

### In This Issue:

Teach the Children

Did you know.....

SJ asks for rule shift

Blight ruling won't stop city

Eminent domain destabilizes

Links to articles you should read

♪ *Teach the Children to move away - Move away from San Jose,* ♪  
♪ *For if they stay they will pay - The endless debt created by the RDA* ♪

What I am about to tell you is the latest chapter of the story of the San Jose Redevelopment Agency's legacy of public debt.

### Chapter Title: RDA ERAF PAYMENT

A provision of the agreement between local governments and the Governor for the 2004-05 and 2005-06 fiscal years requires all California redevelopment agencies (RDAs) to contribute a state wide total of \$250 million to county Education Revenue Augmentation Funds (ERAFs). The San Jose Redevelopment Agency's share for fiscal year 2004-05 is \$18,626,954.

The San Jose RDA receives over 90% of the property taxes generated in the merged project area in the form of tax increment. Tax increment is all property tax revenue growth from the time the area is declared a redevelopment project area, leaving less than 10% of remaining property taxes for distribution to schools, city, county and special districts. You would think the RDA could make its ERAF payment from tax increment revenue.

Not so, thanks to the efforts of the local government lobby in Sacramento. A local government lobby financed in large part with your tax dollars. But that's another story. Budget trailer bill AB 2115 was created out of thin air at the last minute. One of the provisions of AB 2115 allows RDA's to participate in the California Redevelopment Association/Education Revenue Augmentation Fund (CRA/ERAF) Loan Program.

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### Did you know ???

**CRR meets the second Thursday in January, April, July & October from 7:00 – 9:00 p.m.**

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"Increasing congestion, expensive but little-used rail lines, and unaffordable housing with tiny yards are only the most obvious results of San Jose planning. Congestion and high land prices also probably contribute to higher consumer costs. San Jose food prices are 13 percent higher than the national average, while health care costs are more than 40 percent higher."

-- Randal O'Toole *San Jose's Planning Disaster* <http://americandreamcoalition.org/sanjose.html>

"Redevelopment agencies currently have to show "blight" before expanding into an area but, under SB 521, "blight" simply means low density housing near a rail transit station. The technical language is "lack of high density development within a transit village development district." This twists the purposes of redevelopment, and empowers RDA to achieve great control over your property if you find yourself inside the designated area."

--Dale Warner SOS Secretary

## San Jose RDA asks rule shift

**The San Jose Redevelopment Agency is lobbying the state legislature for two bills that would allow the RDA to extend the life of its most prosperous development district by 10 years and allow it to create new redevelopment zones around rail and transit stations.**

One bill would give the agency the ability to sell bonds once again for its North First Street district, which is home to some of Silicon Valley's most widely known technology companies, including eBay, Cisco Systems Inc., and BEA.

The other would create one-quarter-mile redevelopment zones around rail transit stations, although San Jose is pushing to have the radius extended to one-half mile. The legislation is being pitched as a help in solving California's chronic housing shortage, a popular political cause. But it is likely to run up against opponents of the widespread use of redevelopment powers, who see the agencies as arrogant and aggressive.

The bill granting the 10-year extension was filed by Assemblyman Joe Coto, D-San Jose. The San Jose Redevelopment Agency is adamant that the bill is not just to benefit San Jose, and it is worded to affect all agencies statewide.

"The bill is broader than just San Jose," Ms. Landers says.

But statewide, the legislation is seen as an effort to keep San Jose's cash cow alive.

"This is a San Jose bill," says John Shirey, executive director of the California Redevelopment Association.

San Jose does have a good reason for pushing the bill. The city wants to redevelop its North First Street technology boulevard to accommodate 20 million square feet of new research and development and office space, 30,000 new housing units and 68,000 new jobs. But to spark that development, the city estimates that it needs to spend about \$500 million to improve roads and other infrastructure. A new lease on life could provide much of the funding, although there is no official financial projection, the RDA says.

Redevelopment agencies derive their income from tax increment funding, which is based on the increase in property values and the taxes paid on them after an agency creates a redevelopment district. The efforts of the agency are expected to improve an area, and property values are expected to rise as a result.

At its peak early in the decade, the San Jose Redevelopment Agency was receiving \$198 million annually in tax increment. And three-quarters of that money came from its North First Street redevelopment zone.

The economic slowdown and a drop in property values has reduced that income to an estimated \$150 million in the current budget year, and just two-thirds of that amount comes from North First Street.

San Jose's redevelopment agency, the largest in the state in terms of revenue, has some looming deadlines. The taxing authority of the lower part of the North First Street redevelopment zone expires in 2025. The newest, most northern part, in what is sometimes called the Golden Triangle, expires in 2033. The redevelopment agency usually sells 30-year bonds. Now that it no longer has the ability to guarantee the revenue stream for the full term, the agency is unable to sell any new bonds.

The legislation that would allow redevelopment areas around rail transit stations comes from state Sen. Tom Torlakson, D-Antioch, an advocate of so called smart growth policies that encourage the development of housing and jobs near transportation.

"This kind of growth is better for California, healthy for the economy and good for families," Mr. Torlakson says. "Longer and longer commutes to far away suburbs is wearing people down."

**Because redevelopment agencies are only supposed to be in the business of eradicating blight, the Torlakson bill redefines blight to include low-density areas around transit stations.**

The California Redevelopment Association has mixed feelings about changing the definition of the word "blight."

"That's not to be done lightly," says Executive Director John Shirey. He notes that redevelopment agencies are frequently criticized for defining "blight" broadly so they can create new redevelopment zones. "People won't intuitively agree that lack of density is blight."

The Redevelopment Association also is concerned about a provision in the Torlakson bill that would require state approval of plans by local redevelopment agencies for transit stations.

"We are not about to enter into some sort of arrangement where RDA projects are subject to state review and approval," he says.

Moreover, he says, the state needs to take a comprehensive look at how to increase the supply of affordable housing at a time when, according to the California Association of Realtors, only 18 percent of California residents can afford to buy a median-priced home. Piecemeal legislation nipping at the edges of the problem may not be the solution, he says. "What is really going on here is a real struggle over what it is we do about our housing crisis," Mr. Shirey says.

--Silicon Valley/San Jose Business Journal Timothy Roberts March 21, 2005  
<http://sanjose.bizjournals.com/sanjose/stories/2005/03/21/story1.html>

## Blight ruling won't stop city

One way or another, the city of San Jose will find a way to redevelop a key block in the heart of downtown, despite an unfriendly ruling from Superior Court, says Vice Mayor Cindy Chavez.

In a stinging opinion, a Santa Clara County Superior Court has rebuked the San Jose City Council for declaring 30 acres of prime downtown real estate blighted without sufficient evidence.

"The proof is missing," wrote Judge Joseph Huber in his 35-page review.

The judge found that the city failed to show the downtown block was blighted before including it in the downtown redevelopment zone. The designation allows the city to condemn the property for economic reasons.

The judge's findings, similar to others around the state, raise questions about the city's method of defining blight and about the future of redevelopment expansion. Since the San Jose redevelopment agency was established in 1956, it has designated a third of San Jose's land mass, amounting to nearly 60 square miles, as blighted to include it in redevelopment districts.

At issue is the evolving definition of blight under California law. Without legally establishing that blight exists, a California redevelopment agency has no jurisdiction, prohibiting it from receiving taxes or condemning property in a given area.

Judge Huber's opinion is tentative, allowing the city a chance to try to change his mind. The city also would be able to appeal his final ruling once it is handed down. The city council met in closed session April 5 to discuss the ruling but took no public action.

Despite a more than 200-page report written solely to show that blight exists in the contested region, Judge Huber said the city and its long-time consultant, Keyser Marston Associates of San Francisco, failed to meet the burden because of errors, superficial analysis and misunderstanding of the law.

"[Portland]City officials say that the very things that attract people who revitalize a city -- dense vertical housing, fashionable restaurants and shops and clean mass transit that makes a car unnecessary -- are driving out children by making the neighborhoods too pricey for young families."

- *Children Absent from Urban Dynamic* Timothy Egan *New York Times* (run in the *Contra Costa Times*) March 27, 2005  
<http://www.contracostatimes.com/mld/cctimes/news/11243613.htm>

"I'm beginning to think the Public Records Act is a misnomer. It really needs to be changed to the media-plaintiff-attorney's-rejected-bidders-Record Act," Gonzales said, "because when you look at the requests we're getting nowadays, and I'm not talking about someone walking into the City Clerk's Office and getting a copy of the agenda, that's common. I'm talking about stuff that requires huge amounts of work be done."..... "I just wonder at what point does the Public Records Act get in the way of serving the public?"

--Quote by Mayor Ron Gonzales <http://www.mercurynews.com/mld/mercurynews/news/local/11243338.htm>

"The redevelopment of North San Jose into a far denser, more urban area supporting thousands more jobs and residents means notably dirtier air on a local and regional basis and worse traffic congestion at 51 intersections in San Jose and three neighboring communities."

-- *Report Paints Grim Picture of North San Jose Development* Sharon Simpson *Silicon Valley/San Jose Business Journal* March 21, 2005 <http://sanjose.bizjournals.com/sanjose/stories/2005/03/21/story5.html>

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What is the CRA/ERAF loan program, and how does it work? Each agency wishing to participate in the CRA/ERAF Loan Program, as San Jose has chosen to do, will enter into a loan agreement with the California Statewide Communities Development Authority (California Communities). As California Communities explains: "The obligation to repay the loan and the interest is an obligation of the agency, not an obligation of any particular project area of the agency. There is specifically **not a pledge of tax increment.**" Nor is it charged against the Agency bonding limit. According to the authorizing statute (AB 2115), "the loan is payable from any available funds of the agency not otherwise obligated for other uses." Other uses like making principle and interest payments on the growing San Jose RDA debt of over 4 billion dollars and rising.

As California Communities goes on to explain: "The obligation to repay is specifically **subordinate to all existing and future obligations of the agency.** In the event an agency fails to make a scheduled payment on the loan, the County Auditor will be directed to transfer the first available property tax revenues of the sponsoring community to make such payment. AB 2115 establishes an ability to create a lien on the property tax revenues of the sponsoring community; this lien is created upon the making of the loan. The sponsoring community of the agency must adopt a resolution approving the agency's participation in the CRA/ERAF Loan Program."

Sweet deal for RDA, if they can't find any spare change lying around to make the payment, the people of San Jose get to make the payment. Diverting more revenue for city services such as police, fire, libraries, and road maintenance. In effect the City of San Jose is the guarantor and co-signer on the RDA loan and if you live in San Jose your future property taxes are being used as collateral for this loan. All this is being done with no requirement that the citizens of San Jose be notified.

Please teach your children the new lyric to that old song.

Do you know the way to move from San Jose?

--by Doug McNea

"Loraine Wallace Rowe, chairwoman of the Coalition for Redevelopment Reform in San Jose, agreed. She said the definition of blight has gradually expanded to allow cities to justify using eminent domain even in areas with expensive homes.

"To say, 'We could get more tax money for that property with 20 condos on it than with one house' that basically says that any single-family house could be considered blight,' she said."

--Sonya Geis *Eminent Domain Faces Legal Test* Mar. 27, 2005  
<http://www.sgvtribune.com/Stories/0,1413,205~12220~2785786,00.html>

## Links to Articles and Sites You Should See

- **San Jose Mercury News**  
*Prime Lot Excluded from Redevelopment Zone*  
Janice Rombeck March 31, 2005  
<http://www.mercurynews.com/ml/d/mercurynews/11280818.htm>
- **Silicon Valley/San Jose Business Journal**  
*Economic Effect is still Unclear*  
Sharon Simonson & Timothy Roberts. March 18, 2005  
<http://sanjose.bizjournals.com/sanjose/stories/2005/03/21/focus2.html>
- **Smart Growth's Real Goal....More Congestion**  
*American Dream Coalition*  
Randal O'Toole  
<http://americandreamcoalition.org/sggoal.html>
- **Kelo v New London Supreme Court Argument Transcript**  
February 2005  
[http://www.supremecourt.us/oral\\_arguments/argument\\_transcripts/04-108.pdf](http://www.supremecourt.us/oral_arguments/argument_transcripts/04-108.pdf)
- **Supervisor Jim Beall's Newsletter**  
January 2005  
<http://www.scvmed.org/scc/assets/docs/831196Jan2005.PDF>
- **SFGate.com**  
*A Blight On Urban Renewal*  
Carol Lloyd March 4, 2005  
<http://sfgate.com/cgi-bin/article.cgi?file=/gate/archive/2005/03/04/carollovd.DTL>
- **Reason.com**  
*Eminent Domain Takes Center Stage in Redevelopment Debates*  
Samuel R. Staley, Ph.D.  
<http://www.rppi.org/eminentdomain.shtml>

Articles and information in this newsletter are either written by or reviewed by CRR's Executive Board before publication.

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