



Building A Better Long Beach

November 1, 2010

REDEVELOPMENT AGENCY BOARD MEMBERS
City of Long Beach
California

RECOMMENDATION:

Receive and file a report on the system of oversight for redevelopment activities.
(All Projects – Citywide)

DISCUSSION

The October 1 and October 3, 2010, editions of the *Los Angeles Times* included articles citing instances of alleged redevelopment and affordable housing abuses (Exhibit A). The examples in the articles are very concerning. The Long Beach Redevelopment Agency (Agency) is committed to ensuring maximum transparency and accountability over the taxpayer resources it utilizes, and the projects and programs it oversees. Agency staff has prepared a report detailing the existing system of oversight governing redevelopment activities (Exhibit B).

Also attached for your reference is a similar document presented to the Long Beach Housing Development Company on October 20, 2010, addressing the oversight of the Low- and Moderate-Income Housing Fund and its activities (Exhibit C).

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

AMY J. BODEK
EXECUTIVE DIRECTOR

AJB:LAF:SP

Attachments: Exhibit A – *Los Angeles Times* Articles
Exhibit B – Report on the System of Oversight for Redevelopment Activities
Exhibit C – Report on the System of Oversight for Affordable Housing Activities

latimes.com/news/local/la-me-redevelopment-20101002,0,6634120.story

latimes.com

ARRESTED REDEVELOPMENT

Lots of cash and little scrutiny in city redevelopment

City agencies meant to improve blighted areas are rife with problems that cost the public millions.

By Kim Christensen and Jessica Garrison, Los Angeles Times

October 1, 2010

It was a redevelopment deal with an unusual form of payment: plain white envelopes stuffed with cash and delivered to a go-between at a preschool.

And that was only part of what developer Randy Wang said he paid to Temple City officials who "repeatedly solicited bribes" in return for their support of his \$75-million Piazza mall project.

His allegations led to criminal charges against then-Mayor Judy Wong and three other people, all but one of whom have pleaded guilty or no contest to bribery, perjury or other crimes. Wong recently was sentenced to 16 months in state prison, the harshest penalty so far.

As for the project — 3.7 acres of retail space and restaurants — construction that was to be finished two years ago has yet to begin.

"Does anyone REALLY believe this will get built in our lifetime?" asked a miffed Facebook user on the "I Love Temple City" page, under the heading of "The Piazza/vacant lot/mud hole."

The Temple City fiasco reflects problems at many of California's 400 municipal redevelopment agencies, obscure arms of government that pair public money with private developers to improve blighted areas.

The Times found widespread instances of corruption, questionable spending and poor accountability at such agencies, which take in \$5 billion in property tax revenues each year. Under state law, the agencies are allowed to keep any increases in tax revenue in areas they improve.

For years, the agencies operated largely unnoticed, with little state scrutiny. Now, California's budget crisis is forcing them to make a case for their importance — and their considerable resources. They lost a big round in May, when Gov. Arnold Schwarzenegger and the Legislature authorized shifting \$2

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billion from their coffers to schools.

Proponents say redevelopment has paid for thousands of affordable homes and public buildings, reviving moribund neighborhoods and business centers. They point to Pasadena's Old Town and San Diego's Gaslamp Quarter as models of success.

"There are literally hundreds of communities in California that look better today, are healthier and better places to live and work than they would have been without redevelopment," said John Shirey, head of the California Redevelopment Assn.

Still, The Times found many agencies beset by problems that have cost taxpayers millions. Sometimes it's malfeasance; other times it's officials at small agencies lacking the skills to manage large sums or negotiate complex deals.

Even scofflaw agencies run little risk of getting caught, and rarely face consequences when they do.

One state audit found that dozens of agencies had failed for years to share money with schools and counties, as required. Los Angeles County agencies shorted schools and services by at least \$60 million in fiscal year 2005, a review by the state controller found in 2008.

Auditors also found that the City of Industry reported to the state that it gave \$2.5 million to schools and the county in 2006. The problem was the payment should have been \$21 million.

And when auditors sought more information, 14 of the county's 74 agencies did not respond and 11 others admitted they did not follow the law. .

A recent report by the Senate Office of Oversight and Outcomes concluded that no state agency oversees redevelopment. Instead, "oversight is left largely to the city council members and county supervisors who sit as local redevelopment agency board members."

In many projects, even the most basic accountability is lacking, said George Lefcoe, a professor of real estate law at USC.

"What we really want to know as taxpayers is, what kind of public funds were involved — what did we give and what did we get?" he said. "You cannot get those answers anywhere."

Small agencies, big problems

The old All Star Dodge dealership in Banning looked to be just another ghost of business past in a town hit hard by a sour economy.

But that didn't keep the city's redevelopment agency from paying top dollar for it — and then some. Without an independent appraisal, agency board members, who double as the City Council, shelled out \$1.2 million for the vacant property in July 2009.

It still sits empty.

"Everything about that deal stinks," said Philipp Goebels, editor of The Banning Informer website, which devotes much of its attention to the city's "redevelopment disasters."

A Riverside County civil grand jury cited the deal in a February report that also faulted the agency for

paying for facelifts for vacant businesses while neglecting blighted neighborhoods, and giving \$162,000 to a nonprofit "cultural alliance," co-founded by Mayor Bob Botts, for services it never delivered.

Botts called the grand jurors' findings "their opinion" and defended the All Star Dodge deal.

"We weren't just buying property," he said. "We were working on a project that would be good for redevelopment, that would be good for the city. We had some very, very specific reasons for doing it."

But he would not say what they were, and by law he didn't have to. Because redevelopment agencies act in an entrepreneurial role, they have the leeway to conduct much of their business privately.

Redevelopment agencies in California multiplied after 1978, when Proposition 13 limited local governments' power to raise taxes and prompted them to find new sources of revenue. But many smaller cities that established agencies could not afford skilled people to run them.

"Just because someone is running it doesn't mean they're qualified to manage large amounts of money," said Stanislaus County Supervisor Jeff Grover about the redevelopment agency in Riverbank, a city of 22,000 in the Central Valley.

In 2007, the Riverbank agency spent \$1.7 million for the Del Rio Theater, with plans for a downtown arts venue. Unfortunately for local taxpayers, their leaders didn't order a structural evaluation of the 60-year-old building until after the sale.

Engineers last year declared it unsound, city records show, and it could be razed.

"I was pretty mad," said Mark Ensley, a former school board member. "I was like, 'C'mon, guys, you buy this thing without doing a thorough inspection and now you're going to tear it down?'"

King City, a Monterey County town of about 11,600, had big plans for Town Square, a \$9-million redevelopment project.

It also had Scott Galbraith, a free-spending redevelopment director with a taste for establishments like Chester's Beer of the World and Hooters, according to a 2004 city-funded investigation that accused him of making sweetheart deals with Town Square's developer.

The city's private investigator also found that Galbraith steered \$375,000 to a Canadian marketing firm he had ties to, and that he billed the city \$89,000 in personal expenses, including restaurant tabs and airfare for his wife.

The investigator reported the episode as a "total system failure" marked by "incompetence and impropriety and "little or no accountability."

Galbraith denied the allegations and said city leaders were well aware of his actions. No criminal charges were filed, but the city sued Galbraith and the developer, who filed a counterclaim that they had been defamed. The dispute was settled out of court.

In 2008, the San Gabriel Valley city of Rosemead paid \$4.4 million for a hotel property it planned to redevelop as part of a larger project including retail outlets. In the interim, the city leased it for two years, planning to collect \$6,000-a-month rent the first year and \$10,000 the next.

But the contract didn't require the operator to actually make the payments, and the city allegedly lost

more than \$50,000 in unpaid rents. Apparently no one on the council at the time caught the omission, said Councilman Steven Ly, who was elected last year.

"The best-case scenario is that it was just bad mismanagement," he said. "The worst case is that there was something nefarious going on."

'I loves my job!!! Free Lunches!!! Lol'

Hercules, population 25,000, boasts a certain coziness that has little to do with its size or location on San Pablo Bay in Contra Costa County.

In 2003, after a federal grand jury indicted its affordable-housing manager on charges of bilking the program of \$390,494, the town turned to Nelson E. Oliva and his NEO Consulting firm to take over.

Oliva, who had worked for Hercules' then-city manager, Mike Sakamoto, in Bellflower's city government, landed a two-year contract worth \$255,000 for his company, doing business as Affordable Housing Solutions Group.

It was the start of a lucrative relationship — and it didn't end when Oliva succeeded Sakamoto as city manager in 2007. Last year alone the company did \$950,000 in city business, including overseeing other city programs.

Apparently to head off conflict-of-interest concerns, Oliva gave the company to his daughters, Adrianna and Taylor, one then in high school, the other in college. Taylor Oliva, a recent graduate of UC Davis, was named president in 2007, according to NEO's website, which until recently had lauded her as the firm's "guiding force ... responsible for the overall operations of all corporate activities."

That job description was a little more formal than one the Contra Costa Times found on her Facebook page earlier this year.

"Ha ha ha ... I loves my job!!!" read the posting, which has since disappeared. "Its good money and my co-workers are great. It also happens to be a perk being the bosses daughter, believe it or not. Free Lunches!!! lol."

A county civil grand jury investigated the city's no-bid contracts to NEO; affordable housing loans to relatives of council members; and sweetheart deals on homes financed with affordable-housing funds.

"There were multiple incidents of problematic conduct between the city and NEO," the civil panel reported in June. The findings led to no criminal charges, but the grand jurors recommended the city "expand its ethics and conflict-of-interest training" and open up its contract-bidding process.

Neither Nelson Oliva nor Taylor Oliva responded to requests for comment.

NEO's executive director is Walter McKinney, who was police chief in Hawaiian Gardens when Oliva was its city manager in the 1990s. In July, he told the City Council he now owns NEO and knows of no conflicts of interest.

Big agencies, big problems

Large agencies can afford more professional staff and tend to be more closely watched by advocacy groups. Still, they are not immune from making bad deals.

Pastor Billy Ingram first heard of plans to redevelop the Crenshaw district's Santa Barbara Plaza in 1984, in a speech by then-Los Angeles Mayor Tom Bradley.

"Since then, I have been in hundreds of meetings and I have heard all of the propositions, the schemes, the games, the snake oil, you name it," said Ingram, whose Maranatha Community Church is by far the best-kept parcel on the 22-acre property.

The plaza was sliding into decay three decades ago. Today it is a sprawl of mostly boarded-up businesses and chain-link fencing surrounding a huge wasteland of a parking lot.

Los Angeles leaders once envisioned the site, redubbed Marlton Square, as a \$170-million showpiece of new shops, affordable homes and condos for seniors. Little of that has come to pass, thanks largely to the decision to award millions in subsidies and loans to developer Christopher Hammond, whose good record of building affordable housing was offset by his history of financial troubles.

The Times reported in 2004 that Hammond or his companies had bounced dozens of checks totaling \$200,000, and that he was being evicted for not paying his office rent. Then-City Controller Laura Chick also warned the council, but it still tapped Hammond, a prolific political contributor and fundraiser, to shepherd the project. She later said city leaders "blew it."

Work was to be completed three years ago but stopped in January 2008, after Hammond and his companies failed to acquire all of the properties needed.

Now, after \$37 million in public money has been pumped into the project in loans and grants, it is mired in lawsuits and foreclosure actions.

The city has been buying up parcels, said Councilman Bernard Parks, who represents the area, and will bring in a new developer when the legal issues are resolved.

Ingram isn't taking any of it on faith.

"It is unbelievable. It is a disgrace. It is shameful," he said. "If I didn't have inspiration from God, I'd be depressed driving to my church."

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Coming Sunday: Cities across California have skirted or ignored laws requiring them to build affordable housing, a Times investigation finds.

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ARRESTED REDEVELOPMENT

Cities often give short shrift to affordable housing

At least 120 municipalities spent a combined \$700 million in housing funds from 2000 to 2008 without constructing a single new unit, a Times analysis of state data shows. Nor did most of them add to the housing stock by rehabilitating existing units.

By Jessica Garrison, Kim Christensen and Doug Smith, Los Angeles Times

October 3, 2010

Second of two parts

Cities across California have skirted or ignored laws requiring them to build affordable homes and in the process mismanaged hundreds of millions in taxpayer dollars, a Times investigation has found.

At least 120 municipalities — nearly one in three with active redevelopment agencies — spent a combined \$700 million in housing funds from 2000 to 2008 without constructing a single new unit, the newspaper's analysis of state data shows. Nor did most of them add to the housing stock by rehabilitating existing units.

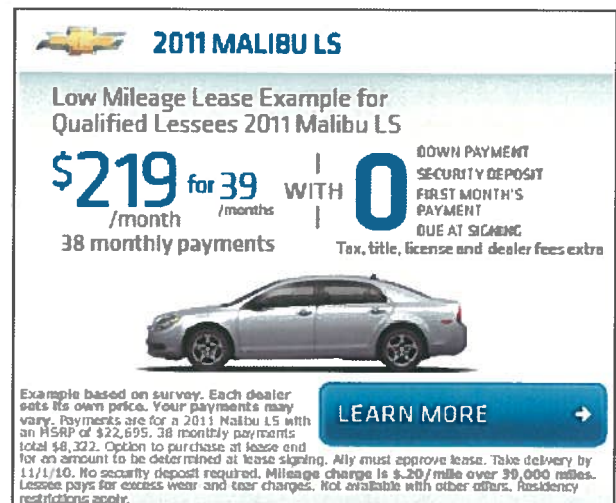
In case after case, The Times found, cities spent substantial sums for little return:

-- The San Gabriel Valley city of [Irwindale](#) spent \$87 million from 2000 to 2008 but produced only 42 homes and 62 rehabilitated units. Some of the money was spent on industrial land next to an old gravel pit and warehouses, a site that officials now acknowledge was unsuitable for housing. New plans call for building a hot-sauce factory there.

-- In [Santa Ana](#) and [Avalon](#), officials spent millions on projects that knocked down homes, displaced low-income people and worsened blight without producing anything in its place. Block after block in a 94-acre area east of Santa Ana's civic center is lined with boarded-up buildings and vacant lots. In the Santa Catalina Island city, where housing is so scarce that workers sometimes sleep in the bushes, a half-block of property where cottages were razed to make way for more homes has sat, sun-baked and undeveloped, for 15 years.

-- [Rancho Cucamonga](#) paid \$42.5 million to a politically connected developer to keep about 550 units below market rate for 99 years — even though a consultant to the city said the price was "unwarranted" and city officials were told that an appropriate price for slightly fewer units would be about \$13 million.

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-- Nearly three dozen cities, including [Monterey Park](#) and [Pismo Beach](#), reported spending most of their affordable housing money over the decade on "planning and administration" — but never built a single unit. Asked to account for the \$361,000 spent by Pismo Beach, Administrative Services Director George Edes said some of it paid the salaries of staffers who were "thinking about concepts of how do we get something going ... but we never did get to the point of taking those to the council with a concept that was developed."

State law requires municipal redevelopment agencies to spend 20% of the approximately \$5 billion in property taxes they collect each year on building and preserving homes for poor and moderate-income people.

But affordable housing is not politically popular, and The Times found that many projects face inexplicable delays. Others end up worsening blight and hurting the people they were supposed to help. Land ostensibly set aside for affordable housing was in some cases turned over to commercial developers, raising questions about whether cities ever intended to build the housing in the first place.

State officials do little to ensure that cities spend the money properly or report accurately on their activities. The Times found numerous discrepancies between what officials told reporters they had produced and what they told the state.

Citing limited funds, the Department of Housing and Community Development stopped auditing redevelopment agencies three years ago.

"The state has unleashed this incredibly powerful land-use and financial tool that is redevelopment with virtually no effort, no time, no resources spent to hold these agencies to account," said Catherine Rodman, a San Diego lawyer who has sued several agencies over their use of housing funds.

[How does your local redevelopment agency perform? Look it up in The Times' database.](#)

Puzzling explanations

[The state's approximately 400 municipal redevelopment agencies](#) control the largest pot of non-federal money available to build and subsidize affordable housing.

These little-understood arms of government are run by city council members and county supervisors — or, in big cities like Los Angeles, by political appointees. The agencies, which often work in concert with private developers, are funded by increases in property tax revenue from blighted areas they improve.

Nearly 35 years ago, amid concerns that agencies were razing the homes of poor people and leaving them nowhere to go, the Legislature passed the law requiring that one-fifth of redevelopment money be spent on affordable housing.

The law gives officials great flexibility in addressing the housing needs of poor and moderate-income families; in Los Angeles, that would be those with incomes of up to \$75,600 a year for a family of four. The agencies can do more than build homes: They can buy and fix foreclosed homes, provide grants to homeowners to improve properties and pay to keep existing units affordable.

However, they are generally required to set the money aside for housing, and to develop the land they buy within five years. They are also required to replace any units they destroy.

John Shirey, the head of the California Redevelopment Assn., and others involved in redevelopment projects said that the vast majority of cities use their dollars well and that many cities have been confused by the reporting process and actually produced more affordable housing than state records indicate.

The records show that from fiscal years 2000 to 2008, municipalities used the money to build more than 50,000 affordable housing units.

"We have bought abandoned pickle factories, a tomato processing plant, gas stations, you name it ... really blighted, ugly sites ... and turned them into something nice," said Linda Mandolini, executive director of a Hayward nonprofit that has built thousands of units.

But during the eight-year period, more than 20 agencies produced less than one unit of new or rehabilitated housing for every \$1 million spent, according to the Times analysis of state records. A ballpark estimate for building a unit and keeping it affordable for 55 years ranges from \$350,000 to \$500,000, experts said.

Much of the money might have been legitimately spent. But in interviews around the state, many officials from agencies that had produced little or no affordable housing gave explanations that were puzzling or murky.

Among the big spenders was Irwindale, a town of about 1,500 astride the 210 Freeway, where \$87 million produced slightly more than 100 new or rehabilitated units.

Paul Zimmerman, executive director of the Southern California Assn. of Nonprofit Housing, said it was "perplexing how the city of Irwindale could spend these large sums and produce such a little amount of affordable housing."

City officials said \$32 million was spent refinancing old debt, \$3 million on planning and administration and \$13 million on housing subsidies and construction.

About \$11 million was used to buy a 23-acre industrial parcel on Azusa Canyon Road, across the street from a giant gravel pit. It turned out that people did not want to live there because it was too far from the municipal swimming pool and other amenities, said Interim City Manager Sol Benudiz.

A city lawyer, Fred Galante, cited another obstacle: A train derailment nearby had made people see the site as unsafe.

Six years after buying the property, officials signed a deal with Huy Fung foods, which manufactures Sriracha hot sauce, in which the company will pay \$15 million for the land. Most of the purchase is to be financed by the city.

Irwindale stands to benefit by selling to a commercial entity, capturing any new property tax revenue it generates. Proceeds from the land sale will go back to the housing fund, and the search for suitable property must begin anew.

In their defense, Irwindale officials said they face unusual challenges, including a shortage of land in a town marred by gravel pits and a shortage of fill to place in the pits. Benudiz said the city was hoping for dirt and debris displaced by extension of the 710 Freeway — but that controversial public works project has been stalled for decades.

"The city has taken a real long view of housing," he said.

Moving them out

Santa Ana officials spent the last decade buying and bulldozing single-family homes and apartments east of downtown, uprooting homeowners and low-income renters.

"A lot of people got moved out and were told a story that something good was going to be done," said Fred Reyes, whose family had owned a 1901 Victorian for nearly 40 years when the city acquired it from his mother and knocked it down.

"You drive through there and you go, wow," said Reyes, 41. "You'd think by now something would have been done."

Sandi Gottlieb, a project manager with Santa Ana's Community Development Agency, said it took a decade "to get a good cohesive development site" because the agency bought properties as they became available rather than acquiring them through eminent domain. She said the city now has a viable plan with a "quality developer" and could begin construction next year on a housing project near vibrant new shops.

"Obviously, we would like to have gotten going sooner than now," she said.

Although redevelopment agencies are generally required to develop land for housing within five years of acquiring it, state records show that as of 2008, the agencies had been holding more than a quarter of their undeveloped land for periods longer than that. Nearly 15% had been held for more than a decade.

On Catalina Island, Avalon spent \$2 million of its housing money in 1995 to buy land once covered in dilapidated cottages across the street from then-Mayor Ralph Morrow's house. Dozens of people were displaced.

Morrow, now a council member, proposed the acquisition on behalf of his neighbor, a friend, but recused himself from voting on it. He said the cottages were so blighted that they had to go. "They were awful, just awful," he said.

Officials pledged to build affordable housing in place of the cottages, but plans were vague and ever-changing. Current Mayor Bob Kennedy said many residents were opposed. One concern was additional traffic — although most people on the island get around in golf carts.

Avalon, a resort town of about 4,000 year-round residents, has had a dire housing shortage for decades. Many workers sleep in shifts in crowded rentals or in the bushes near the golf course.

In 2008, after auditors warned city officials that they were violating the law by continuing to hold the undeveloped land, the redevelopment agency sold most of it for about \$2 million. It went not to a housing developer but to the Catalina Island Museum Society, which planned a museum.

The proceeds went back into the affordable housing fund. The lot remains vacant.

Few consequences

It's difficult to compel redevelopment agencies to live up to their affordable housing obligations.

"There is no enforcement mechanism ... so if an agency isn't complying, there are few consequences," said Craig Castellanet, staff attorney with the California Affordable Housing Law Project.

"If you give a report that you haven't produced any housing,

and you were obligated to produce housing, the state doesn't come and require you to produce units."

State officials did not dispute that. "Is it a perfect system for enforcing state laws?" said Cathy Creswell, the state's deputy director for housing policy development. "Some would argue not."

Before the Department of Housing and Community Development quit auditing housing activity three years ago, it had found dozens of violations in about 40 cities: cities that did not set aside the full amount of money they were supposed to, overstated the number of units built or used the money for inappropriate purposes.

These days, cities are required to make annual reports on their housing activities and financial status to the housing department and state controller. But there is little to ensure the information is correct or that agencies do what they are supposed to.

A recent report by the state Senate Office of Oversight and Outcomes found a \$1.3-billion discrepancy between the controller and the housing department over how much money local agencies were holding.

In Lynwood, officials conceded during a recent lawsuit filed on behalf of residents that they could not fully account for how they had spent millions in affordable housing funds over more than a decade. They also admitted that they had not been putting the full 20% of revenue aside for housing, as required by law.

"There is no keeping track of the project files and there isn't any control ... as far as what should go in the file and where it's kept... I mean, there's no list," then-Assistant City Manager Lorry Hempe testified in a 2008 deposition.

Public Counsel, a pro bono law firm, settled the lawsuit last year after the city agreed, among other things, to build 91 homes.

In recent interviews, officials including City Manager Roger Haley said the sworn depositions and other admissions were not correct and that the city had used redevelopment money appropriately. "There were legal errors and missteps at the time of the case," Haley said.

Housing advocates also have filed lawsuits over the years against Escondido, Brea, Poway, Pittsburg and other cities, in which agencies agreed to put more money into their housing funds or build more housing.

But taking cities to court one by one is expensive and time-consuming.

"We cannot be the sole watchdogs," said Shashi Hanuman, directing attorney of community development at Public Counsel.

'Beautification' grants

If taxpayers and low-income residents are sometimes ill-served by redevelopment agencies, local officials and developers can make out very well indeed.

In several cities, city workers or council members received "beautification" grants or purchased homes from the redevelopment agencies.

In Grand Terrace, City Councilman Walt Stanckiewicz said he was startled to learn that three foreclosed homes purchased and fixed up with redevelopment dollars went to city employees and one to a city manager at the time. "I hate to use the word 'abuse,' but this is questionable," said Stanckiewicz, who looked into the deals at the request of The Times.

The former city manager, Tom Schwab, said he eventually reimbursed the city around \$140,000 for his home — the appraised value, according to the city. Schwab said the city offered it to him because living in Grand Terrace was a condition of his employment.

But Stanckiewicz said that the home was meant for people of limited means, and that the money Schwab paid back went into the city's general fund, not to the redevelopment agency. "He got a special deal," Stanckiewicz said. "As far as I'm concerned, he took a house away from a deserving low-income family."

In Fontana, the city handed a developer a lucrative deal in 1982, and taxpayers have been paying for it ever since.

City leaders back then agreed to pay 15.5% interest on a \$20-million flood control channel and other infrastructure improvements in the Jurupa Hills redevelopment area that were financed by the firm now known as Ten-Ninety. Then the project ballooned to \$179 million.

Unable to renegotiate terms, the city thus far has paid Ten-Ninety \$150 million in interest without reducing the principal by a cent. With all of its revenues going to the developer for interest payments, the redevelopment agency has used none of it to build affordable housing in that area.

"It was just a terrible deal for the city, and how they got talked into doing it is just beyond me," said John Husing, an Inland Empire economist.

In nearby Rancho Cucamonga, as well, taxpayers appear to have ended up on the wrong end of a deal with a developer.

In 2007, City Council members voted to pay \$42.5 million to nonprofit housing developer National Community Renaissance to keep about 550 already-low-income units affordable for 99 years.

It's not unheard of to pay developers to keep rents low, but in this case most of the units were already subsidized until at least 2024 by the city. The money represented the developer's estimate of the difference between the future market rate and the affordable rate, and nearly wiped out the agency's housing fund.

The deal went forward despite a consultant's report that said the payment would "significantly exceed the estimated market value for these properties." According to San Bernardino Deputy Dist. Atty. John Goritz, officials had been told that a more appropriate sum was about \$13 million.

In a criminal case indirectly related to the transaction, prosecutors accused Councilman Rex Gutierrez of pushing for the deal to curry favor with the nonprofit's chairman, whose help he had allegedly sought in securing a job with the county assessor's office.

Gutierrez was charged with theft in that job. His first trial resulted in a hung jury and he is now being retried.

Referring to the housing deal, Gutierrez's attorney, James Reiss, said his client "thought it was a good deal for everybody."

Orlando Cabrera, the president of National Community Renaissance, said the city made out well. "It's a very plausible way to preserve [affordable] units," he said.

But proponents of affordable housing said they were aghast.

"It's a bad deal," said Castellonet of the Affordable Housing Law Project. "It certainly doesn't provide benefit to low-income residents of Rancho Cucamonga."

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Exhibit B

The City of Long Beach Redevelopment Agency Report on the System of Oversight for Redevelopment Activities November 1, 2010

Introduction

Redevelopment agencies were established as early as 1945 after the enactment of the California Community Redevelopment Act. In 1951, the Community Redevelopment Act was codified and renamed the Community Redevelopment Law (CRL) (Health and Safety Code §33000 *et seq.*). The Long Beach Redevelopment Agency (Agency) is an extension of our local city government, which is overseen by local officials who are elected by and accountable to the voters. All of our Redevelopment Agency Board Members are confirmed by a majority of the Council. All of our records are open for public review. In addition, we regularly and thoroughly comply with numerous laws and reporting requirements as outlined in the following sections.

Legal Review of Agency Activity

Redevelopment agencies, as statutorily created and entitled, are only allowed to undertake those actions specifically authorized by the CRL. Additionally, agencies cannot undertake activities not authorized by the applicable redevelopment plan. To ensure compliance, all Agency activities are reviewed by the City Attorney's Office or contract attorneys approved by the City Attorney's Office. These legal experts assess whether the redevelopment plan and CRL authorize the activity or project and the manner in which the activity or project is to be implemented.

Public Participation

As a local public agency, the Redevelopment Agency is subject to the Ralph M. Brown Act, sometimes referred to as the Open Meetings Law. The Act strictly limits the circumstances under which the Agency may take any official action outside the public view. The Agency complies by giving notice of the time and place of all its board meetings and posting an agenda 72 hours prior to the meeting. Any member of the public may attend any regular Agency board meeting and provide testimony on any agenda item. Non-confidential materials provided to the decision-makers are also available to the public.

The CRL requires certain additional, formal procedures to ensure that citizens and taxing agencies have opportunities to provide input and comments regarding redevelopment activities. Public notice and public hearings are required for redevelopment plans and plan amendments, implementation plans, extension of time limits authorized by special statute, California Environmental Quality Act compliance, and acquisition and disposition of land. Requirements related to disposition of land are particularly detailed. At the time of first publication of notice of the hearing to sell or lease Agency-owned property, the Agency is required to have a draft of the proposed

sale or lease agreement on file for members of the public to inspect and copy, as well as a summary of the terms specifying the following:

- Land acquisition costs: land clearance or demolitions, relocation, any improvement to be provided by the agency, and expected interest on any loans or bonds to finance the agreement;
- Estimated value of the property to be leased or conveyed, determined at the highest and best uses permitted under the plan;
- Estimated value of the property to be conveyed or leased, determined considering the use and the conditions, covenants, and development costs required as term of the transaction;
- An explanation of why the sale or lease of the property will assist in the elimination of blight.

The Agency also has active Project Area Committees, which are groups of community members from the redevelopment project area who both provide input on the project, and inform the community of progress. They play a key role in forming the direction of activities and projects. They also help bridge the communication gap between the community and the Agency.

Financial and Reporting Requirements

The CRL requires the Agency to maintain adequate internal fiscal procedures and controls. The Agency is responsible for maintaining an accounting and reporting system that adheres to generally accepted accounting principles (GAAP) as well as specialized accounting requirements set forth in the CRL. The Agency must have accurate financial statements, a separate Housing Set-Aside Fund, and an adopted budget containing the agency's anticipated revenues, proposed expenditures, proposed indebtedness to be incurred.

The Agency complies annually with these requirements by submitting an annual report to the Office of the State Controller per Health and Safety Code §33080. The annual report details our finances, including tax increment, pass-through payments to affected taxing entities, existing debt, progress towards blight elimination and creation of housing units. Components include:

- Independent auditor's report on financial statements, including independent auditor's report on legal compliance
- Annual Report of Financial Transactions of Community Redevelopment Agencies
- Housing activities report
- Blight progress report (specifies actions and expenditures to alleviate blight)
- Loan Report (identifies loans of \$50,000 or more in default or not in compliance)
- A copy of the Statement of Indebtedness filed with the County Auditor

- A list of the fiscal years in which the following legal time limits will expire:
 - Commencement for eminent domain proceedings to acquire property within the project area
 - Establishment of loans, advances, and indebtedness to finance the redevelopment project
 - Effectiveness of the redevelopment plan
 - Ability to repay indebtedness with the proceeds of property taxes

As indicated in the first bullet above, an external auditing firm conducts an independent financial audit annually. The annual audit is performed in accordance with State Controller audit guidelines and Government Auditing Standards adopted by the U.S. Comptroller General. It tests the Agency's financial statements by project area and fund for accuracy and employs a random test methodology to ensure objectivity. However, its reach extends beyond financial review, as it also includes an opinion on the Agency's compliance with laws, regulations, and administrative requirements, including the timely filing with the State Controller of the annual report components listed above for the previous fiscal year.

The Agency presents this audit to the Agency Board and City Council each year as well as submits it to the Office of the State Controller as part of the Agency's annual report. If any major audit violations remain uncorrected, the State Controller will forward the relevant information to the Attorney General. A non-compliant Agency is subject to financial penalties or what is known as the "death penalty," which, among other limitations, prohibits the Agency from incurring any debt or expending any money derived from any source except to pay existing debt. This would effectively shut down the Agency's operations.

The Agency has also demonstrated that it has made all required pass-through payments to affected taxing entities going back to Fiscal Year 2003-04. This has been documented through the Agency's compliance with Health and Safety Code §33684. The Agency prepared a report of pass-through payments that was reviewed by the County Auditor and the State Controller. Had the Agency been found to be out of compliance with this requirement, the matter would have been forwarded to the Attorney General and the Agency would have been subject to the penalties described above.

Conclusion

There is a significant body of laws, procedures and requirements that provide oversight to redevelopment activities, which are strictly adhered to by Long Beach Redevelopment Agency.

Exhibit C

The Long Beach Housing Development Company Report on the System of Oversight in Place for Affordable Housing Activities October 20, 2010

Introduction

Redevelopment Agencies were established as early as 1945 after the enactment of the California Community Redevelopment Act. In 1951, the Community Redevelopment Act was codified and renamed the Community Redevelopment Law (CRL) (Health and Safety Code §33000 *et seq.*). The CRL governs the use of a redevelopment agency's 20% tax increment set-aside, which must be used to increase and improve the community's supply of affordable housing for persons and families of low and moderate income. In Long Beach, the 20% tax increment set-aside monies generated by the Long Beach Redevelopment Agency (Agency) are administered by The Long Beach Housing Development Company (LBHDC), a nonprofit 501(c)3 corporation created by the City of Long Beach, with the City as its sole member. The LBHDC is governed by an 11-member Board of Directors, all appointed by the Mayor and confirmed by City Council. The LBHDC is responsible for carrying out the City's affordable housing goals. All of its records are open for public review. In addition, staff regularly and thoroughly complies with numerous laws and reporting requirements as outlined in the following sections.

Public Participation

The LBHDC is subject to the Ralph M. Brown Act, sometimes referred to as the Open Meetings Law. The Act strictly limits the circumstances under which the LBHDC may take any official action outside the public view. The LBHDC complies by giving notice of the time and place of all its monthly board meetings and posting an agenda 72 hours prior to the meeting. Any member of the public may attend any regular LBHDC board or committee meeting and provide testimony on any agenda item. Non-confidential materials provided to the Board members are also available to the public.

In addition, the CRL requires certain formal procedures to ensure that citizens have opportunities to provide input and comments regarding affordable housing projects funded by redevelopment set-aside monies. Public notice and public hearings are required for the disposition of land purchased by redevelopment set-aside funds. At the time of first publication of notice of the hearing to sell or lease of said land, the Agency is required to have a draft of the proposed sale or lease agreement on file for members of the public to inspect and copy, as well as a summary of the terms, including the following:

- Estimated value of the property to be leased or conveyed, determined at the highest and best uses permitted under the plan.
- Estimated value of the property to be conveyed or leased, determined considering the use and conditions, covenants, and development costs required as term of transaction.

Housing Fund Requirements

In accordance with Health and Safety Code Section 33334.2, not less than 20% of all taxes that are allocated to the Long Beach Redevelopment Agency pursuant to Section 33670 must be used for the purposes of increasing, improving and preserving the community's supply of housing available at a housing cost affordable to persons and families of extremely low, very low, lower, low, and moderate income, as defined in Sections 50106, 50105, 50079.5, and 50093. Pursuant to Section 33334.3, the City established a Housing Development Fund, also known as SR 135, which is the depository for redevelopment 20% tax increment set-aside.

Health and Safety Code also allows the 20% tax increment set-aside to be used for planning and general administrative activities associated with affordable housing development provided the amount is not disproportionate to the amount actually spent to produce, improve and preserve affordable housing. To maintain compliance with the administrative expenditures guidelines, the Agency annually determines that the planning and administrative expenses to fund the activities carried out by City staff and the LBHDC are necessary for the production of affordable housing. Over the past several years, these costs have averaged 20% of the total annual set-aside revenue.

Additionally, Health and Safety Code requires new or substantially rehabilitated units to be restricted to occupancy by low- and moderate-income persons and families for a period of no less than 55 years for rental and 45 years for homeownership projects.

LBHDC investment in rental projects results in a 55-year affordability period. Early buyout options are not available. However, the LBHDC may permit the resale of homeownership units prior to expiration of the 45-year period. A common tool used by the LBHDC to protect its investment in homeownership projects is the establishment of an equity share program. Under this program, the owner is allowed to resell their assisted home at any time provided they repay the LBHDC 100% of its initial investment, plus a percentage of any equity realized at the time of resale. The proceeds are deposited into the Housing Development Fund for use in funding the production, improvement and preservation of additional affordable housing.

Processes to Ensure Compliance with CRL Requirements

All affordable housing projects and programs undergo a thorough review by City staff, in-house and contract attorneys, as well economic consultants, to ensure that these projects are designed, constructed and managed in accordance with CRL guidelines.

Staff enlists the services of external consultants to review all project development proposals and report on the financial feasibility of the project and confirm that the developer's request for assistance is warranted. They also ensure that affordable housing projects include sufficient number of affordable units appropriate to the amount of requested assistance. Staff also contracts with the law firm of Liebold, McClendon and Mann to supplement the City's in-house legal services, to ensure that all

development and loan agreements are written in accordance with CRL requirements and that the interests of the City, Agency and LBHDC are protected. The LBHDC's Programs and Projects Committees and full Board review and approve all development projects prior to the commitment of funds and commencement of affordable housing activities. City staff and consultants monitor all projects through the development and construction phase to ensure compliance with all agreements.

The Agency is also required to spend housing funds for specific income categories in proportion to the number of housing units needed for these groups, as set forth in the City's Housing Element. The State Department of Community Development certified the most current Housing Element for the period of 2008-2014 on June 3, 2009.

Affordable housing production goals and production are outlined in the Agency's Affordable Housing Compliance Plan Five-Year Implementation Plan, the most current version of which represents the period of October 1, 2010 through September 30, 2014.

The LBHDC's budget is approved annually by the City Council. The City Auditor's office, through KPMG, performs an annual audit of the LBHDC. In addition, all housing activities funded by the 20% tax increment set-aside are reported to the State as a component of the Agency's Annual Report to the Office of the State Controller.

Post Development Activities

Housing Services monitoring compliance staff annually reviews all affordable housing projects assisted by the City, Agency and LBHDC to ensure compliance with the occupancy and affordability restrictions set forth in the regulatory agreements and to verify that all homeownership units are owner-occupied.

Conclusion

Instances of abuses of use of affordable housing funds may exist. However, there are laws, procedures and requirements in place to oversee affordable housing activities and these are strictly adhered to by the LBHDC and City staff.