



Legal Update - California Supreme Court Agrees to Hear Redevelopment Challenge; Stays Portions of New Legislation

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As discussed in prior Legal Updates, the California Redevelopment Agency, the League of California Cities, and several redevelopment agencies filed a lawsuit in the California Supreme Court challenging newly-enacted legislation (ABX1 26 and ABX1 27) which dissolves redevelopment agencies as of October 1, 2011 unless the local jurisdiction agrees to make substantial payments to fund other local government functions.

Because of the statewide importance of the issue, the lawsuit was filed directly in the California Supreme Court (rather than going through the Superior Court and the Court of Appeal), and among other things, requested a stay of the newly-enacted legislation. In its preliminary response, the State Attorney General agreed that this was a matter of importance which should be considered by the California Supreme Court in the first instance, on an expedited basis.

On August 11, 2011, the Supreme Court agreed to hear the case and set an expedited hearing schedule designed to facilitate a decision before January 15, 2012.

Although the Attorney General opposed the granting of a stay, the Supreme Court did grant a partial stay. Specifically, the Supreme Court stayed the operation of the entirety of ABX1 27 (which provides for a continuation of operations of redevelopment agencies contingent on the required payments to other local government functions) and also portions of ABX1 26, including those provisions which call for dissolution of redevelopment agencies effective October 1, 2011. The Supreme Court did not grant a stay with respect to those provisions of ABX1 26 which prohibit a redevelopment agency from incurring new monetary obligations, incurring new indebtedness, pledging or encumbering its assets, making loans, disposing of assets including real property, acquiring real property through condemnation or otherwise, or adopting or amending redevelopment plans.

Based on the briefing schedule set forth by the Supreme Court, it appears that oral argument will occur sometime in 2011, and the Court will issue a decision before January 15, 2012.

The stay which has been issued includes ABX1 27, which authorizes enactment of "continuation ordinances" by agencies in order to avoid dissolution and continue operations. Accordingly the stay may preclude agencies that have enacted a continuation ordinance from conducting new business in reliance on the ordinance. It does not appear that the stay effects the ability of agencies to meet preexisting obligations.



Effectively, the Court's order maintains the status quo on both sides of the ledger until it has made its decision. That is, until the Court makes its final decision, redevelopment agencies will not be dissolved and can continue to honor existing obligations, but they cannot undertake any new activity or incur new obligations.

For more information about this legislation, or other redevelopment related legislative or legal updates, please contact Bill Shiber or JoAnne Dunec at 925-935-9400 or email them at bill.shiber@msrlegal.com or joanne.dunec@msrlegal.com. For more background on redevelopment agencies and how they operate, see *Miller & Starr California Real Estate 3d*, Chapter 30B "Community Redevelopment".