

WHAT THE END OF REDEVELOPMENT MEANS FOR AFFORDABLE HOUSING DEVELOPERS

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Presentation Outline

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- How Does ABx1 26 Impact RDA Housing Projects?
- What Happens To My RDA Agreements?
- What Should Developers Be Doing?
- What About Pending Litigation and Legislation?
- Further Q&A

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4 How Does ABx1 26 Impact RDA Housing Projects?

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What Can RDAs Do Between Now And February 1?

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- Suspended, Except:
 - Enforceable Obligations ("EO")
 - Payments from EO
 - Amend Enforceable Obligation Payment Schedule ("EOPS")
 - Decision - "Successor Housing Agency"

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What Happens On February 1?

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- RDAs dissolved
- Successor Agency ("SA") - Takes Over
 - Wind down affairs of former RDAs
- Successor Housing Agency ("SHA") - Assumes Housing Functions
 - Preserves housing functions

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What Specifically Happens To Housing Assets And Obligations?

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- SHA - Assumes Housing Assets and Housing Functions of former RDA
- Procedure - Not Defined for Transfer
- Assets, Rights and Obligations
- Funding Available to SHA
- Enforceable Obligations

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Funding For SHA?

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- Assets, Program Income, Sale Proceeds, Housing Fund Loan Repayments
- Administrative Costs - SA Budget?
- Funding allocated to SA and then to SHA - to pay obligations listed on Recognized Obligation Payment Schedule ("ROPS")
- SHA obligations paid with tax increment funds should be listed on EOPS/ROPS
- Encumbered Funds - due prior to May/June 2012 should remain with SHA

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Questions - How Does ABx1 26 Impact RDA Housing Projects?

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- Is SHA governed by redevelopment law or general state law?

- Does SHA submit an EOPS or ROPS?

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Questions - How Does ABx1 26 Impact RDA Housing Projects?

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- Can SHA use monies owed to the Housing Fund for new developments, or do these revert to SA?
- Can SHA sell property and use the funds for new developments?

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Questions - How Does ABx1 26 Impact RDA Housing Projects?

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- What happens to bond funds raised by a pledge of Housing Fund tax increment?

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What Happens To My RDA Agreement After February 1st?

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Can My Agreement Be Terminated?

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- Enforceable Obligation:
 - ▣ Fully executed and duly authorized
 - ▣ Entered into prior to June 28, 2011

- Confusion about types of agreements that can be terminated

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Agreements Between RDA and Public Agencies

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- Agreements between RDA and public agencies subject to "Clawback":
 - ▣ After January 1, 2011
 - ▣ Third Party – Commitments

- Other Agreements between RDA and public agencies

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Agreement Between Agency And Private Party

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- New legislation requires Oversight Board ("OB") to direct SA to determine whether any contracts between RDA and private party should be dissolved or renegotiated

- However, OB/SA Cannot Terminate Housing Contracts

- Housing Agreement with Enforceable Payments - OB/SA's Role

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Evolving Title Issues

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- Procedure to Transfer Title
 - ▣ Check with Title Officer

- Title Exception

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Questions: After February 1st ...

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- Can my Affordable Housing Agreement be amended?

- Can I enter into a new Housing Agreement?

- Who will execute "Agency" documents?

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Questions

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- Is a DDA/Exclusive Negotiating Agreement/Property Transfer/Loan Commitment an EO if:
 - ▣ It was executed prior to January 1, 2011?
 - ▣ What if executed between January 1, 2011 and June 28, 2011?
 - ▣ What if executed after June 29, 2011?

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Questions

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- What documentation should SHA request to evaluate the legitimacy of an alleged enforceable housing obligation?
- Is SHA obligated to terminate contracts to preserve assets?

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What Should Developers Be Doing?

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Actions Before February 1, 2012

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- Examine all obligations to help determine if they are EO
- List all EO on EOPS through end of fiscal year
- SHA
 - ▣ Housing Authority or HCD?
- Oversight Board-Appointees

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Actions After February 1, 2012

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- All housing EO listed on ROPS
- SA completes ROPS
- Housing assets and obligations are turned over to SHA
- Check with title company regarding transfer issues

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Pending Litigation

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- New Challenges filed

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Pending Legislation (cont.)

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- SB 654 - Transfer of Housing Fund - SHA
 - ▣ Has passed out of one Senate committee and is awaiting hearing in another

- SB 659 - Delay RDAs Dissolution - April 15, 2012

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Questions - What About Pending Litigation and Legislation?

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- If SB 654 passes, when would SHA receive former RDAs' unencumbered Housing Funds and be able to use them for new developments?

- Is SA obligated to list an amount on its ROPS equal to the tax increment its predecessor RDA would have deposited in its Housing Fund, even if such funds were not encumbered pursuant to enforceable obligations?

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Further Questions & Answers

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For more information, please either visit our website at www.goldfarbblipman.com or e-mail or call Dianne Jackson McLean, Erica Williams Orcharton, Luis Rodriguez, Josh Mukhopadhyay or any attorney at Goldfarb & Lipman LLP

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