



NEWS RELEASE

Release Number: 65

Release Date: December 29, 2011

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455 Golden Gate Avenue
San Francisco, CA 94102-3688
www.courts.ca.gov

415-865-7740

Lynn Holton
Public Information Officer

Supreme Court Rules on Challenges To the State's Plan to Dissolve Redevelopment Agencies

*Court Decides the State Has the Authority to Dissolve Redevelopment
Agencies but Does Not Have the Authority to Condition Their
Continued Existence on Required Payments*

San Francisco — Resolving challenges filed by the California Redevelopment Association, the League of California Cities, and the cities of San Jose and Union City, the California Supreme Court today upheld the constitutionality of Assembly Bill 1X 26, which dissolves redevelopment agencies and redirects their property tax revenues, and struck down Assembly Bill 1X 27, which would have allowed redevelopment agencies to continue to operate, but only if they opted in on a plan that required annual payments.

On July 18, the California Redevelopment Association and the League of California Cities filed a petition asking the court to overturn both Assembly Bill 1X 26 and Assembly Bill 1X 27. On August 11, the court agreed to hear the lawsuit and issued a partial stay of various provisions of both bills and to issue a decision before January 15, 2012. The court expedited briefing and argument on the matter and held oral argument on November 10.

In a majority opinion authored by Associate Justice Kathryn M. Werdegar, the court upheld the enactment of Assembly Bill 1X 26, dissolving redevelopment agencies and redirecting their property tax revenues. The court explained that, because the Legislature had the authority to create redevelopment agencies, it also had the corollary power to dissolve them. The court noted that although Proposition 22, as enacted by the voters in 2010, amended the state Constitution to impose additional limits on the state's fiscal powers, nothing in that initiative or other parts of the state Constitution guaranteed the continued existence of redevelopment agencies.

The majority, however, held that Assembly Bill 1X 27 was

(over)

unconstitutional because it conditioned the ability of redevelopment agencies to conduct new business on agreeing to an annual payment plan based on a portion of property tax revenues allocated to redevelopment agencies. The court explained that this opt-in plan violated Proposition 22 because that measure arose in opposition to similar past legislation and was intended to preclude further required payments based on redevelopment agency property tax revenues.

The majority opinion by Justice Werdegar was signed by Associate Justices Joyce L. Kennard, Marvin R. Baxter, Ming W. Chin, Carol A. Corrigan, and Goodwin Liu.

Chief Justice Tani Cantil-Sakauye joined the majority opinion upholding Assembly Bill 1X 26, but dissented with respect to the conclusion that Assembly Bill AB 1X 27 was unconstitutional.

The Chief Justice observed that neither Proposition 22's history nor its express language appeared to prohibit the opt-in payment plan created by Assembly Bill 1X 27. The dissenting opinion noted that it appeared the Legislature had carefully drafted Assembly Bill 1X 27 so as not to violate Proposition 22 by allowing the annual payment to come from any local revenue source and not specifically redevelopment agency funds, which Proposition 22 expressly protects. The Chief Justice concluded that Assembly Bill 1X 27 does not facially conflict with the state Constitution and further noted that the parties presented no evidence that the measure would actually violate the state constitution in practice.

The court unanimously reformed Assembly Bill 1X 26, which had been largely stayed during the pendency of this action, by extending its various deadlines by four months.

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