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Riot May Cause L.A. to Rethink Planning, Redevelopment Issues

By Morris Newman

While the Los Angeles riots have focused national attention on problems of crime and poverty in the inner-city, they have also changed the policy debate about planning and redevelopment in the city itself. The planning process is now being challenged to provide growth and economic development in working-class areas, as well as growth control in affluent neighborhoods. And the L.A. Community Redevelopment Agency may have to change its approach, concentrating on small-scale economic revitalization in poor neighborhoods rather than promoting major real estate projects.

The city has made an extraordinary gesture by entrusting the organization of rebuilding Los Angeles to an elite private committee, Rebuild L.A., under the leadership of Orange County business executive Peter Ueberroth. But questions remain whether Ueberroth can put together an effective organization in a very short amount of time, and whether this white male Republican can create a multi-racial coalition amid the city's divisive ethnic conflict. At the time of the Watts riots, 80% of South-Central L.A.'s population was black. Today half is Hispanic — including thousands of recent Central American immigrants who are not plugged into the American political structure — while only 45% is African-American. And, at the same time, the rebuilding effort must confront the fact that South-Central's merchant class is largely made up of Korean-Americans resented by blacks.

"Somebody has to articulate a vision for the future of the city that shows how blacks, Latinos, *Continued on page 10*

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Annexations Continue At Rapid Pace Throughout State

Slow Development Market Doesn't Alter City Expansion Plans

The slowdown in development around the state has not stopped the rush by cities to annex territory. At least a half-dozen major annexations are under way around California, ranging from an annexation that will quintuple the size of the small Kern County city of Shafter to a 2,200-acre annexation to fast-growing Lake Elsinore in Riverside County. Most of these annexations are designed to facilitate new development, but at least one — an attempted annexation by Walnut Creek — is being pursued in order to stop a development project.

Meanwhile, county officials remain concerned over the impact of annexations on their jurisdictions and finances. Faced with the Lake Elsinore annexation and two possible incorporations, the Riverside County Board of *Continued on page 4*

In Brief

Baltimore planner Ernest Freeman has been named **the new planning director for the City of San Diego**. The 44-year-old Freeman succeeds Robert Spaulding, who left last year after a charge of sexual harassment was leveled against him. Freeman, who was in charge of downtown redevelopment in Baltimore, will take over a smaller department than Spaulding left behind. In the wake of the Spaulding scandal, the department was placed under the direct control of City Manager Jack McGrory and trimmed in size from 212 employees to 150....

A bill to require the **creation of a planning commission in Kern County has been put on hold** by Assemblyman Jim Costa, D-Fresno. Costa moved AB 3102 from the Assembly Local Government Committee to the Assembly Ways & Means Committee after receiving several letters in opposition to it, including one from Mary Shell, chair of the Kern County Board of Supervisors. Costa is running in a reapportioned Assembly district which covers a large portion of Kern County. He also has close ties to the California Building Industry Association....

The San Joaquin County Planning Commission has **approved two new towns but turned down three**. Mountain House and New Jerusalem, both near Tracy, received the Planning Commission's support. But the commission recommended that new towns near Riverbank, Clements, and Thornton not be included in the county general plan. Consideration of the five new towns now moves on to the Board of Supervisors....

Orange County transportation officials have **approved the Eastern Transportation Corridor**, a $1 billion, 23-mile toll road that would stretch from the 91 Freeway near Anaheim to I-5 near the El Toro Marine Corps Air Station. The toll road, being constructed by the Orange County Transportation Corridor Agencies, is expected to be just as controversial as the San Joaquin Hills toll road, being built a few miles to the west; Santa Ana and Orange are considering lawsuits....

Sonoma County winemaker Sam Sebastiani will get his duck pond. Neighbors had been complaining about Sebastiani's plan for an 87-acre pond for migrating ducks, to be built near his winery near Sonoma. But the Sonoma County Board of Supervisors approved what Sebastiani calls his "duck motel. The supervisors rejected a suggestion by a neighboring rancher than Sebastiani put up a $5 million bond in case his duck pond causes damage to other landowners....

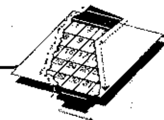
Having received bad statewide publicity over its plan to impose a "view tax" on beachfront condo owners, **the City of Port Hueneme has decided to raise beach cleanup funds another way** — by approving construction of a recreational-vehicle park. The RV park is expected to produce $400,000 in annual revenue needed by the city for beach maintenance. An environmental impact report found no significant environmental problems. The project still must be approved by the State Lands Commission and the Coastal Commission....

The Wilson Administration has initiated **an ambitious new program to preserve historic buildings and historic resources** controlled by state agencies. Executive Order W-26-92 calls for each agency to designate a historic resources preservation officer and to inventory significant properties. By 1994, each agency must have a plan for preservation and management of resources "of historic, architectural, or archeological importance."....

Meanwhile, the El Cajon City Council has approved **demolition of the El Cajon Theater** as part of its downtown redevelopment plans. The 46-year-old Art Deco theater, which has 1,000 seats, had struggled in recent years. The city has purchased the El Cajon y but city officials say they do not have the money to restore the theater....

Los Angeles developer Wayne Ratkovich, known for his successful renovations of historic buildings, **wants to help revitalize downtown Fresno**. Ratkovich has proposed a $365,000 contract to prepare a comprehensive urban design plan for downtown Fresno. When the plan is done, Ratkovich would be designated as primary developer for at least one redevelopment project in the downtown area....

A 451-acre piece of redwood forest near the San Mateo-Santa Cruz County line will be purchased by the Sempervirens Fund, a land conservancy, and the Save-the-Redwoods League of San Francisco. The two organizations, using their own funds and Proposition 70 money, will pay $1.3 million to Boy Scouts. ❑



Calendar

June

- **17-19: Transportation Demand Management and Public Policy.** Long Beach. Sponsor: Georgia Tech Continuing Education. Call: (404) 894-2400.
- **19: Threshholds of Significance Workshop.** Los Angeles. Sponsor: Association of Environmental Professionals, Los Angeles Chapter. Call: (818) 591-9880.
- **24: Regional Housing Needs Workshop.** Burbank. Sponsors: Southern California Association of Governments and California Department of Housing and Community Development. Call: (213) 236-1856.
- **26: Planning and Zoning Clinic.** Goleta. Sponsor: UC Santa Barbara Extension. Call:" (805) 893-4200.
- **26-27: Leadership Development for Experienced Planners.** Redondo Beach. Sponsor: American Planning Association. Call: (312) 955-9100.

July

- **14: Hazardous Material In Older Buildings.** San Francisco. Sponsor: California Preservation Foundation. Call: (510) 763-0972.
- **7: Hazardous Material In Older Buildings.** Los Angeles. Sponsor: California Preservation Foundation. Call: (510) 763-0972.
- **23: Action Summit II for Affordable Housing.** San Francisco. Sponsor: Affordable Housing Partnership Project. Call: (916) 327-7507.

August

- **6-8: Driving In and Moving Out: Auto Mobility in Postwar America.** Los Angeles. Sponsor: Society for Commercial Archaeology. Call: (818) 788-3533.
- **14: Advanced CEQA Seminar.** Goleta. Sponsor: UC Santa Barbara Extension. Call: (805) 893-4200.

Anti-ABAG Revolt Brews in Sonoma County

By Morris Newman

Officials from Sonoma County and some of its cities have called for a split with the Association of Bay Area Governments (ABAG), citing deep differences in growth policy between the highly urbanized South Bay counties and agricultural North Bay counties. The stated desire to break away from ABAG seems a further sign of splintering inside councils of government throughout the state.

City of Sonoma Mayor Larry Murphy has reportedly contacted officials in Sonoma, Marin, Mendocino, Napa, Solano and Lake counties, asking for representatives to attend a special meeting regarding possible secession from ABAG. No formal announcement of a split has been made, however, and Sonoma County Supervisor Ernie Carpenter described the discussion of a break with ABAG as only a "growing movement."

The debate centers on the desire of the North Bay counties to avoid the urbanization experienced by their South Bay counterparts — and, in particular, to gain more control over projections of future growth required under state housing policy. These projections are now devised for the counties by ABAG. Supporters of the movement to leave ABAG also dislike proposals to create a new regional "superagency" that could have the power to draw up a new master plan for regional growth.

"We don't have the same problems as the South and East Bay counties and frankly we don't want them," said Carpenter.

Revan Tranter, ABAG executive director, dismissed the brouhaha over growth projections as a case of "shooting the messenger." As a federally chartered council of governments, ABAG is responsible for setting regional housing goals. Tranter characterized the anti-ABAG rhetoric as an attempt to blame ABAG for the "reality" of growth in the Bay Area. Sonoma County's general plan projects a population of 468,540 people by 2005, while ABAG projects 514,000 people for the area. The City of Santa Rosa projects 162,000 people by the same year, while ABAG expects 178,100.

Tranter defended ABAG's population numbers, saying they have historically been lower than state projections, and added that ABAG's numbers been been "pretty accurate."

But Sonoma County's Carpenter took issue with the affordable housing requirements imposed by ABAG, which are based on those population projections. "What we don't want is to put another 10,000 (housing) units on ag land," he said. "That's the only way the county can meet its goal, and we are just not going to do that." Carpenter said he wants to avoid urban sprawl and favors pedestrian-pockets.

He further argued that Sonoma and other North Bay counties are not shirking their housing goals, and even support up-zoning of certain residential areas to accommodate a greater number of units. To demonstrate the seriousness of the county regarding transit, he cited negotiations to buy railroad rights-of-way. However, in 1990, Sonoma County voters rejected a sales-tax increase to finance a rail transit system, while approving a similar measure to pay for the purchase of open space.

Tranter also said that the secessionist movement seems to have died down in recent weeks since flaring in early April, citing what he described as successful negotiations over housing goals with North Bay cities. "While we have been getting yelled at by the county, we have quietly been reaching agreements with cities on what their figures are," he said. ❑

■ Contacts:

Sonoma Mayor Larry Murphy: (707) 938-3681.
Sonoma County Supervisor Ernie Carpenter: (707) 527-2241.
Revan Tranter, Director, ABAG: (510) 464-7900.

Stanislaus County Passes Agricultural Element

Slow-Growthers Complain Policy Was Watered Down

Stanislaus County has approved a controversial agricultural element as part of its general plan, but slow-growth activists are dissatisfied with its farmland preservation components and are seeking to qualify an initiative for the November ballot.

The agricultural element orders the county to identify the "most productive agricultural areas" and direct development in the county away from those areas. When any farmland in the county is proposed for conversion to urban use, the county will be required to apply "conversion criteria" — including a requirement that the proposed project is consistent with the general plan.

However, the Board of Supervisors dropped a controversial proposal to actually map the most productive agricultural areas, leading farmland preservation advocates wondering how the the new system will actually work. "I don't even know how you could implement any kind of evaluation without a map," said Peggy Mensinger, a former Modesto mayor whose citizen group, the Save Stanislaus Area Farm Economy (SAFE), is sponsoring an initiative that would restrict farmland conversion and make many such proposals subject to a vote.

The passage of the agricultural element was the culmination of five years of work in fast-growing Stanislaus County, an agricultural county in the San Joaquin Valley now feeling the impact of urban sprawl from the Bay Area. Despite the county's $1 billion agricultural economy, population has grown by 50% since 1975, while land devoted to urban uses has increased from 29,000 to 47,000 acres.

Issuing the first set of recommendations in January 1990, a county task force set off the controversy by proposing a two-tiered agricultural zoning system, with maximum protection provided to the most fertile agricultural land. According to Leslie Hopper, the county's associate planner assigned to the ag element, the Stanislaus County Farm Bureau made its own, somewhat conflicting recommendations almost a year later — and, as a result, the county Board of Supervisors created a new citizen committee to reconcile all the different proposals.

The new committee shifted the emphasis of farmland preservation from the land containing the most fertile soils to the land containing the most important agricultural activity, such as dairy farms. In a report last December, the new committee proposed designating — and mapping — the "most productive agricultural areas" in the county based on a variety of factors.

By this time the agricultural element had been under consideration for two years, and the SAFE citizen group began gathering signatures to place its initiative on the ballot. Thus, the county began serious consideration of the ag element. In late April the Board of Supervisors approved the ag element — with the conversion criteria and the provision for identifying the most productive agricultural areas, but without the mapping requirement. ❑

New City Objects to Sonoma Greenbelt Policy

Windsor Fears LAFCO Action Will Impede City's Ability to Create Sphere of Influence

Sonoma County and most of its cities have agreed on a greenbelt policy to preserve undeveloped land that separates the cities. But the new policy has run into opposition from the Town of Windsor, which will not formally incorporate until July 1.

Under a new policy approved by the Sonoma County Local Agency Formation Commission in early May, the LAFCO will reject future annexations in Sonoma County's so-called "community separators" — the land separating the county's cities. The LAFCO will also not allow the separators to be included in spheres of influence. According to Deputy County Counsel David Hurst, the policy — which was requested by seven of the eight existing cities in the county — is based on Ventura County's "greenbelt" agreements between the county and its cities.

The LAFCO rejected a request by Windsor, which is located on Highway 101 between Santa Rosa and Healdsburg, to be exempted from the policy. Windsor officials fear the new separator policy will restrict their ability to obtain an expansive sphere of influence from the LAFCO. Because Windsor is not yet formally incorporated, the LAFCO has not designated a sphere.

"We feel this is a departure of their promise to us," Windsor Town Manager Paul Williams said of the county and the LAFCO. "They verbally assured us that this would not affect any analysis we would do. Unfortunately, we think this is the first step for the Board of Supervisors of Sonoma County superseding the LAFCO in terms of development futures of towns and cities in Sonoma County."

Windsor, which doubled in size in the 1980s and will be Sonoma's fourth-largest city, has been the target of criticism from other cities, especially Healdsburg. Healdsburg City Councilman Ben Collins, who also serves as a LAFCO commissioner, recently told the Santa Rosa Press Democrat that he fears Healdsburg will turn "into another Windsor" if the separators aren't maintained. The separator between the two cities currently stretches for about two miles.

But Williams said that the separator policy does not make sense for Windsor. As an example, he pointed to an area located within Windsor's water district (but not the town) that is 30% developed even though it is designated as a community separator. He said that after incorporation, Windsor would proceed with a general plan study area that includes areas in the separators. "We have no choice but to look at a rational planning area," Williams said.

Windsor's incorporated limits will include 6.2 square miles and 14,000 people. Under state law, the LAFCO is supposed to designate a sphere of influence for Windsor that will encompass the "probable ultimate boundary" of the city. However, under City of Agoura Hills v. LAFCO, 198 Cal.App.3d 480 (1988), the LAFCO is under no legal obligation to grant Windsor a sphere of influence that is larger than the city's boundaries. (For more information on the Agoura Hills case, see CP&DR, March 1988.)

LAFCO's new greenbelt policy was requested by seven of Sonoma County's eight existing cities. Only fast-growing Rohnert Park did not join in the request — and the only LAFCO member voting against the policy was Rohnert Park Councilman Warren Hopkins, who called the policy "short-sighted" and said it would backfire on the cities. ❑

■ Contacts:
David Hurst, Deputy County Counsel, (707) 527-2421.
Paul Williams, Windsor Town Manager, (707) 838-1000.

Annexations Continue at Rapid Pace Throughout State

Continued from page 1

Supervisors has agreed to take a position on annexations and incorporations more frequently than in the past. Riverside County officials say the possible incorporation of Mira Loma and Jurupa could cost the county $3.3 million a year in sales-tax revenue and $2.4 million a year in property-tax revenue. In the Lake Elsinore annexation, both county supervisors who sit on the Riverside County Local Agency Formation Commission voted no.

Here is a rundown of several important annexation actions around the state recently:

• In Kern County, tiny Shafter — a city of 2 square miles and 8,000 people near Bakersfield — has proposed quintupling its size by annexing a 6.7-square-mile area. City officials say the move is designed to preserve agricultural areas around Shafter's current small-town center, and also give the city control over future economic development in two other areas, especially the Mintier Field Airport, which is located near Highway 99 five miles east of Shafter.

The annexation will also take in some land south of Shafter toward the Rosedale community, which is located just northwest of Bakersfield. In part, the Shafter annexation may be a defensive move designed to provide a buffer from Kern County's Western Rosedale Specific Plan, which covers 56 square miles. Shafter officials say their general plan study area will encompass 47 square miles.

• In Modesto, residents of the so-called "Village I" area northeast of the city approved annexation to the city, the largest annexation in the history of Stanislaus County. The vote will allow Modesto to begin developing the 1,700-acre area, which will be the site of a neo-traditional planned community of 22,000 people.

The annexation was approved by 54.9% of the voters in the Village I area. Of the 219 registered voters in the area, more than 180 — or 80% — voted in the annexation election.

Annexations are difficult in Modesto because of a 1980 voter initiative which requires a public vote whenever the extension of a trunk sewer line is proposed. But sewer service to the Village I area was approved by voters in November of 1990.

• In Riverside County, the Local Agency Formation Commission approved the annexation of almost 2,300 acres north to the City of Lake Elsinore. The annexation was proposed by TMC Developments, which proposes construction of 4,600 homes and three shopping centers on the property. The TMC development would double the current population of Lake Elsinore.

• In Walnut Creek, city officials are pursuing annexation of a 69-acre parcel of land — with the goal of stopping development.Whitecliff Homes has proposed a 95-home subdivision on the hillside property, currently located in the unincorporated community of Alamo, and wants to develop using Contra Costa County standards. However, last year Walnut Creek voters approved Measure P, which seeks to limit development to one unit per 10 acres in hillside areas.

The initiative is being challenged in court, but in the meantime Walnut Creek wants to annex the Whitecliff Homes parcel in order to apply the 10-acre zoning to the site. Whitecliff opposes the annexation. ❑

CP&DR LEGAL DIGEST

Laguna Beach Ordered to Follow 'Granny Flat' Law

City Must Allow Owners of 'Bootleg' Units To Apply for Permits Under State Standards

The City of Laguna Beach must consider legalizing hundreds of illegal "granny flats" under lenient state standards, rather than using the city's own ordinance, the Fourth District Court of Appeal has ruled. The ruling will apparently permit the second-unit owners to "legalize" their units without providing additional parking.

In the first-ever ruling on the state's "granny flat" law, the appellate court said that Laguna Beach had "employed a number of artful bureaucratic devices to circumvent the statute" in cracking down on existing illegal second units in South Laguna Beach, which was annexed to the city in 1987. The harshly worded ruling, written by Justice David G. Sills, essentially claimed that the city did not inform the owners of the "bootleg" units that they were permitted to apply for second-unit permits under the state law, instead encouraging them to wait until the city passed its own ordinance.

The granny-flat law (Govt. Code §65852.2) was passed in 1982 to encourage cities and counties to adopt local ordinances permitting second units in single-family neighborhoods. If the local government does not adopt such an ordinance, a property owner may apply to the city or county for a conditional use permit anyway. The jurisdiction must then apply the state's own standards and grant the permit if the project meets the standards. In particular, the state's standards — unlike the standards of most cities — do not require the provision of additional off-street parking for second units.

The Laguna Beach situation began in 1987, when the city annexed South Laguna Beach, a densely populated area with hundreds of illegal second units. Shortly after annexation, the city — at the urging of the South Laguna Civic Association — began cracking down on the illegal second units. The lawsuit was filed by a property owner named Harold Wilson, who, like dozens of other property owners, received a letter from the city stating that his illegal unit violated the area's land-use designation. Unlike most other property owners, Wilson knew of the granny-flat law, and he asked the city for the necessary forms to obtain a permit under its provisions. Under the state's law, if Wilson or any other property owner filed a completed application with the city, the city would then have 120 days in which to adopt a local ordinance or else the state's standards would apply. The city responded by sending Wilson a standard CUP application, which included, among other things, a requirement that the applicant prove that additional parking is available. The city rejected Wilson's application as incomplete.

Simultaneously, the city adopted an amortization program encouraging the owners of illegal second units to phase their units out over a period of five years. (In the case of senior citizens — as tenants or owners — a life amortization period was permitted.) The city council also instructed the staff to examine, over a period of one year, whether it would be possible for the city to adopt its own second-unit ordinance, as permitted under the state law. The city then sent letters to property owners informing them of their choices.

According to the city's lawyer, Philip Kohn of Rutan & Tucker, the city simply discouraged property owners from applying for CUPs because it would trigger the 120-day period. The resulting ordinance, he said, would probably be strict because it would err on the side of caution, while an ordinance drafted at a more leisurely case might have been more flexible for the property owners. Kohn also said the city's amortization agreement specifically stated that participation in the program did not prevent the property owner from applying for a CUP.

However, according to Wilson's lawsuit — and the Court of Appeal — what the city really did was undertake an effort to mislead the property owners into believing they had no choice but to follow the amortization period. A fact sheet mailed to property owners during this period made only casual reference to the possibility that the city would adopt a local ordinance to legalize the second units, while at a public meeting, the city manager said there was no way to process a CUP so property owners shouldn't even bother to try.

In November of 1988, the city sent Wilson and other property owners a "final notice" saying that if they did not join the amortization program, they would be subject to legal action against the city attorney. In December, Wilson filed his lawsuit, and in March of 1989 Orange County Superior Court Judge William F. McDonald certified the suit as a class action.

It was not until June of 1989 that the city adopted a local second-unit ordinance as permitted by state law. The new ordinance set out stricter standards than the state law for second units, especially for parking. The Wilson case went to trial 14 months later, in August of 1990, and as of that time the city had not accepted a single application for a CUP as "complete."

Though Judge McDonald made several findings sympathetic to the property owners, he refused to provide them with the relief they requested. Among other things, he found that there was a county ordinance in existence which did regulate second units — the ordinance had been "stumbled upon" by a city planner — but he said that because it conflicts with the South Laguna Specific Plan it was not valid. He also found that the city "did actively discourage" CUP applications, thus leading the property owners to be "misled."

McDonald declined to issue a temporary restraining order, a preliminary injunction, or a writ of mandate against the city, saying that the property owners should be given a chance to submit applications under the granny flat statute.

The Court of Appeal, however, reversed Judge McDonald, ordering him to issue a writ requiring the city to process second-unit applications under the state's standards rather than the standards contained in the city's ordinance.

First, the court concluded that the state granny-flat law was, indeed, controlling, despite the presence of the old county second-unit ordinance. The court said the city should not be permitted to argue that the county ordinance applied, given the fact that the city did not even discover the existence of the county ordinance until after the lawsuit began.

But the central issue in the appellate court's ruling was whether one particular provision of the granny-flat law — which states that even under state standards, certain local zoning rules may apply — gave the city permission to demand a showing of additional parking as part of the CUP provision.

Under subsection (7) of subdivision (b) of

the granny-flat law, cities may impose "height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to residential construction in the zone in which the property is located." Laguna Beach's lawyers argued that this provision gave the city permission to impose additional parking requirements even under the state standards. But the court rejected this argument, saying that part of the reason the state law was passed was to permit lax parking standards. "(T)he fundamental value judgment at stake here — a choice between housing and parking — was made by the Legislature in favor of housing. It was decided the benefits of the additional housing provided by second units outweigh the costs of exacerbating local parking problems."

However, the Court of Appeal kept its harshest language for the question of whether the city misled the property owners. The city appealed Judge McDonald's conclusion on this point, claiming the evidence did not substantiate such an argument, but the court said: "We can scarcely believe this argument is made with a straight face.

"The picture that emerges is one of administrative inertia, craftiness, and circumlocution of virtually Dickensian dimensions.... The city's actions follow a direct path to an overwhelming conclusion: the city was going to use every trick in the book to avoid complying with an unwanted state law.....The city appears to have chosen to ignore that state legislatures prevail over municipalities in the pecking order of governments."

Having made this point, the Court of Appeal overturned Judge McDonald's conclusion that the city's indiscretions did not rise to the level at which it should be "estopped," or prevented, from processing the second-unit permits under its own ordinance. Laguna Beach had argued that the property owners were not entitled to equitable relief because the second-unit owners were "scofflaws" and "lawbreakers" who "did not want to take a few extra steps" to make "a few extra dollars" legally. But Justice Sills said there was no way to know how many of the South Laguna second units are legal and how many were not, given the haphazard nature of the county's records prior to 1960. "There is no reasonable way to read the granny flat statute without concluding that the Legislature intended to confer its owners of otherwise 'illegal' second units an opportunity to 'legalize' those units," the court's opinion said. "To deny equitable relief to such owners precisely because their units violate zoning laws otherwise modified by the statute completely eviscerates the statute."

The appellate court chose not to address the question of whether the city's ordinance, passed in 1989, is valid under the granny-flat statute. ❑

■ The Case:
Wilson v. City of Laguna Beach, No. G010228, 92 Daily Journal D.A.R. 6398 (May 14, 1992)

■ The Lawyers:
For the property owners: Philip E. Smith, Morrison & Foerster, (714) 251-7500.
For the city: Philip D. Kohn, Rutan & Tucker, (714) 641-5100.

TAKINGS

U.S. Supreme Court Lets Stand 9th Circuit Ruling on Linkage Fees

In a big victory for government agencies, the U.S. Supreme Court has let stand a federal appellate ruling upholding so-called linkage fees.

In choosing not to hear *Commercial Builders of Northern California v. City of Sacramento*, No. 91-1556, the high court has, in essence, permitted government agencies throughout California to impose fees on commercial development to pay for housing and other social programs. Approximately 10 California cities currently impose such "linkage fees," ranging from $1 to $8 per square foot on new non-residential development. Los Angeles has been considering imposing such a fee, but Michael Bodaken, housing deputy to Mayor Tom Bradley, said Bradley would likely slow down the effort because of the L.A. riots.

Linkage fees have been controversial ever since they were first imposed in the 1980s by cities such as San Francisco and Santa Monica. The economic theory behind them is that non-residential development creates employment and, therefore, increases the demand for housing in a given locality.

In the Sacramento case, the Pacific Legal Foundation, representing the builders, was seeking a refinement of the U.S. Supreme Court's ruling five years ago in *Nollan v. California Coastal Commission*, 483 U.S. 825. In that case, the court ruled that conditions of development must have a direct relationship — or "nexus" — to the development project itself. Since Nollan, local governments seeking to impose fees on new projects have often hired economic consultants to conduct "nexus" studies establishing the relationship between project and fee.

The PLF was hoping that the U.S. Supreme Court would use the Sacramento case to establish strict standards for establishing a nexus.

In a split decision, a three-judge panel of the Ninth Circuit rejected the builders' claim that the linkage fee constituted a "taking" of property by regulation. "It was enacted after careful study....It assesses only a small portion of a conservative estimate of the cost of such housing. The burden assessed against the developers thus bears a rational relationship to public cost closely associated with such development," the majority wrote. Judge Robert Beezer dissented, calling the fee system "a transparent attempt to force commercial developers to underwrite social policy." *Commercial Builders of Northern California v. City of Sacramento*, 941 F.2d 872.

The City of Sacramento approved the fee system in 1989, estimating that it would raise approximately $3.6 million per year, or 9% of the annual cost of the city's affordable housing program. The fees range from 95 cents per square foot for office buildings down to 25 cents per square foot for warehouses. A central issue in the case was the adequacy of the nexus study prepared by Keyser-Marston Associates, which was used to justify the fee. The builders' planning consultant, David Wade, argued that new commercial development is but one of many factors affecting the need for affordable housing in Sacramento. ❑

■ The Case:
Commercial Builders of Northern California v. City of Sacramento, No. 91-1556

■ The Lawyers:
For the builders: John Groen, Pacific Legal Foundation, (916) 641-8888.
For the city: Alletta Belin, Shute, Mihaly & Weinberger, (415) 552-7272.

Sonoma Landowner Awarded $121,000 in Takings Case

The Second District Court of Appeal has upheld a trial judge's decision to award a takings judgment to a property owner who sued the City of Palos Verdes Estates. But the appellate court cut the total award from $1.7 million to $800,000

The court found that information about conditions on neighboring land which has suffered slide damage was admissible as part of the takings trial, and upheld the trial judge's decision to award $800,000 on the takings claim. However, the court disallowed $550,000 in pre-judgment interest on the takings claim, as well as $400,000 in attorneys fees.

The appellate ruling is the latest round in a lengthy series of legal battles that arose after a 1983 landslide that affected a few bluff-clinging residential lots in the Bluff Cove area of Palos Verdes Estates and drove down the value of several other lots because experts predicted another landslide could occur. Courts have determined that the landslide was caused by a faulty city storm drain, and the city and its insurance companies have so far agreed to pay $14 million in damages and land purchases. The city now owns seven of the spectacular homes, four of which are used rent-free by city employees.

The legal dispute between the city and Nona and Clyde Emery, however, has proven intractable. About 15 feet of the Emery lot was lost in the 1983 slide. Like the other property owners, the Emerys claimed that their property had been diminished in value by the erosion, but the Emerys and the city have been unable to reach an agreement. The Emerys claim they lost $1 million in property value, but they have told reporters that the city never offered them more than $200,000.

The Emerys are also engaged in a civil-rights action against the city stemming from a different incident. In 1989 Clyde Emery was arrested after refusing to sign a police citation acknowledging that he had violated a city ordinance by leaving trash bags in his driveway. Emery claims the city was trying to intimidate him; city officials told the Los Angeles Times that they take their trash ordinance seriously.

After hearing the Emerys' case at trial, L.A. Superior Court Judge George Perkovich awarded the Emerys $1.76 million — $800,000 for the inverse condemnation itself, about $560,000 in "pre-judgment interest," and $400,000 in attorneys fees. The city challenged aspects of all three rulings, winning two and losing one at the Court of Appeal.

The city did not challenge the inverse condemnation award itself but, rather, argued that evidence of a second landslide nearby should not have been admitted as evidence. In addition to the landslide that intruded on the Emery property, another landslide, known as the Papworth slide, had destroyed several neighboring houses. Though the Papworth slide did not affect the Emery property, geological experts said a similar landslide could occur in the future that would destroy much more of the Emery property. The Emerys argued that any informed buyer of their land would know of the geological hazards, and even if such a person still wanted to buy, it would be impossible to obtain a loan for the land.

The city argued that information about the Papworth slide should not have been admitted into evidence because of Evidence Code §352, which says that trial judges may exclude relevant evidence when its probative value is outweighed by danger of undue prejudice. The city also argued that previous case law permitted compensation in inverse condemnation suits only for "actual physical injury."

The Court of Appeal rejected both arguments, saying that the evidence was necessary to meet the issues and that information about the Papworth slide "reveals nothing significantly inflammatory in the evidence beyond that necessary to establish liability."

The appellate court did, however, overturn Judge Perkovich's decision to grant the Emerys $560,000 in interest on their taking, calculated from the time of the landslide to the time of the judgment. The appellate court noted that the Emerys still occupied the house and said that the remaining value of the land should be offset against the interest. The court also cited case law in determining that attorneys fees are not allowable for the appeal of an inverse condemnation judgment. ❑

■ The Case:
Emery v. City of Palos Verdes Estates, No. B042539, 92 Daily Journal D.A.R. 6469.

■ The Lawyers:
For the Emerys: C. Peter Anderson, Parker, Milliken, Clark, O'Hara & Samuelian, (213) 683-6500.
For the city: Harry L. Gershon, Richards, Watson & Gershon, (213) 626-8484.

Judge Finds No Discrimination In Arroyo Grande General Plan

A federal judge has rejected wholesale a broad-ranging challenge to the City of Arroyo Grande's actions on the possible development of a 55-acre strawberry field.

The property owners, Kingo and Tatsumi Kawaoka, claimed they were prevented from building because of a 1990 water moratorium and a city requirement that they submit a specific plan before gaining development approval for the property. They challenged the actions based on substantive due process and equal protection grounds, based partly on allegations that Arroyo Grande's actions against the Kawaokas was based on racial discrimination.

But U.S. District Court Judge David Kenyon found the legal challenge to be unripe. They said the Kawaokas could have sought development permits even during the water moratorium by pursuing a specific plan, but did not do so. "Because plaintiffs here never submitted any formal development application ... the instant action does not appear ripe for this court's review," Kenyon wrote.

The Kawaokas own 35 acres of strawberry fields along the southern border of Arroyo Grande, which they farmed for almost 40 years. In a general plan update in 1990, the City of Arroyo Grande designated the land — along with 20 adjacent acres of strawberry fields under separate ownership — for continued agricultural use. The general plan permitted conversion of the lands to urban use "at such time as they are no longer economically viable" for agriculture, but required preparation of a specific plan. After complaints from the Kawaokas, the city council changed the general-plan designation to residential, but maintained the specific plan requirement.

In May of 1990, the city adopted the general plan update — but also imposed a water moratorium restricting new development. The Kawaokas claimed that both the specific plan and the water moratorium affected the value of their property. They said a $3.7 million offer was retracted when the prospective buyer learned of the specific plan requirement.

Kenyon was not sympathetic. Among other things, he said the record shows that the Kawaokas "did or would have rejected" the $3.7 million offer, and subsequently declined to advertise or list the property. After rejecting the entire lawsuit as unripe, he also rejected the Kawaokas' substantive due process and equal protection arguments.

The Kawaokas challenged the specific plan requirement as a violation of substantive due process on a variety of grounds. For example, they claimed that the specific plan requirement was arbitrary and unreasonable because it forced them into a joint planning process with the owners of the adjacent 20 acres. But Kenyon found that "nothing in California law .... requires the plaintiffs to act in concert with their neighbors."

The equal protection claim was based largely on the Kawaokas' allegation that one member of the city council remarked to the their real estate agent: "Why should those Japanese people make all that money?" The comment was made outside the context of city council business, and Kenyon ruled that it "is insufficient for a showing of intentional racial discrimination." He also said that "it is possible that (the council member's) alleged remark could be construed not as racist but as merely descriptive, albeit insensitive and unsophisticated." Kenyon found no inherently racist motivation to the city's actions, noting that the water moratorium, for example, applied to everyone. ❑

■ The Case:
Kawaoka v. City of Arroyo Grande, No. 90-4465.

Long Beach May Close Road That Connects to Neighbor

Building on a Court of Appeal ruling from Poway last year, a new attorney general's opinion concludes that a city may close a street that connects with another city, but only if it is not a road of regional importance. The opinion may permit the City of Long Beach to close a road that runs from the city into neighboring Hawaiian Gardens.

Local authority to close important streets can be a tricky question. The state Vehicle Code pre-empts local authority over

traffic flow. But 1982 amendments to the Vehicle Code gave local governments more leeway by allowing them to close streets if such action is needed to implement the circulation element of the local general plan.

Last year, in *Poway v. San Diego*, 229 Cal.App.3d 847, the Court of Appeal ruled forced the City of San Diego to reopen an arterial road. The city argued that it had the power to close the road because road closure during the construction of other roads in the area was called for in the city's general plan. However, the road closure adversely affected traffic flow in neighboring Poway, and the Court of Appeal ruled San Diego could not unilaterally close "regionally significant streets and highways."

The attorney general's Opinion No. 91-1105, 92 Daily Journal D.A.R. 5319, was issued at the request of the City of Long Beach, which has been investigating the question of closing Pioneer Boulevard. The street runs through Long Beach and Hawaiian Gardens before intersecting with Carson Boulevard near the 605 Freeway. Long Beach residents in the Pioneer Boulevard area requested the street closure, saying the increased traffic brought unwanted noise and crime into their neighborhood. Long Beach City Attorney John Calhoun concluded, based on the Poway case, that the city did not have the legal power to close the street.

In his opinion, Deputy Attorney General Ronald M. Weiskopf read the Poway case somewhat differently, saying that a connecting street could be closed if it was not a roadway of regional significance.

Weiskopf quoted extensively from the Poway decision, noting, for example, that the Court of Appeal said the Vehicle Code makes it clear that "one local authority's actions within its own jurisdiction may not infringe upon the rights of other citizens of the greater metropolitan area to travel from community to community on publicly owned and controlled streets." However, Weiskopf noted that the Court of Appeal ruled only on the question of whether a local jurisdiction could close a regionally significant street. Thus, he said, "a city may close a street in its jurisdiction where it intersections another city's boundary if doing so is part of implementing the circulation element of the city's general plan and the street is not a regional roadway."

However, he did not pass judgment on whether Pioneer Boulevard is a regional road, and Calhoun said the city now must make that determination. ❑

■ Contacts:

John R. Calhoun, Long Beach City Attorney, (310) 590-2200.

FYI

The state Supreme Court has declined to hear an appeal of the First District Court of Appeal's ruling in *Vernon v. State Board of Equalization*, which upheld the simple-majority approval of Los Angeles County's Proposition C, a 1990 measure that increased the sales tax by a half-cent for transportation purposes. However, the high court also de-published the case, meaning the case cannot be used as precedent. (For more information, see *CP&DR Legal Digest*, January 1992 and April 1992)....

The high court also declined to hear *Garat v. City of Riverside*, a broad-ranging landowner challenge to Riverside's two growth-control ordinances. The Fourth District Court of Appeal upheld the city's ordinances as consistent with the general plan. (*CP&DR Legal Digest*, February 1992)....

Also de-published by the Supreme Court: *Martinez v. City of San Diego*, 3 Cal.App.4th 1147. In that case, the Court of Appeal overturned the City of San Diego's denial of a development permit, saying that there was no substantial evidence on the record to suggest that the project in question would adversely affect the surrounding neighborhood. (*CP&DR Legal Digest*, April 1992)....

The U.S. Supreme Court has chosen not to hear *Morgan v. Community Redevelopment Agency of Los Angeles*, 91-1175, an appeal of the Hollywood redevelopment case. The Court of Appeal ruling (231 Cal.App.3d 243) upheld the process by which the Hollywood project area committee was formed....

The high court also chose not to hear an adult zoning case, *International Eateries of America Inc. v. Broward County*, Florida, 91-1168. The Ninth Circuit had ruled that a county ordinance prohibiting adult nightclubs within 500 feet of a residential neighborhood and within 1000 feet of a church, and require a special permit for such nightclubs, was narrowly enough tailored to serve the government's interest in fighting the secondary effects of such businesses. *International Eateries v. Broward County*, 941 F.2d 1157....

A federal judge in Los Angeles has ruled against the Torrance Redevelopment Agency in a dispute over toxic cleanup on a parcel of land the agency obtained through eminent domain. Judge Ronald S.W. Lew concluded that Torrance had to prove that cleanup costs were caused by the dumping of the previous landowner, Solvent Coating Co., and not by the toxic plume created by Mobil Oil Co.'s Torrance refinery, which is located next door. *Torrance Redevelopment Agency v. Solvent Coating Co.*, No. 90-3774....

Lawsuits filed:

• A citizen group represented by Hall & Phillips has sued the City of Los Angeles, seeking to prevent the gating of the Whitley Heights neighborhood in Hollywood as a violation of the Vehicle Code's prohibition on limiting access to public streets. The city has already permitted gating of part of the neighborhood to commence. *Citizens Against Gated Enclaves (CAGE) v. City of Los Angeles*, L.A. County Superior Court No. BC 055503.

• The Lusk Co. has filed a takings suit against the city and county of Ventura, claiming one or both entities should have permitted development of a 300-acre parcel of land once discussed as the possible site of a California State University campus. The land is zoned for agriculture, is not annexed to the city, and has never been discussed for any use besides the campus. *Ventura Alpha Ranches Corp. v. County of Ventura*, Ventura County Superior Court No. 121391.

• Arcadia Development Co. has sued the City of Morgan Hill, seeking to overturn a city decision that removed the developer from the housing permit allocation queue until 1994. Arcadia had received permission from the Local Agency Formation Commission to be included in Morgan Hill's urban service area — but Morgan Hill's 1990 growth-control ordinance required all land recently added to the urban service area to retain previous county zoning. Arcadia's county zoning was one unit per 20 acres.

• The San Bernardino Valley Audubon Society has sued the City of Moreno Valley and a developer over approval of the 3,038-acre Moreno Highlands Project. The city council approved the project in April. The Audubon Society lawsuit identifies alleged defects in the environmental impact report and the mitigation monitoring program; violations of the California Endangered Species Act; an inconsistent General Plan; and a violation of state Specific Plan law . *San Bernardino Valley Audubon Society v. City of Moreno Valley*, Riverside County Superior Court No. 218310.

• A citizen group in Fresno has sued Fresno County over approval of a 125-unit subdivision in the northeastern part of the county — but the City of Fresno has chosen not to join in the lawsuit.

The Fresno County Board of Supervisors approved the project by a 3-2 vote on March 31. However, the county did not prepare an environmental impact report on the project. The suit filed by Concerned Citizens for the Copper-San Joaquin Area said that an EIR should have been prepared and that the project is inconsistent with the general plan. Fresno city staff members recommended that the city also sue, but the city council rejected the idea 4-3, saying it might harm the already rocky relationship between the city and the county. ❑

Much Land Enrolled in Species Negotiations

The Wilson Administration is making some progress in its attempt to negotiate a comprehensive solution to Southern California's endangered species problems.

After months of stagnation, landowners have agreed to place a temporary moratorium on development on close to 100,000 acres of land containing "coastal sage scrub" habitat — favored habitat for the California gnatcatcher, the cactus wren, and other rare species that may be declared endangered over the next few years. Meanwhile, several public and private agencies — mostly in Orange and Riverside counties — have agreed to heightened environmental review of development proposals on coastal sage scrub lands inside their jurisdiction.

At the same time, the state Department of Fish & Game is pursuing a set of proposed regulations that would discourage destruction on coastal sage scrub on land that has not been "enrolled" in the moratorium voluntarily. The regulations are scheduled for review by the state Fish & Game Commission at its June meeting but may not be in place until this fall.

And, in a separate deal, the City of Carlsbad and the Fieldstone Co. have reached an agreement with state and federal wildlife officials to set aside 800 acres of coastal sage scrub habitat in exchange for going forward with a 3,000-home development and the widening of Rancho Santa Fe Road. Fieldstone will set aside 500 acres of its 2,300-acre property, and buy 200-300 acres more. The deal is expected to withstand scrutiny even if the U.S. Fish & Wildlife Service declares the gnatcatcher endangered under federal law.

The coastal sage scrub negotiation was set up last fall by the state Resources Agency as an alternative to the traditional process of listing the gnatcatcher as endangered under the state Endangered Species Act. Though federal wildlife officials are still pursuing endangered status — a decision under federal law is scheduled for September — all parties have continued to participate in the Resources Agency negotiation. (*CP&DR*, September 1991, March 1992)

But environmental groups have complained that the negotiations moved slowly; for example, the Resources Agency promised interim regulations last fall, but these were just presented to the Fish & Game Commission for the first time in May. Environmentalist criticism of the process grew earlier this spring, when federal wildlife officials reported that more than 2,000 acres of coastal sage scrub had been destroyed through grading since last fall.

More than 20 private landowners have agreed to "enroll" their lands in the so-called "Natural Communities Conservation Planning" program, essentially protecting coastal sage scrub from destruction during the negotiations. Most of the land involved belongs to three companies: The Irvine Co. and the Rancho Mission Viejo Co. in Orange County and the Baldwin Co. in San Diego Co. These three landowners have enrolled some 80,000 acres, which includes an estimated 35,000 acres of coastal sage scrub. Many public agencies that own land have also enrolled — most significantly the Camp Pendleton Marine base, which has enrolled 120,000 acres, of which an estimated 35,000 is coastal sage scrub.

At the same time, most cities and counties in San Diego and Orange counties have "enrolled" in the program — meaning they will engage in heightened environmental review and conduct needed scientific studies whenever a development project proposes the destruction of coastal sage scrub habitat. Significantly, Riverside County and its cities — which have spent several years negotiating a solution to a different endangered species problem, that of the Stephens' kangaroo rat — have not enrolled.

Fish & Game's proposed regulations on coastal sage scrub were first discussed at a Fish & Game Commission hearing in Bakersfield on May 15. The regulations — which would apply to all land not enrolled voluntarily — would establish habitat protection zones and require a finding of significant impact under the California Environmental Quality Act if any coastal sage scrub is to be destroyed, a finding that would typically lead to an environmental impact report and mitigation.❑

Indicted Coastal Commissioner Resigns

Ex-Coastal Commissioner Mark Nathanson is not the only California public official in trouble over relations with developers these days. Ethics investigations involving development issues are proceeding against at least three other public officials around the state:

• In Orange County, Supervisor Don Roth allegedly accepted a variety of financial gifts from developers. In 1990 and 1991, Roth lived in a mobile-home park owned by longtime campaign contributors Gerard and Donald Dougher, who permitted him to pay back rent worth $8,500 only after Roth's divorce proceedings were complete. Under state campaign finance laws, this may have constituted an interest-free loan that should have been reported. Later, Roth voted to overturn a planning commission decision to permit construction of a Dougher condominium project. Roth's lawyer acknowledged that Roth may be guilty of "an inadvertent, technical violation" of state law.

Roth's ex-wife also told the Orange County Register that Roth used the Palm Springs condominium of another developer, Magdy Hanna, for an overnight stay with Gerard Dougher — partly to reciprocate for the Doughers' many gifts.

• In Santa Clara County, two public officials have gotten into hot water for their relationship with Kaiser Cement Co., which is seeking to develop 3,700 acres of land in county territory near Cupertino.

Lawyer James Jackson, a former Cupertino mayor and alternate member of the county's Local Agency Formation Commission, and Reed Sparks, then mayor of Cupertino, approached Kaiser in 1987 about organizing the company's lobbying campaign for getting the development project approved. They sought a $30,000 consulting contract to interview key local decision-makers. Sparks, who left the city council shortly thereafter, later asked for a $200,000 retainer and $100,000 a year to manage local political concerns for Kaiser.

Both those proposals were rejected, but Kaiser later hired Jackson, at a fee of $150 per hour, to arrange meetings with local officials.

Lawyers for both Santa Clara County and Cupertino said the two men had done nothing wrong because neither of them ever voted on the Kaiser project. ❑

Riots May Cause L.A. to Rethink Planning Issues

Continued from page 1

Asians and whites have a common interest in what's happening," says Los Angeles City Councilman Michael Woo, the only Asian-American and one of two trained urban planners on the council. "It has to be seen as something more than just a political allocation of grants. The outcome has to be based on a vision of Los Angeles rising from the ashes in a way that requires all of the different ethnic groups to share in decision-making, as well as outcomes."

Unlike the 1965 Watts riots, which were confined to a few square miles, the riots of April 29-May 1 exploded over a vast area, including South-Central, downtown Los Angeles, Mid-Wilshire, Hollywood, Pacoima, Long Beach and even parts of Santa Monica and Venice, although South-Central saw the worst damage. Most of the devastation centered on shopping centers and mini-malls that were attractive to looters, although demonstrators also wreaked some damage on Parker Center, the police headquarters in downtown Los Angeles. Comparatively little housing was destroyed, and that appeared accidental. Looters, who appeared to be from every ethnic group, targeted Korean businesses; one estimate says half the businesses destroyed in the riots were Korean-owned. Damage estimates range up to $1.5 billion, although some observers call that figure low. Few businesses were insured, and most policies did not cover damage due to "civil unrest."

National recognition of the seriousness of the riots, as well as congressional willingness to spend money on neglected inner cities, were both encouraging signs of new national priorities in May. Yet beneath the bipartisan rhetoric are signs that the White House may intend to play politics with money appropriated by Congress. The House of Representatives has approved $822 million in emergency aid to cities, while the Senate has approved a $2.2 billion package — larger than President Bush wants

The Rebuild L.A. effort, under the baton of the ex-Olympics wonder-worker Peter Ueberroth, has announced a goal of raising $1 billion from private sources. But the committee still not taken definitive form as this story goes to press. Although informed sources suggest that the makeup of the governing board is likely to be a "politically correct" array of whites, African-Americans, Hispanics, and Asians, some observers suspect the Ueberroth committee may turn out to be hampered by its size and its many alliances.

Planning Priorities

Beyond the issue of leadership and organization, however, the larger question seems to be: What exactly is to be rebuilt? As Paul Grogan, president of the Local Initiatives Support Corp., observed in the New York Times recently, if everything is rebuilt in Los Angeles to its pre-riot condition, the situation is still inadequate for local residents. Thus, to be effective, the reconstruction of Los Angeles must not merely rebuild the physical structure, but rethink the purpose and scope of planning and redevelopment efforts.

Since the slow-growth movement created a political metamorphosis on L.A. City Hall in the mid-'80s, the main job of planning in Los Angeles has often seemed to be protecting affluent single-family neighborhoods from over-development. This may change because of the riots.

For example, the city planning department may rethink its approach to the multimillion-dollar "General Plan Framework" project. As originally conceived, the project was meant as a growth-management tool, designing to identify physical and resources constraints to development and integrate those concerns into the planning process. But lead consultant Elwood Tescher of Envicom Corp. says his team is re-examining the project's purpose. "We are redirecting our efforts to look at what kind of planning products we're going to do," Tescher said. "The intent of that is to be really sure of what are the applications (of the plan), and who are the users, who are the constituents?" In other words, Tescher said, the city must decide that planning means bringing growth to blighted areas as well as curtailing growth in affluent areas.

One hopeful sign that the city means business is the approval by the city council of an ordinance to "streamline" the issuance of building permits for projects damaged or destroyed in the riots. The city has also been responsive to South-Central residents who want to curtail the liquor stores in minority areas by requiring all liquor stores that were destroyed to re-apply for condition use permits, opening the possibility that some liquor licenses can be challenged. The liquor-store action has been criticized by the Korean-American business community, which owns many of the destroyed liquor stores. But the liquor-store question is typical of the questions the city will face in trying to determine how to rebuild.

Redevelopment Efforts

The riot also poses a special challenge to the Los Angeles Community Redevelopment Agency. In theory, CRA is well-positioned to respond to the destruction wrought by the riots; the agency recently expanded its Watts project area to 2,000 acres. But the neighborhood is deeply distrustful of an agency that has used eminent domain on a mass scale in its neighborhoods. Public hearings in 1990 regarding the expansion of the Watts Redevelopment Area showed that local residents are interested in loans to local businesses and improved housing, not mega-projects by big developers. (CP&DR Deals, May 1991.)

The CRA has existing resources, including money and staff, that could be used to bolster local businesses, though the agency's orientation has traditionally been to encourage large-scale redevelopment efforts. Yet as CRA's experience with large-scale projects in minority neighborhoods suggests, large-scale redevelopment is difficult financially and politically, and the psychological damage of the riots on lenders and developers will be hard to surmount. (See Deals column, page 12.)

At the same time, the L.A. City Council may be ogling CRA funds to solve other — i.e., non-minority — problems in the city. Even before the riots, the city council had been working on a plan to commandeer $50 million in CRA funds to help balance the city budget. On May 22, after wrangling with Mayor Tom Bradley, the council adopted a $3.8 billion budget for the city that includes a $25 million contribution by the redevelopment agency into city projects, including the Los Angeles Convention Center and the Central Library; that contribution frees up general-fund money for the police and fire departments.

Bradley confidant Dan Garcia, former president of the city planning commission, complained that "the white power establishment is trying to use money from the CRA to put more police officers in white neighborhoods, taking money away from the one agency that could invest in the future of (minority) neighborhoods."

Meanwhile, the redevelopment lobby has begun working on the riot issue. State Sen. Charles Calderon, D-Whittier, has introduced SB 14X — a bill that would permit L.A. County redevelopment agencies to transfer their housing money to the state Department of Housing and Community Development, which would then loan it out for reconstruction of both houses and businesses in the devastated neighborhoods. And Assemblyman Dave Elder, D-Long Beach, has introduced AB 598, which would provide a fast-track schedule for creating or expanding redevelopment project areas. The City of Los Angeles is expected to introduce a similar bill soon. ❑

NUMBERS

Stephen Svete

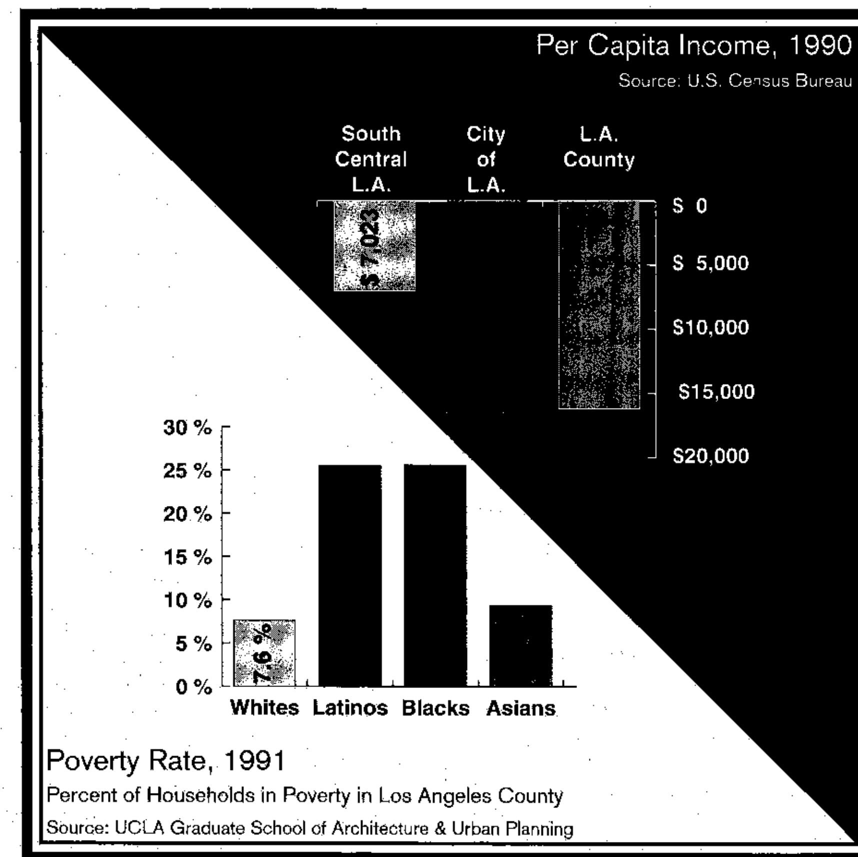
The Changing Demography of Urban L.A.

As urbanists, sociologists, and politicians begin analyzing data in hopes of making sense of the recent Los Angeles riots, certain key points are coming into focus:

• Though injustice toward African-Americans associated with the Rodney King verdicts was the spark, the social firestorm that it unleashed burned far beyond racially defined parameters.

• Since the 1965 Watts riots, the ethnic makeup of both South-Central Los Angeles and the larger city of Los Angeles has changed in fundamental ways.

• In a portentous example of urban poverty, poverty rates in South-Central L.A. have worsened since the Watts riots — underscoring the gap between rich and poor that has widened dramatically in California during the 1980s.



Though the initial unrest broke loose in historically black neighborhoods, the color question began to fade into the background as the violence spread. People of all ethnic groups actively participated in — and suffered from — the mayhem. Statistically, of the 5,438 people arrested by the Los Angeles Police Department between April 30 and May 8, 51% were Latino, 37% were black, and 10% were white. Members of all ethnic groups were victims of the violence as well. According to the L.A. County Coroner's Office, only 47% of the 60 fatalities were black, while 28% were Latino and 17% were white.

These statistics should not be surprising given the fact that the ethnic makeup of South-Central, like that of California as a whole, has changed significantly since 1965. A special census conducted in the wake of the Watts riots found that 81% of the area's residents were black, 17% white. The1990 Census figures for South-Central (hastily released by the Census Bureau after the riots) showed a dramatic change: 50% of the area's population is now Latino and only 45% is black.

But through the racial makeup of South-Central has changed, the area's economic standing has not. New Census figures indicate that 50% of persons 16 and older in South Central are either unemployed or not in the labor force, compared to 37% for L.A. County as a whole. Per-capita income in the neighborhood is about $7,000, less than half the figure for the whole county. And whereas some L.A. County communities saw their median household income rise by as much as 63% during the 1980s, South-Central saw only a 5% rise.

A recent report prepared by urban sociologist Paul Ong of UCLA's Graduate School of Architecture and Urban Planning corroborates these statistics. Countywide poverty rates for both blacks and Latinos in L.A. County hover around 26%, compared with only 9.6% for Asians and 7.6% for whites.

The message underlying this data takes on additional weight considering the fact that they are based on surveys done in April 1990, before the current recession started. The statistical picture would undoubtedly appear much bleaker today. Both the riots and the numbers should point out to the state's political leaders the importance of the rich-poor gap in solving the state's economic problems. Peter Ueberroth's Commission on California's Competitiveness had a great deal to say about the need to lessen governmental regulation in order to restore California's economy, but included precious little on the problems that urban poverty and economic inequality are creating for the state and its prosperity. It remains to be seen whether white-knight Ueberroth can deliver the goods on urban ills now that he will — at the request of L.A. Mayor Tom Bradley — turned his attention to the Rebuild L.A. effort.

What is becoming clear is the need for community development professionals to redouble their efforts in the area of economic opportunity for the poor. But finding a workable and politically palatable strategy in the bust years of the 1990s will be a much harder task than it was during the boom years of the 1960s. ❑

DEALS

Morris Newman

Crenshaw's Lessons For The Rebuilding Effort

Strange as it may seem to some, one of the things we worried about most in the recent "civil unrest" in Los Angeles was the Baldwin Hills Crenshaw Plaza, a regional shopping center in L.A.'s riot-torn Crenshaw district. To our relief, the $120 million regional mall was largely undamaged, except for some looting at the Broadway department store.

Normally we do not lie awake at night worrying about the well-being of regional shopping centers. Baldwin Hills Crenshaw Plaza, however, had been a particularly difficult achievement for the Los Angeles Community Redevelopment Agency, which bucked the trend of retailers and lenders and developers to bring first-class shopping to a middle-class, African-American neighborhood. People who want to take an active role in the effort to rebuild Los Angeles in the wake of the recent riots should take note of the 10-year struggle, both political and financial, to make the project happen. The story of Crenshaw Plaza also has some lessons about what kind of incentives are necessary to bring big business into neglected areas.

The Crenshaw District, which lies directly south of the Mid-Wilshire and a few miles southwest of downtown Los Angeles, is the traditional middle-class bastion of black Los Angeles. The area is a long-established retail area; the original Crenshaw Mall, which was the basis of the new project, dates from 1948 and is L.A.'s oldest regional center. The five-mile radius boasts 1 million people, including 50,000 households with income of $35,000 or more. Yet, before the opening of the Crenshaw Plaza, neighborhood residents regularly went outside the area to shop.

"Getting the commitments for anchor stores is generally the biggest challenge to mall developers, and the Crenshaw stigma made it doubly hard in this case."

"There was nothing wrong with the market area," said one L.A. City Hall insider. "Retailers just didn't like the demographics. It was classic racism."

The Crenshaw area may have also suffered from unofficial redlining by developers, lenders, and retailers. The 1965 Watts riots intruded on the Crenshaw area, and it was included in the riot zone. Many retailers pulled out of the area afterward, and few came back in. One theory holds that Crenshaw was stigmatized because the area was part of the curfew zone of the '65 riots. Another theory is that corporate America wrote off South-Central Los Angeles altogether in the wake of the riots.

Efforts to expand the original Crenshaw mall began in 1978. Although regional malls are among the most sought-after projects in commercial real estate, only one developer responded to the CRA's request-for-proposals. That was the Alexander Haagen Co. of Manhattan Beach. Haagen, a rough-edged man, was not the most politic choice for the job, but he had already proven his commitment to the area by renovating two community shopping centers in the Crenshaw area.

To obtain financing, the agency issued $30 million in tax-exempt certificates of participation, secured by a letter of credit from Haagen. Haagen provided another $21.7 million of equity. A total of $51.5 million of public funds went into the project, including $40.5 million by the CRA and $11 million by the Department of Community Development; $16 million of the public funds, including the entire CDD contribution, came from federal block grants. In return for its contribution, the redevelopment agency is entitled to 50% of mall profits. In addition, the CRA has encouraged Haagen to sell half of its interest to a local African-American investor.

Getting commitments for anchor stores is generally the biggest challenge to mall developers, and the Crenshaw stigma made it doubly hard in this case. "We offered all sorts of incentives, and many retailers did not respond," says Don Spivack, CRA's chief of operations. The agency offered to pay "all the costs of making them operable, including all tenant improvements and other costs, way beyond what is normally done."

In the case of Baldwin Hills Crenshaw Mall, the two department store anchors, Broadway and May Co., had already been on the site for decades. The third anchor, Sears, had maintained a Crenshaw outlet for 40 years prior to signing a lease in the Haagen project. More difficult, however, was winning a commitment from a supermarket. Only one chain, Boys Markets, had been willing to maintain a presence in minority neighborhoods, and neighborhood residents told the redevelopment agency and the local councilmanic office that they wanted more choices. Councilwoman Ruth Galanter, who represents the Crenshaw district, became closely involved in the search for an alternative grocer. After four years of negotiation, Lucky's signed an agreement to build a store on land owned by Haagen, and opened in April — just weeks before the riots.

As a white developer in area that is 50% African-American, Haagen engendered some resentment. The local chapter of NAACP accused the developer and the redevelopment agency of neglecting minority hiring of contractors for mall construction. Haagen also got some bad publicity when deals to sell one-half of his interest in the mall to local minority investors fell through.

Currently, the mall is a modest success; it is 84% leased, and needs another 90,000 square feet of tenants. The mall is commanding comparatively high rents of up to $36 per square foot per month. For activists who want to rebuild South-Central, the experience of the Crenshaw mall offers several pointers. First, major projects can be successful in minority neighborhoods, although up-front political work is needed to avoid friction with the community. Second, and maybe more important, the experience also suggests that direct subsidies are needed to make things happen in areas where lenders are scared. This means active subsidies such as block grants, rather than the "passive" incentives of enterprise zones. "Without block grants, we couldn't have done this project," says the Haagen spokesman, adding, "What is needed in the inner city is public-sector financing." ❑