

OFFICE OF THE GENERAL COUNSEL

Legal Advisory

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Charles F. Robinson
General Counsel
Vice President for Legal Affairs

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SUMMARY

The California Supreme Court upholds legislation abolishing redevelopment agencies and strikes down the legislative attempt to save them.

If you have any questions, please feel free to contact:

Janet Norris
Senior Counsel
Business Transactions and
Land Use
Janet.Norris@ucop.edu

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CALIFORNIA REDEVELOPMENT AGENCIES ABOLISHED

The fate of California's redevelopment agencies has hung in the balance for the past twelve months as the Legislature and courts weighed in on Governor Brown's controversial 2011 budget action to abolish the agencies. On December 29, 2011 in *California Redevelopment Assn. v. Matosantos*, the California Supreme Court upheld A.B. 1X26, which allowed the dissolution of redevelopment agencies statewide, and struck down A.B. 1X27, which would have allowed redevelopment agencies to exist if certain requirements were met.

The Court's action was the result of legal challenges to two bills passed by the Legislature last summer: one that eliminated redevelopment agencies (A.B. 1X26) and another (A.B. 1X27) that allowed redevelopment agencies to continue to operate if the cities and counties that created them agreed to make payments into funds benefiting the state's schools and special districts. The California Redevelopment Association and the League of California Cities contended that both laws violated Proposition 22 which places limits on the state's ability to require payments from redevelopment agencies for the State's benefit.

The Court found A.B. 1X26 (abolishing redevelopment agencies) constitutional based on the Legislature's broad power to create and dissolve redevelopment agencies when it deems it necessary and proper. The Court held that nothing in the text of Article XVI, Section 16, of the California Constitution (the tax increment financing provision) or Proposition 22 rescinded the Legislature's power to dissolve redevelopment agencies.

The Court found A.B. 1X27 (allowing the agencies to continue in operation) unconstitutional because the continuation payments required under A.B. 1X27 would violate the prohibitions in Proposition 22 that forbid the legislature from requiring such payments.

The practical effects of the Court's recent action remain unclear. A.B. 1X26 dissolved redevelopment agencies statewide as of February 1, 2012 and suspended any new activities by those agencies. The legislation designated successor agencies to make payments and perform other obligations due under the enforceable obligations of the former redevelopment agencies, including legally binding and enforceable agreements or contracts. Notwithstanding these continuing obligations, the extent to which cities and counties can carry out these obligations may affect the viability of University projects planned or under development in areas where redevelopment agencies previously existed.