

Memorandum 2012-13

**Community Redevelopment Law Cleanup: List of Minor Issues
for Possible Future Legislative Attention**

Health and Safety Code Section 34189(b) requires the Law Revision Commission to “draft a Community Redevelopment Law cleanup bill for consideration by the Legislature no later than January 1, 2013.”

At its February 2012 meeting, the Commission made the following decision regarding the conduct of the redevelopment clean-up study:

If the Commission discovers a possible substantive defect in ABx1 26 or any other provision of the community redevelopment statutes, the matter will be noted in an appendix for inclusion in the Commission’s final report. The appendix will state expressly that it has been prepared solely for informational purposes and that the Commission does not take any position on whether or how any of the issues noted in the appendix should be addressed. The appendix will also make clear that the omission of any issue from the appendix should not be construed to infer that the Commission evaluated the issue and concluded that it is unproblematic.

See Minutes (Feb. 2012), p. 6.

The staff recommends a minor adjustment to the description set out above. The term “defect” may not be accurate to describe all of the issues that merit inclusion in the list. In many cases it will not be clear whether a provision is defective. We may simply be unsure of a provision’s purpose or effect. **For that reason, the staff recommends that, going forward, the first sentence of the description be revised as follows:**

If the Commission ~~discovers a possible substantive defect in~~ is unsure of the purpose or effect of a provision of ABx1 26 or any other provision of the community redevelopment statutes, the matter will be noted in an appendix for inclusion in the Commission’s final report.

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting.

The staff believes that would be a broader and more accurate description of the contents of the list.

Furthermore, it might make sense to make the provision expressly permissive (“the matter *may* be noted”). This would relieve the staff of the duty of noting picayune ambiguities, and would also help to avoid any implication that the list is meant to be exhaustive. **Going forward, the staff recommends that the list be described as permissive.**

With those caveats in mind, the staff has prepared an initial draft of the appendix described above. It is expected that other issues will be added to the appendix incrementally, as they are discovered over the course of this study.

A copy of the initial draft is attached. **The Commission should review it and decide whether to approve its contents, with or without changes.**

Respectfully submitted,

Brian Hebert
Executive Director

MINOR ISSUES FOR POSSIBLE FUTURE
LEGISLATIVE ATTENTION (3/15/12)

Staff Note. In preparing proposed redevelopment clean-up legislation, the Commission is maintaining a list of “Minor Issues for Possible Future Legislative Attention.” The Commission plans to include the list as an appendix to its report to the Governor and the Legislature. The appendix has been prepared solely for informational purposes.

The issues listed in this document were not addressed by the Commission, because they fall outside the scope of the Commission’s assigned clean-up work. The Commission does not take any position on whether or how any of the issues noted in the list should be addressed.

No inference should be drawn from the fact that an issue has been omitted from this list. The omission of an issue does not mean that the Commission evaluated the issue and concluded that it is unproblematic.

Except as otherwise indicated, all statutory references in this document are to the Health and Safety Code.

- (1) **Powers and Duties of Successor Agency.** Section 34173(b) provides that successor agencies are vested with the powers and duties of the former redevelopment agencies, “[e]xcept for those provisions of the Community Redevelopment that are repealed, restricted, or revised pursuant to the act adding this part....” Sections 34161-34166 appear to “restrict” the powers of the former redevelopment agencies. Does this mean that successor agencies are not vested with any of the powers restricted by those sections? For example, Section 34163(c) provides that the former redevelopment agencies were not permitted to modify existing contracts prior to their dissolution. Does this mean that successor agencies that are overseeing existing redevelopment work cannot make “change orders” or other routine contract modifications?
- (2) **Powers and Duties of Third Parties.** Existing law assigns a number of powers and duties to the former redevelopment agencies. It also assigns powers and duties to third parties, in connection with the activity of the former redevelopment agencies. If a successor agency is vested with a power or duty of a former redevelopment agency, do the related powers and duties of third parties apply as if the successor agency was a redevelopment agency? For example, existing Section 33080 requires a redevelopment agency to file an annual report with the State Controller. Section 33080.7 then assigns the Controller certain oversight duties relating to the annual report. If the duty to prepare an annual report vests with a successor agency, do the Controller’s oversight duties apply to a report filed by the successor agency?
- (3) **Status of Entity Granted Redevelopment Powers and Duties.** Government Code Section 6520 provides that “the Board of

Supervisors of San Diego County and the City Council of the City of San Diego may create by joint powers agreement, the San Diego Courthouse, Jail, and Related Facilities Development Agency, ... which shall have all the powers and duties of a redevelopment agency pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code....” Is this entity a redevelopment agency? Did it receive tax increment revenue? Was it dissolved by Section 34172?

- (4) **References to Redevelopment Areas.** Some provisions of existing law contain references to redevelopment related areas (i.e., the “survey area,” or “redevelopment project area”). Do these provisions refer to the designated areas in connection with their function in the redevelopment process, or do they refer to these areas as areas of space that just happen to be defined by their former redevelopment-related function? For example, Business and Professions Code Section 5498 provides special rules relating to advertising within a “redevelopment project area.” Do those special rules continue to apply to such an area, even after all redevelopment activity in the area has ceased?
