Diego Stalled

Though it's already the largest such facility on the West Coast, the Anaheim Convention Center is likely to undergo a major expansion in the next couple of years. Anaheim's Joint Powers Authority, which operates the convention center, is considering an expansion that would include a new 150,000-square-foot exhibit hall and, underneath that, a parking area of about the same size that could be converted to exhibition space eventually. An EIR and master planning are under way now, and the Joint Powers Authority could give the go-ahead as early as December. If all that falls into place, the expansion, which is expected to cost around \$30 million, would begin construction in early '87, with opening expected in early '89.

Moving more slowly is a proposal to convert underused space under the seats and elsewhere in Anaheim Stadium to exhibit space for smaller shows. According to Bill Turner, director of the stadium, the renovation — besides bringing in extra income to a stadium that

has more "dark" days than days in use — could fill the gap between small conferences at the Anaheim hotels and the huge shows at the convention center. It might also serve as dining space for large groups who come to watch the Angels baseball team. The cost is expected to run around \$4 million for 65,000 square feet of space, but the project has a low priority while the convention center expansion rolls ahead.

Meanwhile, the Port of San Diego is planning to send out a new request for bids on Dec. 3 for the 450,000-square-foot convention center planned on downtown tidelands property there. Port spokesman Jim Anderson said the first round of bids came in \$20-25 million higher than the expected range of \$101-107 million, perhaps because contractors found the bid specifications vague and didn't know what to expect. The specs have been tightened up, he said, and bids are due back on Feb. 15.

13 Enterprise Zones Slated for Permanent Designation

The state Commerce Department is finally issuing permanent designations to the first 13 enterprise zones selected in a competition earlier this year. Kurt Chilcott, the state enterprise zone program manager, said that the 13 zones were initially given only "conditional" approval, and then the jurisdictions sponsoring them had to document the local assistance that had been promised in the competition. (Local assistance was a leading factor in determining which enterprise zones were selected.)

Chilcott said he expects that all 13 zones will receive final designation. The 13 zones given provisional designation were: Agua Mansa (San Bernardino/Riverside counties), Bakersfield, Calexico,

Eureka, Fresno, Los Angeles/Central City (near USC), Los Angeles/Pacoima, Los Angeles/Watts, Porterville, Sacramento (Del Paso Heights), San Diego, San Jose, and Yuba/Sutter counties.

Chilcott said that three regional workshops on the tax benefits of enterprise zones are being held around the state by the Commerce Department, the Franchise Tax Board, and the local zones. The first was scheduled for Oct. 27 in Fresno. The other two will be in Los Angeles and Sacramento in November.

Oakland Loans A's \$15 Million

Baseball's war of attrition continues unabated in the Bay Area. San Francisco's Giants and Oakland's A's are among baseball's biggest money-losers, but that hasn't stopped the two cities from scraping as hard as possible to prevent one of the teams from moving.

The latest shot is Oakland's new deal with the A's, which involves a 15-year lease at the Oakland Coliseum and a \$15 million loan to the team. Though the contract could run until 2001, it includes numerous escape hatches for the A's, who could leave town (and pay back the loan with interest) any year between now and 1991 if the team's financial situation does not improve.

In San Francisco, Giants owner Bob Lurie and Mayor Dianne Feinstein seem to be at something of an impasse over how to replace the notorious and windswept Candlestick Park. Lurie annually threatens to leave town, but Feinstein has stifled his overtures to San Jose with threats of litigation. The owner and the mayor agreed on a stadium site in Southern Pacific-owned Mission Bay, but a study by Bechtel said the new stadium would cost in excess of \$60 million.

Burbank Fights May Co.

The City of Burbank has been trying to block May Co.'s acquisition of Associated Dry Goods Corp., parent company of J.W. Robinson Co. The reason? Burbank fears that if the acquisition goes through, May Co. will not go ahead with the Robinson's store in Burbank's Town Centre, one of the retail anchors in the downtown redevelopment project.

City officials tried to persuade the Federal Trade Commission to hold up the merger until May Co. agreed to go ahead with the Burbank Robinson's, but the FTC did nothing. Now, says City Attorney Douglas Holland, the city is trying to pursue other courses of action before it decides whether to file a lawsuit. One possibility is that another department store will replace Robinson's — and Holland said Ernest W. Hahn Inc., developer of the downtown mall, is talking with other stores.



PEOPLE

Paul Crawford, planning director for San Luis Obispo County, is a self-described computer nerd, and he's put his skills to work for the county. Using a program he wrote himself, Crawford has set up perhaps the first planning-counter computer in the state. Planners use the computer to help landowners determine what they may build on property in Cambria, a community near Hearst Castle. Building rights are determined by a complicated formula involving old subdivision lots, slope of the land, and other factors. Crawford says that figuring out what someone could build used to take 15 minutes. Now it's available in seconds.

Derek Shearer has been ousted from the Santa Monica Planning Commission by the City Council there. The action came after

Shearer, a well-known left-liberal planning theorist, made comments critical of new Planning Director **Ann Siracusa** and another planning commissioner. Shearer is pursuing court action, but a November election could tip the balance back in his favor.

Virginia Collins, Los Angeles County's chief negotiator in dealing with local redevelopment agencies, has moved on to a budget position in the county's health services department. Her job in the chief administrative officer's office has been assumed by **Michelle Memmot**, who previously served as a budget analyst and admits she knows little about redevelopment. Memmot says the county is in the process of hiring a second redevelopment finance specialist because there's so much to do.



COURT CASES

Newport Beach Housing Case May Lead to Historic Ruling

A long legal battle over affordable housing in Newport Beach is reaching a head and it could become a kind of mini-*Mt. Laurel* with broad implications for cities throughout California.

The non-jury trial of *Olive Davis v. City of Newport Beach*, which began more than a year ago, should be completed by the end of November. In the suit, which was filed in 1980, Legal Aid alleged that Newport Beach had engaged in a series of exclusionary land-use and housing policies in the 1970s. According to Legal Aid lawyer Crystal Sims, the lawsuit accuses the city of reducing residential densities dramatically, imposing unreasonably high park fees and parking requirements, and dropping out of the Community Development Block Grant program for four years.

Over the years, Sims says, Newport Beach has amended many of its policies, adopting an inclusionary housing requirement and joining the Orange County Mortgage Revenue Bond program.

However, if Judge Leonard Goldstein of the Orange County Superior Court rules in Legal Aid's favor, it could reverberate through California cities the way the *Mt. Laurel* decision affected New Jersey communities a few years ago, when the state Supreme Court there ordered affluent suburban communities to begin providing low-cost housing.

No matter which way the ruling goes, the case is likely to be appealed. But the case's reputation has already scared other high-

Market-Oriented Plans

Continued from page 1

However, these cities and counties are just beginning to acquire the expertise they need to perform these tasks well. And Misczynski, who was referred to by L.A. Planning Director Ken Topping as "the youthful guru of development finance in California," is predicting trouble.

"I'm persuaded there's going to be a problem," he said. "There's going to be a bond default sooner or later." If a development is unsuccessful and the bonds default, local jurisdictions could be legally liable — something planners have never had to worry about before. This means cities and counties are going to have to become much more aggressive in assessing the market strengths of projects they might assist with bonds.

"We may see land-use decisions that are much more market decisions," Misczynski said. "The only defense you have is not to fund 'dog' projects."

How does a local jurisdiction become market-sensitive? A panel of finance experts at the conference provided these tips:

1. *Take control of financing the public portions.* "The first thing a city should do is take charge," said Norman C. McPhail, vice president of Miller & Schroeder Municipals Inc. "If a city is going to put something into a project, there are city interests that have to be served."
2. *Carefully select qualified bond attorneys, underwriters, and consultants who will be accountable to the jurisdiction.*
3. *Commission your own "market absorption" study.* With bond payments at stake, cities cannot be concerned only with the long-term viability of the project; they also must make sure that the project produces enough cash-flow each year to pay off the bonds.
4. *Commission an independent appraisal of the property based on its cash-flow, not on its market value.*

5. *Evaluate the "lien ratio" (ratio of appraised values to assessments) for the entire project and for each parcel individually.*

Even if cities and counties do a good job on those five points, though, they still could be setting themselves up for a conflict between planning and finance. Misczynski gave this example: Suppose a city approves "Project A" and issues bonds to assist in the infrastructure. What does that city do if a competing project is proposed that should be approved under planning regulations?

"At some point, if you start protecting Project A because the bonds have your name on them, you're probably going to run into an antitrust problem," he said.

Hagman Casebook Updated — In More Ways Than One

West Publishing Co., which specializes in law books, is marketing the second edition of Donald Hagman's authoritative Urban Planning and Land Development Control Law with a four-color poster featuring hot-air balloons and rolling farmland. It's a departure for the normally stodgy publishing firm. But West's Sally Kominski, who put the poster together, says she didn't do it in hopes of capturing a broader market of planners and developers. Rather, she says, the book simply lent itself to a colorful marketing campaign. Co-author on the second edition in Julian Conrad Jurgensmeyer, professor of law at the University of Florida, who was described at one recent conference as "the Don Hagman of Florida." Meanwhile, in November West will publish Land Use Litigation, by Terry Morgan and John Shonkwiler. Kominski isn't promising balloons and farmland, but she does say West is planning "something a little different."

Tax Reform and Redevelopment

Continued from page 1

have to meet strict guidelines or else they will be taxable. (Bonds issued before Aug. 15 are "grandfathered" in under the old rules.)

For any bonds to be tax-exempt under the new bill:

- No more than 10 percent of its proceeds can be used by private businesses (down from 25 percent), and
- No more than 10 percent of its bond payments may be secured by private businesses. (Alternatively, no more than 5 percent of its proceeds may be loaned to private individuals.)

However, California-style tax-increment bonds must meet these additional tests:

- No more than 20 percent of a local jurisdiction's assessed value may be included in the redevelopment area.
- Bond proceeds in small redevelopment areas must be spread among more than one user.
- No more than 25 percent of the bond's proceeds can be used for such "private" purposes as recreational facilities, health clubs, and automobile shopping centers.

Even then, the redevelopment agencies will have to line up before the California Debt Limit Advisory Committee (CDLAC), which will dole out the state's \$2 billion or so in tax-exempt authority. Eric Roth, a senior analyst at Katz Hollis, said CDLAC will authorize tax-exempts only if the financing is already lined up and the public benefits of the project are clearly defined. He also said CDLAC is planning to transfer some of the California authorization to the Mortgage Bond Allocation Committee, which will accept applications from cities and counties directly, meaning redevelopment agencies and their governing jurisdictions will have to work closely together.

As for taxables, redevelopment finance experts who attended the conference said they may be a workable alternative in some

situations. The two taxables already issued by redevelopment agencies in Southern California were for auto malls, which are specifically prohibited under tax-exempts by the tax reform bill. Monrovia has issued a taxable bond in the \$12-15 million range, secured by sales tax, while Cathedral City has issued a bond of about \$4 million.

Katz Hollis principal Larry Arceneaux reported that the state Legislature lifted many of the restrictions on publicly issued taxable bonds with the passage of AB 939 this year. Among other things, the bill makes it easier for public agencies to use such tools as zero-coupon bonds and adjustable interest rates. However, he added, the "knowledge gap" about taxable tax-increment bonds remains wide in the financial community.

BRIEFS

The latest seminar on developing public real estate has been scheduled for Jan. 16 by the UCLA Extension Public Policy Program. The day-long conference will deal specifically with ways to use redevelopment powers in public real estate development projects. The seminar is probably going to be repeated at UC-Davis sometime in March.

A hearing on the Williamson Act will be conducted Nov. 6 in Sacramento by the Senate Local Government Committee and the Assembly Natural Resources Committee. The Williamson Act, passed in 1965, grants tax breaks to agricultural land in return for a promise that it not be developed. The hearing will focus the interim report of the Williamson Act Task Force, which was set up by the Resources Agency to look into changes that might be needed.