

COPY

No. S194861

**IN THE SUPREME COURT OF
THE STATE OF CALIFORNIA**

CALIFORNIA REDEVELOPMENT ASSOCIATION,
LEAGUE OF CALIFORNIA CITIES, CITY OF UNION
CITY, CITY OF SAN JOSE, AND JOHN F. SHIREY,
Petitioners,

v.

ANA MATOSANTOS, in her official capacity as Director of
Finance, JOHN CHIANG, in his official capacity as the
Controller of the State of California, PATRICK
O'CONNELL, in his official capacity as the Auditor-
Controller of the County of Alameda and as a representative
of the class of county auditor-controllers,
Respondents.

**APPLICATION OF THE COUNTY OF SAN
BERNARDINO TO SUBMIT AMICUS CURIAE AND
JOINDER BRIEF, AND AMICUS CURIAE AND
JOINDER BRIEF IN SUPPORT OF PETITIONERS**

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SUPREME COURT
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APPLICATION AND STATEMENT OF INTEREST OF

AMICUS CURIAE

(Cal. Rules of Court 8.520(f))

Application

The County of San Bernardino, California applies for permission to file the attached Amicus Curiae and Joinder Brief in support of Petitioners, California Redevelopment Association, League of California Cities, City of Union City, City of San Jose, and John F. Shirey (“Petitioners”).

Issues Presented

The issues presented in the instant action are whether AB X1 26 and AB X1 27 which attempt to eliminate redevelopment agencies and provide an opt-in provision to the Alternative Redevelopment Program upon payment of a specified amount of funds to the State, and certain local districts violate provisions of the California Constitution.

Statement of Interest

The County of San Bernardino (“County”) is a political subdivision of the State of California located in the inland region of Southern California. It is the largest county in the State of California in terms of geographical area and has a population of approximately 2.1 million. The County Redevelopment Agency of the County of San Bernardino was established in 1980. The Agency has two (2) Project Areas and one joint Project Area with a city located within the boundaries of the County.

This case is particularly important to the County of San Bernardino and a significant number of its citizens who rely on affordable housing programs, public facilities, and other projects made possible through the use of redevelopment funds in their community. The loss of redevelopment funds would be detrimental to the County and thus, the County has a meaningful and direct interest in the issues presented.

AMICUS CURIAE AND JOINDER BRIEF IN SUPPORT OF
PETITIONERS CALIFORNIA REDEVELOPMENT
ASSOCIATION, LEAGUE OF CALIFORNIA CITIES, CITY OF
UNION CITY, CITY OF SAN JOSE, AND JOHN F. SHIREY
(“PETITIONERS”)

The County of San Bernardino (herein referred to as the “County”) joins in and supports all the arguments made by the Petitioners in their opening brief and reply brief.

I. INTRODUCTION AND BACKGROUND

The County has suffered tremendously during the current economic crisis. The unemployment rate as of March 2011 was approximately 13.7%, while the State of California and the United States saw rates of approximately 12.0% and 8.8% respectively. Median housing prices have declined approximately 43% for new homes and approximately 60% for existing homes from their high ranges in 2005 through 2007 respectively. There are over 517,000 homes and condominiums, of which 51% are in a negative equity status. Over 40,000 of these homes are in some stage of foreclosure. (see Declaration of Dena Fuentes, Director of Redevelopment and Housing, County of San Bernardino). As a result, the County’s property tax revenues have declined which has led to a decrease in County revenues. The County has struggled to utilize its declining resources to meet the needs of its diverse population and aging infrastructure.

Rather than view redevelopment as the root of all evil and the cause of the State budget woes, the County has been the beneficiary of redevelopment used as a tool to among other things, construct needed public infrastructure and to help rebuild a community devastated by the 2003 Old Fire, which destroyed over 320 homes and economically damaged the commercial community within the Cedar Glen area of the

County. Redevelopment funds have been used to rebuild a woefully inadequate water system previously owned by private owners before becoming part of a County Service Area water system; rebuilding of the water system has allowed the reconstruction of homes as well as beginning the process of providing sufficient water pressure to fight future fires. Destroying redevelopment would severely impact the County's ability to supply and improve necessary infrastructure and would dash the hopes of citizens who have already suffered significant losses as a result of a wildfire.

**A. The Redevelopment Agency of the County of San Bernardino
Has Provided Substantial Resources and Benefits to the
County**

Redevelopment has served the needs of a growing population. The Redevelopment Agency of the County of San Bernardino ("Agency") was established to address blight in areas of the County and the need for new public improvements, affordable housing and commercial and industrial development to help expand the County's economic base. The Agency currently administers two project areas and participates in one joint project area with a city located within the County jurisdiction.

The first Project Area, San Sevaine, was established in 1995 and encompasses approximately 3,426 acres. It includes the California Speedway as well as 9 million square feet of commercial/industrial use. The Agency has contributed funds to a variety of projects. The Agency has partnered with the County, City of Fontana and SANBAG, the local transportation agency to contribute \$17.2 million to the Cherry Avenue Interchange project which will help improve traffic circulation and promote safer access to the gateway of the industrial area. The improvement of the transportation system is critical to assist in the economic recovery of the

County since the logistics industry is a major County business cluster. Over the last ten years, the Agency has invested \$34 million in infrastructure projects such as: flood control improvements, street widening, intersection improvements and Interstate interchange widening. With planned infrastructure improvements in excess of \$40 million over the next five years, the Agency continues to focus on removing economic infrastructure impediments and blight in order to facilitate economic reinvestment. (see Declaration of Dena Fuentes)

The planned Agency improvements are estimated to generate over 570 jobs. The Agency investment over the last ten years has generated approximately 490 jobs. The Agency's recent public investment, it has leveraged over \$500 million of private funds in building over 9 Million square feet of large industrial buildings. This has positively benefited manufacturing sectors of the County's economy which typically have higher-paying jobs. (see Declaration of Dena Fuentes)

Several infrastructure projects would not have happened unless the Agency funds were invested. The I-10 and Cherry Interchange project was stalled do to a lack of funds at the State and City levels. The total project cost was \$77 million. However, the State and City of Fontana did not have enough funds to pay for the Interchange. The Agency is contributing a total of \$17.2 million to the project. With the Agency contribution, the State was able to retain \$30 million of federal funds. Other planned improvements include the Cherry Avenue Grade Separation which will widen the existing bridge from four lanes to six lanes and include a median. Over the next five (5) years, the Agency is planning to invest over \$40 million in needed infrastructure improvements. These projects include the construction of a bridge that spans the BNSF/Metrolink rail road tracks between Merrill Avenue and Whittram Avenue; the Whittram Avenue to Foothill Boulevard project would widen Cherry Avenue, a major business

arterial, from four lanes to six. The final configuration will complete the ultimate design north to connect to the Interstate 210. This would ultimately improve traffic flow. (see Declaration of Dena Fuentes)

The Agency has helped a large business in the Project Area, California Steel Industries (“CSI”) by providing assistance to improve air quality around a large furnace and remove dilapidated structures no longer needed. CSI invested \$70 million in this site and is currently working with the Agency to expand on its site. This has helped create approximately 160 jobs, a number of which are higher-paying jobs for an economically strapped community. In addition, the Agency financed the construction of Redwood Terrace, a 68-unit senior citizens housing project. (see Declaration of Dena Fuentes)

In 2004, the Agency formed the Cedar Glen Disaster Recovery Project Area in response to the 2003 Old Fire (one of a series of wildfires that have devastated the mountain region of the County). Analysis after the Old Fire led to the conclusion that two of the contributing factors to the great losses were lack of an adequate water supply and lack of access roads to fight the fire in certain areas. The small water company located in the area was privately owned and the infrastructure was completely inadequate (much of the pipeline system had been built using leftover pipes from a decommissioned World War II ship). The water company was bought out of receivership by a County Service Area (“CSA”) and since that time, the Agency has worked with the CSA to improve the wells and pipelines and add tanks within the Project Area, leading to improving water conditions and pressures. The multi-phased projects proposed by the CSA were based on various studies and analyses that have provided a greater understanding of the community’s problems, which in turn has enabled the Agency and County Special Districts Department to work collaboratively and more effectively address the issues. Four (4) phases need to be completed to

fully restore the Cedar Glen area to pre-fire condition. The planned water and road improvement projects will aid the 324 fire-damaged parcels and improve 300 parcels greatly impacted by the fire. The County plans to invest over \$18 million to address these issues which include \$15 million in Agency funds. To date the Agency has encumbered or spent over \$4 million on the first phase of public improvements. The remaining funds, \$11 million, will fund the remaining two phases of the project.

The following describes the phases of road and water improvements that have been completed and are planned for the Cedar Glen Disaster Recovery Project Area. Phases 1 and 2 are complete, with over \$7 million spent or encumbered to rebuild this area:

- PHASE 1 - Phase 1 includes water and road improvements to 135 parcels: 18 existing customers (rehabilitated or no damage), 24 rebuilt parcels, and 93 remaining fire damaged parcels (future rebuild).
- PHASE 2 - Phase 2 provides water and road improvements to 65 parcels: 13 existing customers (rehabilitated or no damage), 14 rebuilt parcels, and 38 remaining fire damaged parcels (future rebuild). Project components and costs for Phase 3 are noted below.

Phases 3 and 4 are projected to be completed in the next few years with \$11 million of Agency investment.

- PHASE 3 - Phase 3 provides water and road improvements to 328 parcels: 227 existing customers (rehabilitated or no damage), 17 rebuilt parcels, and 84 remaining fire damaged parcels (future rebuild).

- PHASE 4 - Phase 4 provides water and road improvements to 88 parcels: 15 existing customers (rehabilitated or no damage), 11 rebuilt parcels, and 62 fire damaged parcels (future rebuild). (See Declaration of Dena Fuentes)

The Agency is in the process of providing approximately \$15 million to the Project. In addition, the Agency has been able to purchase parcels of land to help provide adequate turnouts for fire truck access within the Project Area. All of these activities have helped promote the rebuilding of approximately 70 residences that were destroyed by the fire. The Agency is also assisting residents by providing a grant program to help homeowners make improvements such as eaves, which could prevent fire damage to the homes. In addition, the Agency is working with the business community to provide parking lot and business façade improvements as well as access improvements, which will help attract business activity to the area. This will help County sales tax growth and continue to assist the Cedar Glen community in its recovery efforts. (see Declaration of Dena Fuentes)

Until the stay was issued, the Agency and the County were in negotiations to acquire 11 properties that would result in four (4) affordable housing developments and approximately 300 affordable units. The sources of funds to complete these projects would include federal grants, tax credits, private equity and redevelopment housing set aside funds. Loss of redevelopment funds might jeopardize the projects and could result in a loss of affordable housing in the community.

In its Mission Boulevard Project Area, which is a joint project with the City of Montclair, the County and City have worked together to eliminate substantial blight and make improvements to increase the economic activity in the area. The Agency intends to provide assistance to

homeowners within the area to promote safe and sanitary housing. The Agency has contributed approximately \$100,000 to the area. (see Declaration of Dena Fuentes)

B. The Elimination of Redevelopment Would Halt Most of the Economic Activities in the Project Areas

The elimination of redevelopment agencies would have a drastic adverse impact on most of the activities described above that have been taking place within the Project Areas. This would in turn stall economic recovery in those areas as well as other parts of the County and derail the elimination of blight and slow the increase in affordable housing stock. Without the ability to utilize tax increment to finance the activities described herein, those activities are likely to cease. The County does not, and even if redevelopment agencies are eliminated, will not, have the revenues to contribute to the activities and projects currently under the auspices of the Agency. The inability to provide infrastructure and assistance to businesses will adversely impact the economic recovery and growth within those communities. As an area already suffering from the severe effects of the depression which has hit the Inland Empire region, the loss of redevelopment and its activities is likely to increase the economic devastation, forestall recovery and increase the burden on County resources. The ability to leverage redevelopment funds allows the Agency to provide needed improvements and services and benefit the community. In addition, the "spillover" or multiplier effect of the funds spent in Project Areas and jobs brought to the community benefits the County and the region as a whole. Continuation of redevelopment is vital to the County's future survival and growth.

The impact of the State budget which led to the adoption of AB X1 26 and AB X1 27 will eliminate over \$182.5 million this fiscal year and an

estimated \$43 million in next year (a total of \$225.5 million) from the local regional economy. The direct and indirect benefit to one of the most impacted counties in the nation during the current recession is over \$902 million to the local region, based on the reasonable assumption of the use of a four-time multiplier effect. It is estimated that over 3,000 jobs could have been created through continued Agency investment. The taking of local property tax dollars to fund State operations has a catastrophic economic impact to one of the largest counties in the nation that is struggling to address the negative impacts created by the recession.

II. CONCLUSION

The County supports redevelopment and therefore joins Petitioners' opening and reply briefs. This Court is respectfully urged to grant the Petition for Writ of Mandate ordering Respondents to refrain from enforcing AB X1 26 and AB X1 27.

DATED: September 29, 2011

Respectfully submitted,

JEAN-RENE BASLE
County Counsel


MICHELLE D. BLAKEMORE
Chief Assistant County Counsel

*Attorneys for Amicus Curiae,
COUNTY OF SAN BERNARDINO*

CERTIFICATE OF COMPLIANCE

Pursuant to California Rules of Court 8.204(c) and 8.486(a)(6), and in reliance upon the word count feature of the Microsoft software used, I certify that the attached **Application of the County of San Bernardino to Submit Amicus Curiae and Joinder Brief, and Amicus Curiae and Joinder Brief in Support of Petitioners** contains 2,438 words, exclusive of those materials not required to be counted under rules 8.204(c) and 8.486(a)(6).

DATED: September 29, 2011

Respectfully submitted,

JEAN-RENE BASLE
County Counsel



MICHELLE D. BLAKEMORE
Chief Assistant County Counsel

*Attorneys for Amicus Curiae,
COUNTY OF SAN BERNARDINO*

DECLARATION OF DENA FUENTES

I, Dena Fuentes, declare and state as follows:

1. I am the Director of Redevelopment and Housing for the County of San Bernardino. I have worked in the areas of community development and redevelopment for 26 years and have held positions as a Director of Redevelopment for 13 years. I am familiar with the activities and operations of redevelopment agencies in general and the County of San Bernardino Redevelopment Agency ("Agency"). I have personal knowledge of the following matters and could competently testify thereto if called upon to do so in a court of law.
2. Based upon statistics provided by the California Economic Development Department and the County of San Bernardino ("County"), the County's unemployment rate as of March 2011 was approximately 13.7%. During that same time period, the unemployment rate for the State of California was approximately 12.0% and for the United States, approximately 8.8%.
3. Based upon data provided by John Husing of Economics & Politics, Inc., a consultant who works with public entities in the Inland Empire region of Southern California, median housing prices within the County declined approximately 43% for new housing and approximately 60% for existing housing from high ranges in 2005 and 2007 respectively. There are over 517,000 homes and condominiums in the area, of which approximately 51% are in a negative equity position. Over 40,000 homes are in some stage of the foreclosure process.
4. The San Sevaine Redevelopment Project Area ("San Sevaine Project Area") was established in late 1995 and includes approximately 3426 acres. The California Speedway is located within the San

Sevaine Project Area. That area also includes approximately 9 million square feet of commercial and industrial space.

5. Since the inception of the San Sevaine Project Area, the Agency has funded and plans to fund a substantial number of infrastructure projects including: portions of the San Sevaine Flood Control project, the San Bernardino Avenue widening, Whittram Avenue widening, Cherry Avenue Grade Separation project and several other needed improvements. It has contributed \$34 million to those projects, most of which would not have been constructed without the contribution of Agency funds. Approximately 450 jobs have been generated. In addition, the Agency has leveraged over \$500 million in private funds. One of the major current projects is the Interstate 10 Freeway Cherry Avenue Interchange Project (“Interchange Project”). The goal of the Interchange Project is to replace a five-lane bridge over Interstate 10 to widen it to eight lanes and add one additional lane on all four ramps of the Interchange. The Agency has partnered with the California Department of Transportation, the County, the City of Fontana and SANBAG, the local transportation agency on the Interchange Project and is contributing a total of \$17.2 million. The total project cost is approximately \$77 million and the entities involved did not have sufficient funding to keep the project on track. The Agency’s investment allowed the State to keep \$30 million in federal funding. Without that contribution, the Interchange Project would not have been able to move forward. With the completion of the Interchange Project, it is anticipated that business investment and jobs will be created and the improvements will alleviate traffic congestion and improve mobility at this location. Over the next five years, the Agency had planned to expend over \$40 million in needed infrastructure improvements to

eliminate impediments to economic growth. The proposed Agency improvements could generate over 570 jobs.

6. The Agency has also provided financial assistance to California Steel Industries (“CSI”), a manufacturing business that employs approximately 900 people. The funds were used to improve the air quality around a large furnace and remove unneeded structures. CSI invested approximately \$70 million of its own funds on the project. The Agency and CSI are working together to help expand CSI’s presence on its existing site, which will likely provide higher paying jobs to approximately 160 people.
7. The Agency has also provided the funding for Redwood Terrace, a 68-unit senior housing project located near the gateway to the San Sevaine Project Area.
8. The Cedar Glen Disaster Recovery Project Area was formed in 2004 as a response to the Old Fire, which destroyed over 320 homes in one of the mountain communities. It is one of the few Disaster Recovery Project Areas in the State of California. The Agency has been able to provide critical funding to help make improvements to roads and the inadequate water system located within the Cedar Glen community. The water company was previously privately owned and the infrastructure was in a dilapidated, almost unusable condition. Much of the existing pipe work had been constructed from a decommissioned navy warship used in World War II. There were substantial leaks in the system and an insufficient number of tanks and wells for adequate water supply for this community. An analysis conducted after the Old Fire led to the conclusion that there was insufficient water pressure throughout much of the system and insufficient turnouts for fire trucks to be able to adequately fight

fires. The water system has since been purchased by a County Service Area (“CSA”).

9. The Agency is in the process of providing \$15 million in funding to upgrade the system. Four phases of the upgrade need to be completed to fully restore the Cedar Glen area to pre-fire condition. The following describes the phases of road and water improvements that have been completed and are planned for the Cedar Glen Disaster Recovery Project Area. Phases 1 and 2 are complete, with over \$7 million spent or encumbered to rebuild this area:

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13. Overall, the Agency has contributed and plans to contribute over \$89 million to the Project Areas. Taking into account a reasonable four-time multiplier effect, it is estimated the Agency plans to contribute \$356 million to the local economy, which is critical to the economic recovery and future growth of the County itself. The impact of the State actions will eliminate over \$182.5 million this fiscal year and an estimated \$43 million next year, for a total of \$225.5 million from the local economy. The direct and indirect benefit to one of the counties hit the hardest by the recession is over \$902 million to the local region, assuming the four-time multiplier effect. It is estimated over 3,000 jobs would be generated by the Agency's investment. The taking of local property tax dollars to fund State operations has a severe economic impact to one of the largest counties in the nation.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 29th day of September, 2011 at San Bernardino, California.


Dena Fuentes

PROOF OF SERVICE

I am employed in the County of San Bernardino, State of California. I am a citizen of the United States, employed in the County of San Bernardino, State of California, over the age of 18 years and not a party to nor interested in the within action. My business address is 385 North Arrowhead Avenue, Fourth Floor, San Bernardino, CA 92415-0140.

On September 29, 2011, I served a copy of the **Application of the County of San Bernardino to Submit Amicus Curiae and Joinder Brief, and Amicus Curiae and Joinder Brief in Support of Petitioners** on the persons below, as follows:

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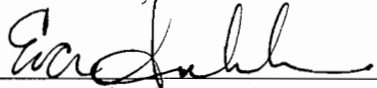
I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed above and deposited the sealed envelope on September 29, 2011, with the United States Postal Service, in San Bernardino, California with postage fully prepaid.

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I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at San Bernardino, California.

I declare under penalty of perjury under the laws of the State of California, that the above is true and correct, and that this declaration was executed on September 29, 2011, at San Bernardino, California.



Eva Andrade, Declarant