



Legal Update: California Supreme Court Ruling Winds Up Redevelopment Agencies: Legislative Reform May be Next

By [Basil "Bill" Shiber](#)

In an [opinion filed December 29, 2011](#), the California Supreme Court upheld Assembly Bill 1X 26, which dissolves redevelopment agencies as of October 1, 2011. The opinion also invalidated Assembly Bill 1X 27, which provides for the continuation of redevelopment agencies if the local jurisdiction agrees to make substantial payments to fund education and other functions. The immediate impact of this ruling is that it dissolves redevelopment agencies, and transfers control of redevelopment agency assets to a successor agency, which is contemplated to be the city or county that created the redevelopment agency. Because of the litigation and associated stay, the Supreme Court extended all deadlines imposed under AB1X 26 by four months. Thus, it appears that the dissolution date of October 1, 2011 specified in AB1X 26 is extended to February 1, 2012. Enforceable obligations existing before adoption of the legislation in June 2011 are unaffected, and should continue to be honored by the redevelopment agency or its successor.

The Supreme Court's ruling also invalidates AB1X 27, which would have allowed for continued operation of a redevelopment agency, conditioned on the local jurisdiction making specified payments for education and other local government functions. The Supreme Court found that this provision violates Proposition 22, enacted by the voters in 2010 and which amended the State Constitution to limit the state's ability to require the payment of tax increment for the state's benefit.

The California Redevelopment Association and the League of California Cities have already indicated that they will lobby state legislators to develop a plan to revive redevelopment agencies and continue redevelopment functions in California. The purpose of the legislation was to narrow the state budget shortfall by reallocating \$1.7 billion in tax increment revenue from redevelopment to education and other local government services. However, proponents of redevelopment argue that eliminating redevelopment will eliminate an engine of economic development and reduce the availability of affordable housing. What the Supreme Court's ruling makes clear is that it is up to the Legislature to decide the manner in which redevelopment functions in California occur and are funded. In doing so, the Supreme Court squarely rejected the arguments of redevelopment agencies that the Legislature was constitutionally precluded from impairing their operation. In short, the Supreme Court held that because the Legislature created redevelopment agencies, the Legislature can dissolve them.

Whether and how this ruling affects specific transactions involving redevelopment agencies or funding should be analyzed on a case by case basis. AB1X 26 specifies the manner in which the obligations, assets and affairs of a redevelopment agency are to be wound up, and the Supreme Court's ruling upholds those provisions.

For more information about this legislation, or other redevelopment related legislative or legal updates, please contact Basil S. Shiber, Arthur Coon, Michael Di Geronimo or JoAnne Dunec at 925.935.9400.

For more background on redevelopment agencies and how they operate, see [Miller & Starr California Real Estate 3d](#), Chapter 30B "Community Redevelopment".