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## Catching Up with Winding Down: The Status of California Redevelopment Successor Agencies

By Robert C. Herr, Noa L. Clark, and Paul C. Levin

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*Successor agencies to California's dissolved Redevelopment Agencies ("RDAs") continue to wind down the operations of the former RDAs under the supervision of oversight boards pursuant to Assembly Bill XI 26 ("AB 26") as modified by Assembly Bill 1484 ("AB 1484"). Successor agencies are currently addressing several issues for the first time relating to enforceability of contracts, the distribution of agency funds, and the future of properties formerly owned by RDAs. This advisory explains the current state of successor agencies and how successor agencies are dealing with issues raised by the wind-down process.*

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*For more information on the dissolution of RDAs, see our previous discussions of the topic in these Pillsbury publications: [State Supreme Court Upholds Dissolution of California Redevelopment Agencies](#) and [California's Post Redevelopment Agency Landscape](#).*

### Successor Agency Funding and Payment Schedules

In the fall of 2012, successor agencies submitted and the California Department of Finance ("Finance") reviewed the third set of Recognized Obligation Payment Schedules ("ROPS") since the dissolution of RDAs. These schedules are essential because successor agencies are only able to make payments for items that are listed and approved on the applicable ROPS. Each ROPS covers a six-month period and the third period covers payments to be made by successor agencies for the period from January 1, 2013 to June 30, 2013.

New to this third set of ROPS reviews is a meet-and-confer process added by AB 1484 that allows a successor agency to challenge Finance's decision to reject an item from being approved on a ROPS.<sup>1</sup> At a meet-and-confer session, the successor agency can provide additional support for an item before Finance

<sup>1</sup> California Health & Safety Code Section 34177(m). All code references are to the California Health & Safety Code.

issues a final determination of whether the requested payment item will be approved on the ROPS. During these recent meet-and-confer sessions, some successor agencies were able to convince Finance to approve items initially rejected on their ROPS, while others had their requests rejected. Since AB 1484 does not provide a way for a successor agency to appeal a determination made by Finance after a meet-and-confer session, Finance's continued rejections of certain items have led to instances of successor agencies and private parties bringing suit against Finance, asking a court to order approval of certain items on a ROPS. Many of these disputes are ongoing but some cases have been dismissed because Finance subsequently approved the obligation at issue.

### Financial Clean-Up Provisions of AB 1484

Because of the delayed dissolution of RDAs resulting from the California Supreme Court's stay of the implementation of AB 26, AB 1484 requires a true-up process to ensure that property tax revenues were properly distributed amongst taxing entities during the 2011-2012 fiscal year.<sup>2</sup> In July 2012, successor agencies had to choose either to make the true-up payment as imposed by AB 1484 or to face severe penalties against both the successor agency and its city or county.<sup>3</sup> This led to several lawsuits brought by cities and their successor agencies ranging from disputes over miscalculations of the amount due in a true-up payment to larger challenges on the constitutionality of the true-up process and AB 1484 as a whole.

AB 1484 also requires a due diligence review to determine the unobligated balances of each successor agency that are available for transfer to taxing entities.<sup>4</sup> The due diligence review involves separate reviews of each successor agency's Low and Moderate Income Housing Fund and of all other funds and accounts.<sup>5</sup> The Low and Moderate Income Housing Fund review took place first and Finance's reviews of these determinations were completed by November 2012. The reviews of all other funds and accounts have been submitted by the successor agencies and Finance will complete its reviews of these determinations by April 1, 2013.<sup>6</sup> The League of California Cities is currently involved in a lawsuit where it is challenging, among other things, the legality of the penalties the due diligence review and true-up process seek to impose.

Once a successor agency completes the requirements of both the true-up process and due diligence review, Finance will issue a finding of completion that expands the authority of each agency in carrying out the wind down process.<sup>7</sup> A finding of completion allows a successor agency to, among other things, retain real property assets of the dissolved RDA and utilize proceeds derived from bonds issued prior to January 1, 2011.<sup>8</sup>

### The Next Steps for Successor Agencies

After receiving a finding of completion, each successor agency is required to submit a Long Range Property Management Plan detailing what it intends to do with its inventory of properties.<sup>9</sup> Successor agencies are not required to immediately dispose of their properties but are limited in terms of what they

<sup>2</sup> Section 34183.5.

<sup>3</sup> Section 34183.5.

<sup>4</sup> Section 34179.5.

<sup>5</sup> Section 34179.5.

<sup>6</sup> Section 34179.6(d).

<sup>7</sup> Section 34179.7.

<sup>8</sup> Section 34191.4.

<sup>9</sup> Section 34191.5(b).

can do with the retained properties. Permissible uses include: sale of the property, use of the property to fill an enforceable obligation, retention of the property for future redevelopment, and retention of the property for governmental use.<sup>10</sup> These plans must be filed by successor agencies within six months of receiving a finding of completion, and Finance will review these plans as submitted on a rolling basis.<sup>11</sup>

As successor agencies move closer to receiving their findings of completion over the course of the spring, expect to see successor agencies begin to develop Long Range Property Management Plans and decide which properties they wish to sell. This process could create exciting new opportunities for acquisition of former RDA assets in 2013.


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If you have any questions about the content of this advisory, please contact the Pillsbury attorney with whom you regularly work, or the authors below.

Robert C. Herr **(bio)**  
San Francisco  
+1.415.983.1038  
robert.herr@pillsburylaw.com

Noa L. Clark **(bio)**  
San Francisco  
+1.415.983.1298  
noa.clark@pillsburylaw.com

Paul C. Levin **(bio)**  
San Francisco  
+1.415.983.1876  
paul.levin@pillsburylaw.com

<sup>10</sup> Section 34191.5(c)(2).

<sup>11</sup> Section 34191.5.

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