# Communication from Public

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| **Name:** | Beth Dorris |
| **Date Submitted:** | 08/27/2019 06:30 PM |
| **Council File No:** | 13-1482-S3 |
| **Comments for Public Posting:** | The attached HUD study provides further evidence of the negative affordable housing effect of effectively dissolving the CRA/LA DLA by transferring its land use planning and land use functions to the City. This study is referenced in my comment letter of today to PLUM. |

**Working Paper No. EMAD-2014-01**

# Redevelopment Agencies in California: History, Benefits, Excesses, and Closure

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**January 2014**



U.S. Department of Housing and Urban Development | Office of Policy Development and Research

# Redevelopment Agencies in California: History, Benefits, Excesses, and Closure

Effective February 1, 2012, the State of California ceased operating local redevelopment agencies (RDAs), which had operated since the end of World War II. In recent times, these agencies served as an important component of the affordable housing development landscape in California. This paper, developed by the U.S. Department of Housing and Urban Development's (HUD's) Office of Policy Development and Research (PD&R), examines the history of California's RDAs, describes their successes and failures, and addresses the anticipated effects of their shut down on the future of affordable housing development in California. The first section of the paper traces the history and development of RDAs from their inception in 1945 through the legislative fight that dissolved them in 2011. The next section presents examples of the RDAs successes and failures over the years. The third section examines the RDAs closures and the anticipated impact that the closures will have on affordable housing development. The final section of this paper details how the closure of RDAs will affect affordable housing production in the cities of Los Angeles and San Jose.

## RDAs in California: History

The history of RDAs in California dates to the California State Legislature's passage of the Community Redevelopment Act in 1945. The act provided the mechanism to create RDAs; however, most of the agencies relied on federal funding[1] until 1952, when Proposition 18 established "tax-increment financing." Under the new financing structure, cities and counties were given the authority to declare areas as blighted and in need of urban renewal, at which time a city or county was allowed to distribute most of the growth in property tax revenue for the project area to the relevant RDAs as tax-increment revenues.

Although Proposition 18 created additional flexibility regarding funding RDAs, distribution of property tax revenues remained a zero-sum game for cities and counties, because revenue given to one agency—for example, giving money to a school district—reduced the amount that remained available for other agencies. This dynamic resulted in few identified project areas during the 1950s and 1960s. Likewise, project areas that were identified during the period typically consisted of 10 to 100 acres, which was a relatively small project compared with later projects. The number and size of project areas were also restricted by the authority of local governments to raise funds from other sources. For example, at the time, the Constitution of the State of California allowed local governments to raise local taxes, both property and otherwise, without local voter approval. Cities and counties also had wide authority to impose fees and assessments. These additional revenue sources allowed local governments, if they desired, to perform redevelopment of areas that may have otherwise been deemed RDA-project areas without identifying them as such. As of 1966, 27 project areas had been identified within the state.

Redevelopment expanded in the number and size of project areas in the 1970s and 1980s, in large part because of two major state policy changes. The first, passage of Chapter 1406, Statutes 1972 (Senate Bill [SB] 90), created a system of school "revenue limits" that guaranteed each school district an overall level of funding via a combination of local property taxes and state resources. In short, the state assumed responsibility for funding local school districts up to the revenue limit if the revenue shortfall resulted from lack of growth in local property-tax income (whether because of redevelopment issues or for other reasons). This revenue limit effectively eliminated the zero-sum game for cities and counties regarding distribution of local property taxes and, in so doing, generated a significant incentive for cities and counties to create and expand RDA-project areas. By 1976, the number of project areas in the state had increased to 229. RDAs received 2 percent of total statewide property taxes in 1977.

The second policy change occurred in 1978 when Proposition 13 capped the general-purpose property tax rate at 1 percent, while also constraining local authority over many other local revenue sources. Much like SB 90, which reduced the burden on cities and counties to provide funding for local schools, Proposition 13 incentivized use of property-tax income for redevelopment by limiting the options available for local governments to otherwise finance redevelopment projects. In combination, the two policies inspired cities (and some small counties) to loosen their definitions of project area. In many cases, the definition of "project areas" was expanded to encompass hundreds or thousands of acres of land. During the period, at least two cities identified all privately owned land as within one project area or another

[1] Primarily via programs of the Housing and Home Finance Agency, HUD's immediate predecessor.

while other jurisdictions placed farmland under the redevelopment umbrella. The adoption of Assembly Bill (AB) 322 in 1983 prohibited the previously common practice of defining project areas that included large amounts of vacant land; however, the number of project areas had still expanded to 594 by 1988, when RDAs received 6 percent of total statewide property taxes collected that year.

In response to concerns that redevelopment was expanding at the expense of other local programs as well as increasing the state's costs for K–14[2] education, state lawmakers, with increasing urgency, attempted to constrain local governments' use of redevelopment funds from the 1980s through 2011. During the period, the California State Legislature enacted laws aimed at, among other things, strengthening regulations regarding the percentage of tax-increment revenues that RDAs used to develop housing for low- and moderate-income households. Passed in 1993, AB 1290 tightened the definition of a "blighted area" to "an area that is predominately urbanized and where certain problems are so substantial that they constitute a serious physical and economic burden to a community that cannot be reversed by private or government actions, absent redevelopment."[3] AB 1290 also limited the ability of RDAs to subsidize or assist auto dealerships, large volume retailers, and other sales tax generators, and it eliminated the authority of RDAs to negotiate so-called "pass-through payments," or payments made by RDAs to other local agencies, often to help settle disputes concerning the legality of proposed project areas. After the enactment of AB 1290, these pass-through payments were determined using a formula based on each local agency's share of the property tax rate in the project area. Many redevelopment projects were not affected by the changes, however, as the restrictions applied only to new project areas (with existing projects lasting as long as 50 years). Likewise, despite the more specific language regarding "blight" and "developed land"[4] in AB 1290 (as well as in 2006's SB 1206), RDAs continued to establish new large project areas.

On nine occasions between 1992 and 2011, the state also attempted to require RDAs to shift some of their revenue to schools via countywide accounts known as ERAF (Education Revenue Augmentation Funds) or SERAF (Supplemental Educational Revenue Augmentation Funds). These attempts were severely hampered in 2010, however, when state voters approved Proposition 22, which limited the state's authority over redevelopment and prohibited new state laws requiring RDAs to shift funds to schools or other agencies. Despite substantial efforts by the state to limit and refine the focus of redevelopment spending, RDAs received 12 percent of statewide property tax revenue in 2008, with six redevelopment projects that exceeded 20,000 acres in size.

New efforts to reduce the footprint of RDAs began shortly after the passage of Proposition 22 because the Governor's 2011–12 budget (SB 77) called for the dissolution of RDAs and redistribution of property tax revenue to, among other things, paying previously accrued redevelopment debts and offsetting $1.7 billion of state general funds costs. In March 2011, however, SB 77 fell one vote short of the two-thirds majority required for approval by the state legislature. Following the failed vote, the legislature evaluated modified versions of the Governor's initial proposal and, in June 2011, enacted two pieces of legislation. The first, Assembly Bill passed in the first extraordinary session (ABX1) 26, imposed an immediate freeze on RDAs' authority, dissolved RDAs (effective October 1, 2011), and outlined the process by which RDAs would be wound down. The second, ABX1 27, introduced a program by which RDAs could avoid the dissolution implemented by ABX1 26 by making annual payments to local school districts, thereby offsetting much of the fiscal impact of redevelopment on the state budget.

Consistent with the history of attempts to limit the authority of RDAs, ABX1 26 and ABX1 27 were immediately met with resistance. Less than 3 weeks after the bills were signed, the California Redevelopment Association (CRA) and the League of California Cities challenged the constitutionality of the legislation. In addition, in an attempt to avoid repercussions if the legislation were enacted, many RDAs began issuing unprecedented amounts of debt. In fact, despite paying higher borrowing costs than ever before, RDAs issued more debt in the form of tax allocation bonds during the first 6 months of 2011, approximately $1.5 billion, than they had in all of 2010, $1.3 billion. RDAs also rushed to transfer assets to other local agencies to suppress the level of funds that could be taken by the state via ABX1 26.

In December 2011, the Supreme Court of California upheld ABX1 26, supporting the legislature's authority to dissolve entities that it created (in this case, RDAs). The court, however, found ABX1 27 to be unconstitutional because it violated

[2] For budgetary purposes, "K–14 education" refers to the sum of kindergarten, grades 1 through 12, and public community colleges.

[3] Assembly Bill 1290, Community Redevelopment Law Reform Act of 1993, Section 3.b.

[4] Assembly Bill 1290, Community Redevelopment Law Reform Act of 1993, Section 7.5.

Proposition 22's prohibition against the state's forcing RDAs to share money with other local agencies. In combination, the court's rulings left all RDAs subject to the process described in ABX1 26.

Per ABX1 26, RDAs officially lost "all authority to transact business or exercise power"[5] on February 1, 2012, with successor agencies (in most cases the cities and counties in which the RDAs operated) becoming responsible for the winding down of the dissolved RDAs. The successor agencies were tasked with terminating or renegotiating former RDAs' contracts, collecting revenues due to the dissolved RDAs and making payments required of those RDAs, and "expeditiously" disposing of former RDAs' assets "in a manner aimed at maximizing value."[6] Proceeds accrued by successor agencies that were not needed to meet previous RDA obligations were required to be distributed to other local agencies as property tax revenue. In addition, to help offset the behavior of many RDAs after the announcement of ABX1 26, but before the Supreme Court's ruling, assets that were transferred after January 1, 2011, were also used to cover payment obligations or were distributed as property taxes if the state controller determined the transfer as not contractually committed to a third party. Successor agencies, however, were allowed to retain housing functions and assets previously held by the RDAs, with the exception of each RDA's Low and Moderate Income Housing Fund (LMIHF).

Before the enactment of ABX1 26, the state mandated that each RDA allocate at least 20 percent of its annual tax-increment revenues into LMIHF, ostensibly to improve and expand the availability and supply of affordable housing in the respective RDA; however, many RDAs had simply accrued substantial balances in their housing funds. As of fiscal year (FY) 2009–10, in fact, reports submitted to the California Department of Housing and Community Development (CA HCD) showed that the unencumbered portions of RDAs' housing funds totaled as much as $2.2 billion. ABX1 26 dictates these funds be distributed to schools, counties, and other local agencies.

Although the dissolution of RDAs will not decrease the level of taxes paid by property owners, it will result in additional property tax revenues being distributed to other local agencies, including cities, counties, and schools. In turn, the additional revenue will substantially reduce the amount of state revenue required to finance the K–14 education program. This reduction could prove a boon to state taxpayers, but it raises some questions concerning the future of redevelopment in the state, particularly regarding affordable housing. The state currently has several agencies that are at least partially aimed at providing housing for low- and moderate-income households, including the California Tax Credit Allocation Committee, which administers low-income housing tax credit (LIHTC) programs in the state; the CA HCD, which provides grants and low-interest loans to developers of affordable housing via state general obligation funds; and the California Housing Financing Agency, which assists first-time homebuyers with low-interest mortgages and loans as well as helping to finance the development of multifamily rental housing through the sale of tax-exempt mortgage revenue bonds and associated LIHTCs. Likewise, existing laws present local governments some options for acquiring financing for redevelopment projects, including business improvement districts, infrastructure financing districts (IFDs),[7] and property tax overrides. No longer is there any requirement that increased property tax revenues be used for redevelopment, however, much less affordable housing, which could provide an obstacle for future redevelopment efforts.

## RDAs in California: Benefits and Excesses

Some RDAs were able to attract businesses to previously depressed areas and undertake the cleanup of contaminated areas. For example, the city of Emeryville's industrial decline during the 1980s left the area with acres of contaminated land from a sulfur/insecticide plant, pigment plant, and steam drum-cleaning operation. The previous industrial owners were unwilling to proceed with redevelopment plans of the area because of the significant toxic cleanup costs. The city's RDA led cleanup efforts in the area now known as Bay Street and provided 400,000 square feet of new retail and entertainment space, creating approximately 940 new jobs and 375 new residential units above retail space in mixed-use buildings; 20 percent of the residential units are affordable at the very low-income level.[8]

In another example, in the city of Vista's downtown center, Vista Village, businesses began to close and the infrastructure deteriorated as the area underwent an economic decline. Former

[5] Assembly Bill X1 26, Chapter 2, Section 34172.b (California, 2011).

[6] Assembly Bill X1 26, Chapter 4, Section 34181.b (California, 2011).

[7] San Francisco County is the only county in California that is allowed to have IFDs overlap former RDAs.

[8] CRA (2010).

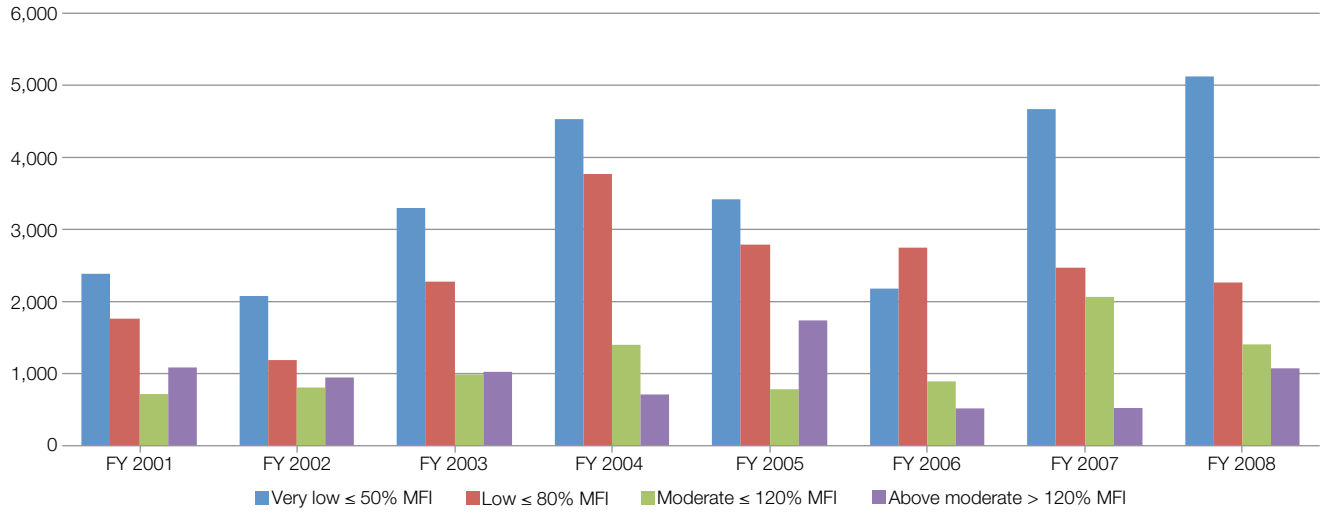
businesses left behind soil and ground water contamination. The city's RDA spent more than $1 million to clean up the areas during the last half of the 1990s. The redevelopment project also made improvements to the existing Main Street, which included a new park-like, open-space area called Creekwalk Park. As a result of the project, the area added more than 40 new businesses and roughly 700 new jobs and encouraged more than $55 million in private investment in the project.[9]

The University Village community in the city of Riverside provides yet another example. The city's RDA transformed the high-crime area, which included an abandoned auto dealership and gas station, into a mixed-use development that attracts University of California-Riverside students and community residents. The University Village Redevelopment Project generated more than $75 million in private investment, created 600 jobs, and led to the construction of student housing units and student parking lots.[10]

In addition to helping with the cleanup of previously contaminated areas, RDAs helped fund the construction of new affordable housing units. The city of Sacramento's RDA helped transform the crime-ridden Franklin Villa apartments into the Phoenix Park Apartments, with 360 units of affordable rental units. In 2000, construction began on 102 single-family homes in the Vista del Rio housing complex in the cities of Bell Gardens and Commerce. One-half of the units are affordable for low- to moderate-income families. The city of Riverside's RDAs renovated a 64-unit housing complex located in the University neighborhood that is restricted to low- and moderate-income households. Other RDAs across the state have added to the stock of affordable housing units. According to data from the CA HCD, RDAs in the state created 63,600 new affordable housing units from FY 2001 through FY 2008. Figure 1 shows the breakdown of housing units by affordability level created by RDAs. During the 8-year period, approximately 44 percent of new housing units constructed by RDAs were affordable at the very low-income level (at or less than 50 percent of MFI).

In response to the Governor's proposal to dissolve RDAs in the state, the Legislative Analyst's Office (LAO) evaluated the performance of RDAs and found no evidence that RDAs improved overall economic development in California and that the program shifted funds away from necessary services, such as education.[11] The Governor's Office concluded that the private development that occurred in redevelopment project areas would have occurred without RDAs and that redevelopment only shifted projects from one area of the state to another.[12]

**Figure 1. Affordable Housing Units Constructed From FY 2001 Through FY 2008**




FY = fiscal year. MFI = Median Family Income.
Source: State of California Department of Housing and Community Development

[9] CRA (2010).

[10] CRA (2010).

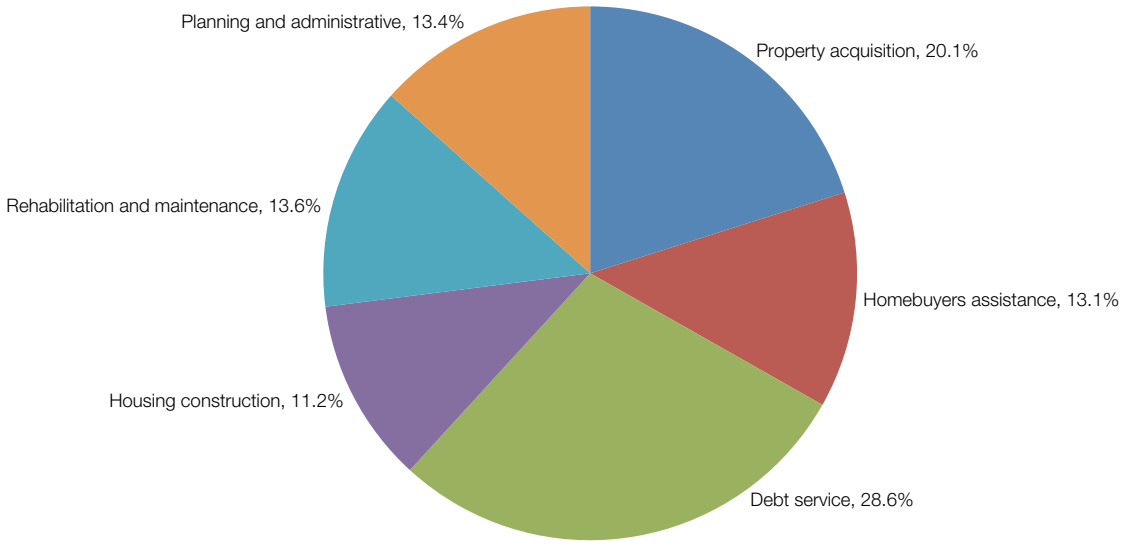
[11] CA LAO (2011).

[12] California Governor's Office (2011–12).

Although some RDAs succeeded in creating new affordable housing units, from FY 2001 through FY 2008, only 11 percent of the funds set aside in the LMIHFs were used for housing construction, according to data by CA HCD (figure 2). Of more than 430 RDAs in California, 101 spent at least $100,000 of their LMIHF budget but did not build a single unit during the 8-year period.[13] For example, the city of Santa Ana's RDA spent $22 million to purchase and demolish homes in the east side of town, displacing low-income residents without replacing any units. The city originally planned to build newer apartments and townhomes in the area, but a plan was never adopted for the site. The area is now filled with abandoned homes and vacant lots without any new development.[14] The city of Irwindale likewise spent $87 million from FY 2001 through FY 2008 and produced only 42 new homes and 62 rehabilitated units. The RDA spent a portion of the funds to acquire industrial land next to an old gravel pit and warehouses, which the city now concedes was unsuitable for housing.[15]

Not only have some RDAs been unable to produce affordable housing units, others have invested in retail projects that ultimately failed to produce the sales tax revenues anticipated as a result of retailers leaving the area. The city of Costa Mesa used $62 million of RDA funds and eminent domain to clear out several existing businesses for the construction of the Triangle Square Mall, located in the city's downtown. The project was expected to pull in $1 million in sales tax revenues annually, but, in 2004, the city collected only one-fifth of the anticipated revenues, at $200,000. The mall is now largely vacant, because many of its anchor tenants, including Niketown, Virgin Megastore, and Barnes and Noble, left.[16] A similar situation occurred in the city of Indio, which planned to expand the Indio Fashion Mall, which had been losing traffic to the trendier Westfield Shoppingtown Mall in Palm Desert. After the city demolished 80 homes, several stores, and a low-income housing project, plans for the expansion with the original developer fell through. The mall continues to lose business, with many tenants unable to make even a single sale in a day.[17]

**Figure 2. RDA Spending, FY 2001 Through FY 2008**




Source: State of California Department of Housing and Community Development

[13] Christensen, et al. (2010).

[14] Castle Coalition (2011).

[15] Christensen, et al. (2010).

[16] Castle Coalition (2006).

[17] Pena (2008).

# RDAs in California: Closure

## The Anticipated Impact of Closure on Affordable Housing Development

The closure of RDAs across California and the removal of RDA financing for affordable housing developments are expected to reduce the number of new affordable housing units in the foreseeable future if current financing structures and incentives for affordable housing development prevail. No approved measures currently allow for an equivalent statewide set-aside fund exclusively for providing future affordable housing after all existing obligations are met by the successor agencies.[18] Several bills have been proposed following ABX1 26 to mitigate the impact of RDA closures, however. AB 1585, approved in September 2012, extends the use of monies in the LMIHF by the successor agency for the purpose of funding administrative and planning costs relating to existing enforceable obligations. The amount of existing monies in the LMIHF needs to be expended or encumbered by 2015 because, after 2015, the uncommitted funds will be transferred to the CA HCD for low-income housing programs.

Measures that would allow for the creation of districts or areas for redevelopment, including the development of affordable housing, and for the collection of funds to support that development were introduced, but they were either vetoed or failed to pass the Assembly or the Senate. These proposed measures include SB 1156, AB 2144, and SB 1151. SB 1156 proposed the creation of Sustainable Community Investment Areas and a tax-increment collection to support project construction. AB 2144 proposed housing development through a Redevelopment Property Tax Trust Fund. SB 1156 and AB 2144 were vetoed during 2012. SB 1151 proposed the formation of new redevelopment agencies, allowing access to RDA assets with a focus on sustainable communities; however, the bill failed to pass through the Assembly Committees on Housing and Community Development and Local Government toward the end of 2012.

Despite the difficulties for restoring RDA-like functions on a statewide level, San Francisco has set a precedent in providing new, affordable housing development through revisions of its IFDs. By state law, IFDs typically may not overlap any former RDA's project area. San Francisco has been largely able to modify existing laws because of its county-city distinction. The legal revisions of the IFDs in San Francisco have allowed for the designation of IFDs on a formerly designated RDA's project area, with funds allocated, in part, to developing affordable housing through tax increments. In addition, the approval of Proposition C in San Francisco in November 2012 created a San Francisco Housing Trust Fund that would set aside revenues, starting in FY 2013, to create, acquire, and rehabilitate affordable housing and to promote affordable homeownership programs in the city through 2043. It also authorized the development of up to 30,000 affordable rental units in San Francisco.

While the impact of RDAs' closures will be mitigated in San Francisco as a result of the approved ballot measure, municipal and county officials expect that both agency-specific affordable housing developments and developments using other sources of primary funding throughout California will be affected by the RDAs' closures. RDAs' financing and the incentives under AB 3674, passed in 1976 by the California State Legislature, supported the development of affordable housing. Under AB 3674, at least 20 percent of the RDAs' tax-increment funds needed to be allocated to the LMIHF. During the past 6 years, the minimum 20 percent under AB 3674 translated into approximately $1.02 billion annually that was set aside for the development of affordable housing, according to the California State Controller's Office.[19]

Existing RDA housing developments under the RDA dissolution process will be funded through the LMIHF. All former RDA developments that are currently under construction and developments that have enforceable agreements, as proposed by the successor agencies and as approved by the California Department of Finance, will be funded to completion as an enforceable obligation out of the LMIHF. In all cases, developments that are enforceable obligations need to have been approved by the RDA by December 31, 2010. Any development that was submitted after December 31, 2010, will not be eligible for funding through the successor agency and the LMIHF.

RDA financing also served as gap financing for projects that had LIHTC and HUD Section 108 Loan Guarantee Program

[18] Existing affordable housing obligations will be financed through the Low and Moderate Housing fund; however, after all existing obligations are met, any remaining amount in the fund be transferred back to a general state tax collection.

[19] Some RDA areas had set the percentage of their tax increment higher than the minimum 20 percent. For example, the former Anaheim RDA had allocated 30 percent of the tax increment to the Low and Moderate Income Housing Fund.

financing under the Community Development Block Grant (CDBG) program.[20] The closure of RDAs is expected to impact housing provided through the LIHTC program, because developers of affordable housing frequently used RDA financing to fill funding gaps in LIHTC or tax-exempt bond developments. According to the California Tax Credit Allocation Committee, 62 percent of all 9-percent LIHTC awards also had RDA financing during the 2011 awards round.[21] The closure of the RDAs is expected to reduce the number of projects competing for LIHTCs in coming years, but the exact amount is uncertain at present. In addition, according to former RDA jurisdiction personnel, CDBG and HOME funding was often used to finance the upfront costs associated with an affordable housing development; however, RDA financing would fill the financial gap to ensure the project's completion.

Statewide, RDAs were planning to construct approximately 12,050 units during a 2-year period from January 2012 to December 2013, according to data from Housing California and the California Housing Consortium. Housing California is a statewide nonprofit organization representing a coalition of advocates for affordable housing and homeless issues. The California Housing Consortium is a nonpartisan group of developers, builders, financial experts, and public sector groups united to advance affordable housing and community development across California. Of the largest RDA areas[22] that were surveyed in California, 4,525 units, or approximately 60 percent, of affordable housing that was proposed to complete construction within the year will not receive funding through the successor agency.

Taken together, the removal of RDAs as a source of funding for affordable housing development is expected to result in a statewide average annual loss of 4,500 to 6,500 new affordable units through the foreseeable future after all enforceable obligations have been met.[23] This estimated annual loss represents a total that would likely have been delivered under RDA financing had the RDAs been allowed to continue and includes both agency-specific developments as well as developments that relied on RDA gap financing.

## How Closure Will Affect Affordable Housing Production in Two Cities

The city of San Francisco was considered as a case study; however, the implementation of Proposition C is expected to greatly mitigate the adverse impact on the provision of affordable housing in the area following the RDA closures.

### Case 1: City of Los Angeles

Since 2000, the RDA in the city of Los Angeles has constructed approximately 300 units of affordable housing annually, accounting for nearly 20 percent of total affordable housing delivered in the city. RDA units have helped to house some of the 891,300 households who reside in the city and who would qualify for low- to moderate-income housing. Since 2000, however, growth in the affordable housing market has not kept pace with growth in the number of low- to moderate-income households. The number of income-eligible households in the city has increased by an average of 17,050 households, or 2 percent, annually since 2000 compared with an increase in affordable housing units by an average of approximately 1,650 units annually. Approximately 75 percent of income-eligible households in the city are renters, or 672,300 renters. Growth in the number of income-eligible renter households has accounted for 67 percent of total growth in the number of low- to moderate-income households, increasing by an average of 11,500 households annually since 2000—a trend that is expected to continue during the foreseeable future.

According to Housing California and the California Housing Consortium, 827 RDA housing units are located in the city of Los Angeles that had been planned for completion over the next 2 years, and which now are expected to not receive funding. The shortfall of planned affordable units from the RDA's closure is expected to place pressure on low- to moderate-income households, because these households will continue to increase in number but the availability of new affordable housing will decline. Even with RDA assistance, new affordable units have been able to cover only 10 percent of the growth in the number of low- to moderate-income households. The closure of the

[20] The LIHTC and CDBG programs represent the largest existing programs in California that support affordable housing development.

[21] Awardees with RDA financing would include those RDA projects that have enforceable agreements (Pavão, 2011).

[22] RDA cities surveyed were located in the following counties: Alameda, Contra Costa, Imperial, Los Angeles, Marin, Napa, Orange, Riverside, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara, Solano, Sonoma, and Ventura.

[23] The annual estimate is based on cost-per-unit data from the CA HCD and tax-increment dollars from the California State Controller's Office during the past 3 years. The range in total number of units depends on variations in the costs of construction and the amount set aside by former RDA jurisdictions.

RDA is expected to reduce the number of new affordable units to a level that would cover only approximately 8 percent of the anticipated increase in the number of low- to moderate-income households.

Although the ratios are improving, the average gross rent-to-income ratios are still high. The average gross rent currently is as high as 43 percent of the maximum eligible household income and is 70 percent or more of income for households that earn 30 percent of the MFI. By comparison, during 2000, the average gross rent was as high as 46 percent of maximum eligible household income and was 80 percent or more of incomes for households that earn 30 percent of MFI. Since 2000, one-person, income-eligible households have experienced the highest cost burden, paying at least 40 percent of income in rent. The current number of one-person, income-eligible households has increased since 2000 by 15 percent, and these households currently account for 47 percent of all income-eligible households in the city compared with 37 percent of all eligible households during 2000. The prominence of one-person, income-eligible households as a proportion of total eligible households is expected to continue in the future.

## Case 2: City of San Jose

The RDA in the city of San Jose has constructed approximately 370 units of affordable housing annually since 2000, accounting for 23 percent of total affordable housing delivered in the city. These RDA units have helped to house some of the 116,100 households who reside in the city and who would qualify for low- to moderate-income housing. As with the case for the city of Los Angeles, however, growth in affordable housing since 2000 has not kept pace with growth in the number of low- to moderate-income households. The number of income-eligible households in the city has increased by an average of 1,350 households, or 1.3 percent, annually since 2000 compared with an increase in affordable housing units by an average of approximately 1,225 units annually. Nearly 60 percent of income-eligible households in the city are renters, or 66,300. Growth in the number of income-eligible renter households has accounted for 58 percent of total growth in low- to moderate-income households, increasing by an average of 780 households annually since 2000, a trend that is expected to continue during the foreseeable future.

A total of 1,096 RDA units were planned for construction in the city of San Jose during 2013 and 2014, however, most of these units are not expected to receive funding, according to data from Housing California and the California Housing Consortium. The shortfall of planned affordable units from the RDA's closure is also expected to place pressure on low- to moderate-income households, because, as with the case for the city of Los Angeles, these households will continue to increase in number while the availability of new affordable housing declines. Even with RDA assistance, new affordable units have covered only 90 percent of the growth in low- to moderate-income households. The closure of the RDA is expected to reduce the number of new affordable units to cover only approximately 80 percent of the increase in low- to moderate-income households.

In addition, the change in the designation of Difficult Development Areas (DDAs) for the purpose of the LIHTC under Section 42 of the Internal Revenue Code of 1986 by HUD for 2013 is expected to further adversely affect the provision of new affordable housing units in San Jose. According to the city of San Jose Housing Department, as of March 2013, the city had 8 projects in the pipeline, with a combined total of 725 affordable units. None of the projects currently have bond financing or tax credits. Of the 8 projects, totaling 177 units, 2 are located in the redesigned Qualified Census Tracts (QCTs) and are being considered for bond financing. The remaining 6 projects, comprising 548 affordable units, or 75 percent of the pipeline, will likely not be constructed as a result of the 2013 designation of DDAs, which eliminated the San Jose metropolitan area from the list. These 6 projects would need both bond financing and additional sources of financing to fill the gap left by the closure of the RDA. Furthermore, the city of San Jose Housing Department reports that the 2013 QCTs for San Jose provide very few future housing opportunities within the identified growth areas outlined in the recently adopted general plan. The identified growth areas in San Jose are located along major transit corridors, near transit stations, on infill land, in the downtown core, and in northern San Jose, the employment center. Transit-oriented developments typically are more costly than nontransit-connected areas. With the movement to ensure that affordable housing is located near jobs, services, and local transit, the elimination of the DDAs in San Jose places further strain on the future availability of affordable housing.

Since 2000, the average apartment rent in the city of San Jose has declined, while the MFI has increased. According to data from Reis, Inc., the average market rent for apartments during the third quarter of 2012 decreased by an average annual rate of 0.7 percent from 2000, while the MFI in the greater Santa Clara County area has increased by an average of 2.0 percent annually during the same period. Despite the decline in average rents and increase in MFI, low-income households remain burdened. The average gross rent is currently as high as 38 percent of the maximum eligible household income and is at least 69 percent of income for households that earn 30 percent of

MFI. By comparison, during 2000, the average gross rent was as high as 56 percent of maximum eligible household income and was 87 percent or more of incomes for households that earn 30 percent of MFI. As with the case for the city of Los Angeles, since 2000, one-person, income-eligible households have experienced the highest cost burden, paying nearly 40 percent of income in rent. Since 2000, the number of one-person, income-eligible households has increased by 16 percent, and these households have accounted for 57 percent of all income-eligible households in the city, a trend that is expected to continue in the foreseeable future.

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## Communication from Public

| | |
|---|---|
| **Name:** | Frances Offenhauser |
| **Date Submitted:** | 08/27/2019 11:29 AM |
| **Council File No:** | 13-1482-S3 |
| **Comments for Public Posting:** | Please see attached letter. |

# Heritage Properties

Planning and Land Use Management Committee
City Council of City of Los Angeles

ITEM # 1482-S3
ENV-2018-6006-CE, ENV-2019-4121-ND

August 26, 2019

Dear PLUM Members:

You are considering whether a proposed Resolution and Ordinance affecting land use planning and development for 1/5 of the land area of the City of Los Angeles might have any significant environmental effects.

The Negative Declaration before you concludes that there are zero effects. From my knowledge of one of the 19 unexpired Redevelopment Area plans involved, I am finding that the Negative Declaration is both procedurally flawed, flawed in selected findings, and deceptive.

I know that is not the intent of the planners who prepared it—but from an arms' length view—this "Project" is presented unclearly to the public; is analyzed as an intent rather than according to the real words in the actual Resolution and Ordinance; and is openly anticipating a future of cherry-picking the Redevelopment Plans and prior project CRA entitlements.

The public and the PLUM were ill-served by providing notification with one business day before this public hearing, with the most major item—the Ordinance – uploaded at the last minute. As the "Project" being analyzed by the Negative Declaration is only the Resolution and the Ordinance, it appears quite contrary to CEQA to circulate the Negative Declaration about an Ordinance before the Ordinance.

**The Ordinance is a new permission to charge fees while stating the opposite in the ND-**

- The "Project Description" says the Transfer will "consolidate project review of development projects" but its quite unclear how this occurs—no "transfer" chart, no ssample of Redevelopment provisions and parallel Planning process.
- In fact new fees are being applied- suggesting that they are going to be applied to some action performed by City Planning—but left entirely unclear.
- For a Single Family House—stated fee is $7,859—or is it $6500- for the identical activity. ("Project Permit Compliance and with Design Review Board – Major (Single Family)." The fee will be charged—the activity is not mentioned in the Ordinance!
- CRA never charged fees. CRA had an income stream from tax increment revenue. City is now receiving that revenue.

**The Resolution makes no commitment to Planning staffing or to the time period of the unexpired Redevelopment Plans:**

- Time horizon: Why does the Resolution omit the critical information of the unexpired time period of each Redevelopment Plan?
- Staffing: Why does the Negative Declaration state staff commitments, but they do not appear in the Resolution?

**The Ordinance creates new undesirable processes – with no fees-- to unravel the actions of the former Redevelopment Agency:**

- The Redevelopment Agency could only be more restrictive than the City of Los Angeles. Contrary to myth, projects less restrictive than City requirements always had to get entitlements through City Planning procedures. So "Modifications" will remove controls installed to limit blight, encourage health and design quality, etc.,
- The "Redevelopment Plan Project Adjustment" allows the Director of Planning to decide on substantial compliance rather than requiring a Variance or Variation or holding a public hearing.
- The "Modification of Entitlement for a Redevelopment Project" allows up to a 20% increase or decrease in approved project conditions with no public hearing and no environmental study other than a limited look at the immediate neighborhood.

**The "Project Description" for the ND is aspirational (about intent) but does not describe the actual Project -- certainly not clearly and accurately presenting either the Resolution or the Ordinance.**

- The Negative Declaration states that the proposed actions "*Establish procedures in the LAMC to implement the unexpired Redevelopment Plans. "* This is inaccurate—the Ordinance amends the LAMC to address processing of Planning entitlements or development applications – it omits dealing with Building Permits, CRA un-fulfilled planning obligations, and monitoring and forward planning obligations in Redevelopment Plans.
- The Negative Declaration in "Description of Project" states "*If the City were to propose any substantive land use provision changes or changes to the level of review of the unexpired Redevelopment Plans, a separate action with the appropriate environmental clearance would be prepared.*." However, as there is nothing to this effect in the Resolution, we can reasonably expect that there is change planned and – unless this stricture is included in the Resolution—an environmental effect.
- The Negative Declaration Project Description says "*the intent of the proposed project is to ensure continuity of land use controls in the 19 unexpired Redevelopment Project Areas".*__This cannot be accurate, as the Resolution Sec B1 allows changes to exactly that.
- The Negative Declaration never makes clear what the Ordinance is- nor does the Ordinance. The Ordinance is supposed to fit Redevelopment Plan processes into the City Planning rubric—but it is unclear before and after reading this whether the Redevelopment Plans are to be treated as Specific Plans (as the fee schedule suggests)—or what.
- The Project Description does not explain which land use provision required to be transferred are not transferred by the Resolution._ Resolution purports to follow CHSC Sec 34713 (i) but actively omits land use provisions except those in Sec 500. For example-- Sec 409 of Hollywood is omitted—requiring use of the Secretary of the Interior Standards.

**The Resolution omits critical CRA land use responsibilities/"provisions"/ "functions"**

- Resolution Section A says *"For the purposes of this Resolution, land use related plans of the Former Agency mean only those provisions of Redevelopment Plans and Guidelines that govern land use or development, including but not limited to, provisions that establish allowable land uses, land use restrictions, controls, processes or procedures.'*
- This fails to include CRA's responsibilities for further planning and monitoring as opposed to "governing". In Hollywood those included annual transportation monitoring, calculation of the

Regional Center 2:1 FAR, replacement of lost parking, and considerable lists of responsibilities the Redevelopment Plan recites and are well known...

- Resolution Section B says: "*For purposes of this Resolution, land use related functions of the Former Agency mean only the following functions, which, following the effective date of this Resolution, the City shall apply the Land Use Provisions to the Project Areas; and shall undertake related activities as necessary.*"
- Resolution Sec D- says City has no obligation to "perform any land use related function-- in accordance with a final order of a court of competent jurisdiction." Really?

**The Negative Declaration suggests resolutions to critically important topics – but these mitigations and promises obviously must appear in the Resolution or the Ordinance.**

- Historic Protections: The Negative Declaration cites excellent processes and procedures—and a commitment of a staff person—and states that "the City will implement the CRA mitigation measures as discussed below. " This is all good intent—but if it is not in the Resolution or the Ordinance, a fair argument can be made that this Negative Declaration at least requires Mitigations.
- 19 Redevelopment Plan EIRS and Plan and Project Mitigation Measures: The Negative Declaration provides no factual basis for statements on page 24 and no Appendix showing project and Plan EIR mitigations that must be enforced by the City of Los Angeles. This appears to be a fatal omission. The statement that "I*t is the City's intention to continue to implement the mitigation measure(s) sic"* is not reflected in the Resolution or the Ordinance.
- Negative Declaration Page 24 states: "*As identified in the proposed Resolution to be adopted as a part of the proposed actions of the Project, the City will develop guidelines to monitor and enforce mitigation measures*." This must be added to the Resolution, but unless it was revised and recently uploaded, it is not currently in the resolution.
- TOC Program: "*Applying the TOC program to development projects within the specified Redevelopment Project Areas with density limitations that are inconsistent with CRA/LA-DLA's current practice will require subsequent legislative action and is not part of the proposed Project". (*page 25) This is followed by prevaricating language. The Negative Declaration is inaccurate if this statement is not included in the Resolution.

As a professional who served on the Hollywood Project Area Committee and understand the Hollywood Redevelopment Plan from the inside out; and who has tried to communicate concerns both through the public process and to Planning staff—I am disappointed that this Transfer Negative Declaration wasn't used to display how deeply the Planning Department has delved into each individual redevelopment area's environmental setting and into each of the 19 redevelopment plans.

Respectfully submitted:
HERITAGE PROPERTIES

Frances Offenhauser

## Communication from Public

| | |
|---|---|
| **Name:** | AIDS Healthcare Foundation |
| **Date Submitted:** | 08/27/2019 11:38 AM |
| **Council File No:** | 13-1482-S3 |
| **Comments for Public Posting:** | Objection letter is attached. |

AHF AIDS HEALTHCARE FOUNDATION

August 27, 2019

VIA EMAIL
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Los Angeles City Council
Planning and Land Use Management Committee
200 North Spring St.
Los Angeles, CA 90012
Also posted to: https://cityclerk.lacity.org/publiccomment/

**Re: August 27, 2019 Agenda item 6, Transfer of CRA/LA Authority (CF 13-1482-S3)**

Dear Chair Councilmember Harris-Dawson and the Members of the PLUM Committee:

The Resolution, Ordinance, and Negative Declaration concerning the transfer of land use planning authority from the Community Redevelopment Agency to the City Planning Department are fatally and fundamentally flawed. Do not approve these items: they should be sent back to Planning for significant revision to ensure that the full protections in the City's Redevelopment Plans, including the mitigation measures adopted in the Environmental Impact Reports for those plans, are not stripped out and reduced into insignificance.

The public has had minimal opportunity to review the final Resolution and Ordinance.

Additional time is necessary to ensure a full and adequate review and consideration by the public and this Council.

The AIDS Healthcare Foundation hereby incorporates as its own the comments in opposition to the proposed Resolution, Ordinance, and Negative Declaration made by members of the public.

**Non-Compliance with California Environmental Quality Act**

Initially, the City attempted to claim that the ordinances and resolutions were exempt from analysis under CEQA as they were not a "project." The July 18, 2019 Supplemental

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Transmission, and the August 22, 2019 Technical Corrections from the Planning Department maintain that the Council should find these actions exempt from CEQA as not constituting a "project."

The Council should be aware that the California Supreme Court recently ruled in *Union of Medical Marijuana Patients v. City of San Diego* (S238563, Aug. 19, 2019) that:

> "A proposed activity is a CEQA project if, by its general nature, the activity is capable of causing a direct or reasonably foreseeable indirect physical change in the environment. This determination is made without considering whether, under the specific circumstances in which the proposed activity will be carried out, these potential effects will actually occur. Consistent with this standard, a 'reasonably foreseeable' indirect physical change is one that the activity is capable, at least in theory, of causing".

It would be a direct violation of the Supreme Court's opinion to conclude that the adoption of the proposed resolution and ordinance is not a "project" as the July 18, 2019 transmission requests.

Moreover, the Negative Declaration is itself inadequate. Specifically, the Negative Declaration fails to disclose the limitations in the Resolution transferring authority, which do not in fact transfer the entirety of the land use and development functions in the various redevelopment plans, but only a specifically identified carve out. Nowhere in the Resolution is it specified that the transfer of land use authority also includes a binding commitment to carry out the mitigation measures committed to during the adoption of the various Redevelopment Plans, including specifically the Hollywood Redevelopment Plan. Some of these mitigation measures involve on-going monitoring and the identification of historically significant structures. These functions are carried on by CRA/LA, but it is not clear in the Resolution or the Negative Declaration that these non-development functions are to be transferred to the responsibility of Planning.

If the implementation of these mitigation measures is not clearly established and articulated, the transfer of land use authority *will* have significant environment effects. These mitigation measures were imposed to mitigate the impacts of development under the Redevelopment Plans and must be implemented to avoid a significant effect. Removal of mitigation measures requires analysis which has not been performed. While the Negative Declaration purports that the City will abide by prior mitigation measures, the Negative Declaration itself does not include those measures (otherwise, it would be a mitigated negative declaration). The Negative Declaration is premised on the faulty assumption that the transfer of authority will have no impact, but that premise only applies if the mitigation measures in *other* environmental documents are adhered to. The Negative Declaration doesn't even contain a mitigation measure requiring the adherence to these other mitigation measures. Nor does the

Resolution transferring authority have such a commitment. Indeed, the Negative Declaration imposes a significant caveat on the City's "intent" to assume responsibility for the CRA's mitigation measures – it will do so only "if the measure falls within a traditional land use function." What are those? It is not specified in the Negative Declaration.

These issues in the Negative Declaration are compounded by the failure to provide the public with access to the Resolution or the Ordinance at the time the Negative Declaration was circulated for comment. The public could not meaningfully comment on the absence of protective measures in the Resolution and Ordinance if those documents were not made available for review. The Negative Declaration states, for instance, that the proposed Resolution claims that the "City will develop guidelines to monitor and enforce mitigation measures." This language is not actually in the Resolution, nor is the commitment to develop such guidelines adequate as a mitigation measure in the first place. But the public would not have known of this glaring deficiency until the Resolution itself was released for public review.

**Non-Compliance With State Law Governing Transfer of Redevelopment Plan Authority**

The Resolution does not comply with the requirements of Health and Safety Code section 34173, subdivision (i). The Resolution does not transfer "all land use related plans and functions" of the former redevelopment agency. Instead, the Resolution specifically transfers only *part* of the land use plans, and does not speak to the redevelopment agency's "functions" other than review of proposed projects. The Resolution also does not make clear whether the CRA/LA's implementing mechanisms for various redevelopment plans, such as Design for Development regulations in Hollywood, are to be assumed by the City. The Redevelopment Plan is not the full extent of "land use related plans and functions" and the City is not entitled to carve out aspects of the plan that it wants to transfer and ignore aspects that it doesn't want to transfer.

Moreover, the City is not entitled to amend the land use plans adopted under the redevelopment law. Those plans can only be amended by approval of the "agency," which is defined as the Redevelopment Agency – an agency that no longer exists. State law is clear that successor agencies have very limited power with respect to redevelopment plans. By transferring the redevelopment plan's land use related provisions and functions to the City, the City has only the powers of the successor agency and does not have more expansive authority than that.

The Resolution must be revised in significant part to comply with state law, making clear that it is the full plans and functions of the CRA/LA that are being transferred.

**Implementing Ordinance Lacks Specificity and Contains Errors**

The implementing Ordinance circulated to the public for the first time on Friday, August 23, is troubling in several respects.

Most critically, the major part of the ordinance – establishing new municipal code section 11.5.14, the procedures for the implementation of the redevelopment plans – lacks necessary detail and does not present a firm commitment to apply the design and development guidelines that are part of some Redevelopment Plans. This portion of the municipal code establishes requirements for submission and approval of all of the necessary compliance documents for projects in redevelopment plan areas. By definition, the ordinance defines "Redevelopment Regulations" as "all the land use provisions of the Redevelopment Plans and design or development guidelines adopted pursuant to such Redevelopment Plans that govern land use or development that were transferred to the City pursuant to California Health and Safety Code section 34173(i)." But by Resolution, the entirety of the Redevelopment Plan are not transferred, and there is no reference to the design or development guidelines. The definition allows for a "bait & switch" argument wherein all appears to be covered but in reality, the transfer only includes *portions* of the Redevelopment Plans.

In areas such as Hollywood, where significant work has been done by CRA/LA to identify historic resources, it is critical that the limitations in the Redevelopment Plan on redevelopment of historic structures be incorporated into the City's review process. The Ordinance does not include any specific provisions for projects impacting historic resources.

The Ordinance does not include adequate appellate process. Ministerial projects have no right of appeal. An improper grant or denial of a ministerial approval should be reviewable on appeal. On other appeals, the ordinance requires the appellant to provide a statement "why the decision should be upheld." Plainly, an appellant does not believe that the decision should be upheld. The Ordinance should be revised to fix this obvious drafting error which appears in multiple places.

The Ordinance also references section 12.36 of the Code but fails to amend that section to include appeals from matters arising out of newly added section 11.5.14.

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# Communication from Public

**Name:** Transfer of CRA/LA Land Use Authority
**Date Submitted:** 08/27/2019 12:51 PM
**Council File No:** 13-1482-S3
**Comments for Public Posting:** Please see attached

Beth S. Dorris
Law Offices of Beth S. Dorris
3226 Mandeville Canyon Road
Los Angeles, California 90049

August 27, 2019

Planning and Land Use Management Committee
Los Angeles City Council
200 North Spring Street
Los Angeles, CA 90012
*By Hand and Via Electronic Delivery to LACounselComment.com and* clerk.plumcommittee@lacity.org

Re: Proposed Resolution ("Resolution"), Ordinance ("Ordinance"), Initial Study/Negative Declaration ("IS/ND"), and Categorical Exemption ("CE") (collectively, the "Actions") to Transfer the Land Use Functions of the CRA/LA, a Designated Local Authority ("CRA/LA DLA"), Successor of the CRA/LA ("Original CRA/LA" and, jointly with the CRA/LA DLA, the "CRA/LA"), to the City of Los Angeles and its Planning Department (jointly, the "City");CF 13-1482-S3; CPC-2018-6005-CA, CEQA: ENV-2019-4121-ND & ENV-2018-6006-CE

Honorable Chair Harris-Dawson and Councilmembers:

This letter is on behalf of Hollywood Heritage, Inc. ("Hollywood Heritage") and Donna Williams (as an individual). It incorporates and supplements all comments previously provided by or on behalf of Hollywood Heritage on the proposed land use authority and function transfer from the CRA/LA to the City.[1]

1. **The Long Standing Absence Of Plans, Measures And Historic Surveys Required For The Hollywood Redevelopment Area Forced Hollywood Heritage To Seek Court Enforcement Against The City and CRA/LA - Not Once But Twice.**

For decades, the CRA/LA and the City have failed to live up to firm, governing board-approved land use planning and mitigation commitments for the Hollywood Redevelopment area.[2] These planning commitments were first made the Hollywood Redevelopment Plan of 1986, then in the amended version in 2003, and in associated FEIRs and MMPs (collectively, the "HRP"). Over 20 years later, when those commitments remained unfulfilled, Hollywood Heritage filed its first enforcement action. (*Hollywood Heritage, Inc. v. City of Los Angeles et al.,* LASC Case BS108249.) That case resulted in a detailed settlement agreement signed and approved by both the City and the CRA/LA in April 2009. A copy of this agreement was provided in our prior comments ("First Hollywood Redevelopment Plan Settlement").

The First Hollywood Redevelopment Plan Settlement affirmed, by all parties including the City, the CRA/LA's obligation to prepare and review for approval by its governing board, by set dates ("First Planning Deadlines"): (a) detailed urban design plans to protect cultural/historic resources in the Sunset Blvd. and Franklin Blvd. design areas and Hollywood Core Transition District Development Guidelines to ensure development compatibility with the surrounding low density residential area; (b) a certain transportation and parking plan in the Hollywood Redevelopment Plan area to ease transportation, parking, and associated aesthetic and cultural/historic resource impacts in the historic core of Hollywood; and (c) a density transfer protocol to protect

[1] Incorporated prior comments include, without limitation, those submitted by me for Hollywood Heritage on or about December 19, 2018, in multiple parts on April 18. 2019, and on April 19, 2019. Incorporated prior comments also include those made on the City's prior (now expired) attempt to do the same transfer via CPC-2013-3169-CA; ENV-2013-3170-CE, Council File: 11-0086, and Council Files 13-1482-S1.

[2] The City had oversight authority over the CRA under "Oversight Ordinance", LA Ord. No. 166735. (LA Admin. Code 8.99.04; see also LA Ord. No. 166736.)

historic properties from development pressures (collectively, "Plans"). In addition, the CRA/LA and City affirmed the CRA/LA's land use function to: (d) provide a an updated historic meeting standards specified therein and made publically accessible ("Survey"); and (e) detailed interim measures ("Interim Measures") to help protect architectural and historic resources pending completion of the Survey.

Hollywood Heritage tried for years to *help* the CRA/LA comply with its Plan, Survey and Interim Measure commitments. Its professional architects and preservationists met regularly (often several times a year) with CRA/LA and City Planning staff and submitted detailed historic information from its own records. Hollywood Heritage also commented extensively on whatever draft Plans and initial Survey information (or associated scopes of work) were made available to it or the public.

Notwithstanding all Hollywood Heritage's cooperative efforts, the CRA/LA (and City) blew by the First Planning Deadlines with little tangible progress. These defaults forced Hollywood Heritage back to court a second time, to seek enforcement of the first settlement with the City and CRA/LA. The second action resulted in a Court enforcement order under CCP section 664.6, dated September 11, 2018 (submitted, with its proof of prior service on the City, to PLUM in our 3/18/19 emailed comments) (the "Court Order"). The Court Order enforces terms that, among other matters: (i) extended the First CRA/LA Plan Deadlines ("Extended CRA/LA Planning Deadlines"); and (ii) **expressly binds and runs to the CRA/LA's successor in interest to land use plan authority and land use functions**. (The First Hollywood Redevelopment Plan Settlement as extended and amended in the terms attached to the Court Order, are referred to jointly as the "Hollywood Redevelopment Plan Settlement.")

The City cannot in good faith profess ignorance of its role as successor-in-interest to the CRA/LA under the Hollywood Redevelopment Plan Settlement and associated enforcement order. The City, through the City Attorney's Office, was served a copy of the terms to be enforced by the Court and the proposed order, and did not object. City attorneys serving as counsel of record in the Hollywood Heritage litigation or otherwise involved in supervising it, including Terry Kaufmann Macias, have also been involved in the Actions, according to the 8/23/19 Report from the City Attorney's Office.

2. **The CRA/LA Has Egregiously Violated The Court Order, By Failing To Meet Even The Extended CRA/LA Planning Deadlines -- After The City Proposed The Actions**.

Once again, the CRA/LA has blown past the Extended CRA/LA Planning Deadlines for the Plans, enforceable under the Court Order. In so doing, it shows shocking disrespect for the Court Order and the land use planning requirements enforced thereunder. (It might still meet the final Survey deadline, which is looming. (*See* Court Order).) If the City adopts the Actions before the CRA/LA corrects its Plan defaults, the City will force Hollywood Heritage to go back to the court, this time to obtain sanctions (including potential criminal sanctions) for violation of the Court Order. The Actions would also make the City the CRA/LA's successor-in-interest to the CRA/LA's land use plan and functions, thus causing the City to step into the CRA/LA's shoes as to the Court Order and associated HRP Settlement.

3. **The City Needs To Hold Off Approval Of The Actions Pending The CRA/LA's Completion of Plan/Survey Tasks Otherwise Subject To Court-Imposed Sanctions Under The Order – Or, In The Alternative, Immediately Assume Responsibility For Timely Completion By The City.**

Accordingly, adoption of the Actions now, while the CRA/LA is in violation of the Court Order, leaves the CRA/LA exposed to sanctions, even potentially criminal sanctions. If the Actions are passed before the CRA/LA performs the Plan tasks it was required to complete months ago under the Court Order, a mere extension would have no chance of bringing Hollywood Heritage back to the same relief it would get than if the Plans had been presented to the CRA/LA Board with full land use authority still residing there.

Moreover, the CRA/LA (and, as explained further below, the City) have already demonstrated insensitivity to Court-enforced deadline extensions. This makes further extensions an unrealistic remedy. So the City is well forewarned of the prospect of criminal or other severe sanctions, and would be choosing to adopt the Actions now in spite of this prospect.

Beyond this, the CRA/LA has told the City that it thoroughly supports the Actions. Any City approval of the Actions now, while the CRA/LA remains in default, raising the question of complicity or conspiracy to default under the Court Order with escape hatches purportedly provided in the City's Actions. This concern is accentuated by the City's timing. After abandoning the idea of a CRA/LA land use transfer first pursued years ago (*see* expired file numbers listed in the subject line above), the City chose to renew the effort only just after the Court Order went into effect. In so doing, it necessarily encouraged the CRA/LA to risk violating the Court Order deadlines, with the hope that the City would come through with the Actions this time. Should the City adopt the Actions before the CRA/LA has corrected its existing defaults, it would be potentially complicit in depriving Hollywood Heritage of the Court-Ordered relief.

4. **The City's Proposed Actions Are Unlawful Because They Repudiate Or Allow Unilateral Voiding Of The CRA/LA Land Use Planning Commitments/Limits Under The HRP, The Associated Hollywood Redevelopment Plan Settlement, and the Court Order.**

The Actions purport to authorize the City to unilaterally modify or walk away from all or any of the CRA/LA's Land Use Functions. The City has no legal right to walk away from any of the Plan, Survey and Interim Measure commitments, now subject not only to the HRP, but also to the Hollywood Redevelopment Plan Settlement agreement with Hollywood Heritage and Court-ordered enforcement.

Health and Safety Code section 34171 et seq. allows each city or other sponsoring agency to make a choice as to how to handle dissolution of its redevelopment agency. None of the options would allow the City to simply walk away from the CRA/LA's land use plan and function commitments under the HRP Settlement or the Court Order.

One option is for the sponsoring agency to takeover virtually all aspects of the original redevelopment agency, including project-specific development commitments and payments or financial liabilities therefor. (Health and Safety ("H&S") Code section 34173.) The City is not proposing to take this option.

Another option is for the sponsoring agency to opt out of becoming a successor of the *original* CRA agency, by formally electing to do so. (H&S Code section 34173(d)(1).) Exercise of this option automatically triggered creation of a new entity, the CRA/LA DLA, that left no land use authority, function, or power in the hands of the original CRA, and transferred all such authority, function and power into the hands of the new CRA DLA successor agency, which was to remain separate from the sponsoring agency. (*Id.)* As acknowledged in the record by the City, the City exercised this election by the January 13, 2012 statutory deadline. (*Id.)* Accordingly, the original CRA/LA no longer has any land use authority to transfer to the City. Instead, that authority resides in the new CRA/LA DLA. (H&S Code section 34173(d).)

The City now seeks to take advantage of what it claims is a third option: transfer of the *original* CRA's land use plans and functions (H&S Code section 34173(i)). The statutory language, on its face, does not say anywhere that the City gets to pick and choose which plans and functions committed to by the CRA/LA it decides to do. It's all or nothing. Further, nothing in the statutory provisions allows the City to walk away from liability as the successor in interest to the CRA/LA's land use plans and functions. Rather, it necessarily steps into the CRA/LA's shoes in pending court-supervised litigation and orders concerning land use plans and functions that depend on CRA/LA authority therefor. (H&S Code section 34171(d); H&S Code section 34171 et seq.; *see also* Court Order (enforcing terms that bind the successor to the CRA/LA's relevant land use planning authority and functions).

As previously commented, H&S Code section 34173(i) does not provide for the transfer of land use authority from a *successor agency,* like the CRA/LA DLA, to the sponsoring city, but only from the *original* CRA – previously dissolved as a result of the City's prior election. City Staff has responded that the legislature was aware of the City's prior election to transfer the original CRA's land use authority and functions to the DLA, but meant to allow the City to take advantage of section 34173(i) anyway. This argument cannot stand. If, as the City claims, the legislature chose the specific language in the statute with knowledge of the City's prior election to transfer to the CRA DLA, the legislature thus had every reason to adjust the language to allow the City to acquire powers from the successor DLA, but did not. Beyond this, it would violate basic legal principles supporting settlements, in order to protect judicial efficiency and honor the expectations of the settling parties. Nor is it appropriate for the City (or a court) to ignore the plain language of the statute. This is especially true here, where the City was a party to, and formally authorized, the first Hollywood Redevelopment Plan Settlement.

More problematic still, the City is now, through the Actions, essentially attempting to block and walk away from the CRA/LA's land use related plan obligations and functions under the Hollywood Redevelopment Plan Settlement and enforcing Court Order. Nothing in Section 34173(i), or the related statutes, allows a sponsoring agency to avoid land use related plan and function requirements under a settlement agreement or ongoing litigation/court enforcement jurisdiction. (H&S Code section 34171 et seq.) The City's walking away would be particularly egregious here, where (a) the City itself approved imposition of the land use plan and function requirements on the CRA/LA under the First Hollywood Redevelopment Plan Settlement [which remains largely in effect]; (b) the court retained jurisdiction to enforce the full Hollywood Redevelopment Plan Settlement in the Court Order, as the City was fully apprised and failed to timely object; and (c) the City's walking away further delays or blocks altogether mitigating plans and project features promised in the Hollywood Redevelopment Plan and associated FEIR and MMP. Section 34173(i) does not allow this. On the contrary, it requires transfer of all the CRA/LA's land use planning and functions, including land use planning commitments required under prior agreements (especially where the City is also a party to the agreement, as in the First Hollywood Redevelopment Plan Settlement) and under all court-enforcement orders, including the Court Order. (*Id.; see also* H&S Code sections 34177(a), 34167(d), 34171(d).)

To highlight just how "underhanded" the City's Actions are here, the City could be above board still, and fully succeed to *all* the powers and functions of the CRA/LA DLA. "A city … that authorized the creation of a redevelopment agency and that elected not to serve as the successor agency under this part, may subsequently reverse this decision and agree to serve as the successor agency pursuant to this section. Any reversal of this decision shall not become effective for 60 days after notice has been given to the current successor agency and the oversight board and shall not invalidate any action of the successor agency or oversight board taken prior to the effective date of the transfer of responsibility." (H&S Code section 34173(d)(4).) Notably, this allowance for a post-hoc transfer comes with *necessary protections,* to enable successor agencies like the CRA/LA DLA to settle litigation). These protections include a 60 day notice period and a prohibition against invalidating any action of the successor agency (such as the Hollywood Redevelopment Plan Settlement). (H&S Code section 34173(d)(4).)

Beyond the statutory restrictions, it is unlawful for the City to adopt Actions that delay, interfere with or invalidate the CRA/LA DLA's prior land use authority commitments under the Settlement. That would constitute unlawful interference with contract as to the Hollywood Redevelopment Plan Settlement. It also constitutes a breach of the City's covenant of good faith and fair dealing and/or cooperation and the like (express or implied) as to the first settlement agreement with Hollywood Heritage.

5. **The Actions Require Further CEQA Study, Hamper Meeting Affordable Housing Requirements, And Continue A Longstanding Unlawful Pattern And Practice.**

The Hollywood Redevelopment Plan Settlement settled CEQA claims (among others) and claims of noncompliance with mitigations required under CEQA documents, including the FEIR and MMP for the Hollywood Redevelopment Plan now in effect. Any interference with performance under that settlement will necessarily cause or exacerbate potential significant adverse impacts as to cultural/historic resources, transportation/parking, aesthetics, air quality, infrastructure overburden, land use plan inconsistency, and urban decay.

The IS/ND attempts to respond to our CEQA concerns, but essentially only obfuscates the problem. (IS/ND at pages 23-24.) Despite assertions to the contrary, the IS/ND does not actually address our concerns about CEQA impacts caused by the Actions and the City's declared into to unilaterally void or ignore the CRA/LA's Plan, Survey and Interim Measure obligations under the HRP Settlement and Court Order. Instead, the IS/ND attempts to pick and choose what the City will do to mitigate significant historic resource impacts, without regard to the HRP Settlement and associated Court Order. The IS/ND makes no mention of assuming responsibility for completing the required, and long missing, Plans. (*Id.)* As for the Interim Measures, the IS offers only to contact Hollywood Heritage about demolitions, without regard to the many other land use function requirements in the Interim Measures. (*Id.)* As for the Survey, the IS offers to rely on historic survey information "approved" by the "former CRA/LA". (*Id.)* One interpretation is that the IS commits only to accepting the very outdated survey information gathered by the now defunct original CRA/LA – the horrifically outdated and incomplete information that the new Survey *was supposed to fix and complete*. This interpretation makes little sense, though, and would be unlawful. The City is obligated to update its historic database, and has offered no good governmental reason to reject survey performed by or on behalf of the CRA/LA DLA under the HRP Settlement and Court Order (or otherwise).

Beyond this, the IS/ND entirely ignores potential CEQA impacts other than historic resource impacts, itemized above and in our other comments. Such non-historic CEQA impacts are part and parcel to the Actions' impairing, voiding, and/or further delaying completion of the Plans.

The City's use of the Actions to avoid completion and approval of the Plans also is in direct conflict with Section 511 of the HRP. This violation comes from refusing to delay the issuance of demolition, grading, foundation, building, renovation, and other permits for development projects that involve or otherwise adversely affect architecturally significant or historic buildings or places.

As noted by other commenters (including in the 3/19/19 letter from Doug Carstens to PLUM, incorporated here by reference), removing land use authority from the CRA/LA may also cause further affordable housing reductions. The City is already out of compliance. An HUD study of the effects of incapacitating redevelopment agencies, with a focus on Los Angeles, confirms significant adverse impacts on the affordable housing supply. ("Redevelopment Agencies in California: History, Benefits, Excesses, and Closure, Working Paper No. EMAD-2014-01) (provided via electronic submission as Ex. B). Beyond this, the lack of historic preservation measures required under the HRP has contributed to the affordable housing shortage. Destruction of our older buildings serves primarily to replace affordable housing with more expensive units. It also forces the "market" upward, thus forcing up the price of what could then pass as "affordable".

In sum, the City and its CRA/LA have had a long established pattern and practice of unlawfully avoiding, delaying, and obstructing the Plans, Surveys and other measures long promised to help protect against the adverse impacts of development contemplated in the HRP. This pattern and practice began more than 30 years ago with 1986 HRP. The City's apparent aim, through the Actions, is to continue this unlawful pattern and practice even longer.

6. **Other Issues.**

For informed decision making, notice and due process requirements, City staff need to clearly explain how the proposed Resolution and Ordinance will impact land use function and plan commitments of the CRA/LA under the Hollywood Redevelopment Plan Settlement and Court Order, as to each and every commitment therein. Thus far, the City has only presented a jumble of contradictory statements in the record presented to the public. In some statements, the City has claimed that the Actions would not impair the CRA/LA's ability to perform under the Hollywood Redevelopment Plan Settlement. Yet the City also has claimed the absolute, unilateral right to take away the CRA/LA's land use authority, while at the same time ignoring or voiding the CRA/LA's obligations under the HRP Settlement and Court Order. The IS/ND and Ordinance now being presented to PLUM only confuse this issue further, for the reasons described above. This jumble only serves to confuse us, the general public, and City decision-makers. The Actions are still missing the basic presentation that allowed all of us to "connect the dots", as required under *Laurel Heights I* (at p. 392).

The City has now further hopelessly confused the public (and responsible parties) and tainted the preceding review process, by having only now just added a new IS/ND study with a different specifically designated lead agency for all CEQA review of the Project. The last minute CEQA "switcharoo" in turn created insuperable notice, due process, and CEQA compliance problems. Each of the following contributed to the chaos:

- The Notice of Intent to Adopt the IS/ND was only issued months after various stages of City department, commission, and committee-required review based solely on the Categorical Exemption. Assuming the IS/ND serves any purpose at all, Planning and PLUM needed the IS/ND to properly review the other Actions in earlier proceedings.

- The Notice of Categorical Exemption identified City Planning as the Lead Agency. Members of the public thus had no reason to check for or expect further CEQA studies would be posted to the City Council's files, and not the designated lead agency's files at City Planning. No rationale was provided for the switch of lead agency for the IS/ND from Planning to the City of Los Angeles itself (through its Council, not Planning).

- The City claims the CE is moving forward in tandem with the IS/ND. This means two different entities are now claiming to be "the" lead agency for same project (City Planning v. the City of Los Angeles [through its Council]. CEQA does not allow two governmental entities to claim the title of "the" lead agency as here. (*See* CEQA Guidelines Section 15367 and 15051.) Nor should it be allowed here, where the change is made only after full categorical exemption was claimed and relied on in earlier review proceedings by Planning and others. The fact that the two entities vying for "lead agency" simultaneously are related only compounds the resulting confusion. Commenters had no reason to check the City Clerk's website for additional CEQA study, or physically check for a "public" posting (a tacked up piece of paper) from the City rather than City Planning. After all, only the latter had been designated as the CEQA lead agency for the Project, at the outset.

- The City chose to deny notice of the IS/ND by email to prior commenters and those who had requested file addition notice previously. The City (and Planning which, again, has notice responsibility while it remains "lead agency" for the Project under CEQA) had already committed to emailing commenters and other who requested email notice or registered for email notice at the City Clerk's website. No one involved with Hollywood Heritage, even those who had registered for email notice with the City Clerk or with Planning (through Gisele Corella primarily), received the promised notice by email. Yet we all received by email other additions to the City Clerk's file on a routine basis. The City's decision to exclude the IS/ND from the normal email notice stream to Hollywood Heritage and others involved with Hollywood Heritage is particularly troubling. After all, the IS/ND expressly claims that the IS/ND was intended to respond to Hollywood Heritage's prior comments. (IS/ND at pp. 23-24.) The lead agency (whoever that is) is supposed to deliver responses to comments directly to the commenter under CEQA. The deviation from normal (and promised) notice practices, shows intent on the part of the City to "slip under the rug" the IS/ND, or "responses" to comments by Hollywood Heritage therein.

We note that the Notice of Intent to Adopt the IS/ND states that a hearing on the IS/ND will be held before City Council review and approval. The Actions thus cannot be a consent item and full hearing notice will need to be provided. No public hearing on the IS/ND has yet occurred or been properly noticed.

Very truly yours,

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