

*by Complaint*



# City of Thousand Oaks

MAYOR MICHAEL SEAN MARKEY

September 10, 1998

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Donald W. Thibeault, Foreman  
1997/98 Ventura County Grand Jury  
Government Center  
800 South Victoria Avenue  
Ventura, California 93009

*JK*  
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**Subj: Response to 1997/98 Ventura County Grand Jury Final Report**

Dear Dr. Thibeault:

The following comments are provided in response to the 1997/98 Ventura County Grand Jury Final Report.

1. "1997-98 Ventura County Grand Jury Supplemental Report -- County of Ventura Redevelopment Study." The supplemental report was reviewed by city staff who provide the following observations. The background section of the report does a good job in providing the reader with a summary of how redevelopment agencies are established. An appropriate addition would be that while the use of this type of local activity was modest prior to Prop 13, many cities in this county and around the state, including Thousand Oaks, had established their redevelopment agencies long before Prop 13. Further, a correction relating to the annual assessed value increase should indicate that the increase can be up to 2% per year, not 1% per annum.

The report makes mention that projects funded by the agencies are for developers, and while this may be the case for some projects of the other cities studied, this has not been the case in Thousand Oaks. Thousand Oaks Redevelopment Agency programs are driven by the overall needs of the community and the specific project area. In fact, projects have included undergrounding utilities, rehabilitation of small business facilities, street and landscaping improvements for general benefit, pocket park, significant low and moderate housing projects, community theatres and meeting rooms.

In response to the specific recommendations, "the involvement of the State Mediation Board to help settle regional disputes over redevelopment actions" is really an issue between respective jurisdictions. Our city has not experienced problems as were presented in the report. We are not in agreement that there are "loopholes" in AB 1290, in fact, this legislation is more restrictive than prior regulations. It is our opinion that the definition of "blight" should be determined by the local agency at the local level using the standards that best served that community within the guidelines of the state law.

2. "Inquiry into the City of Thousand Oaks Procedures for Development of the Janss Marketplace." In this year's Ventura County Grand Jury Report, the Grand Jury expressed concerns about the impacts of the 1995 renovation efforts and construction work at the commercial shopping center known as Janss Mall, particularly because of the City's use of Mello-Roos District financing for a portion of that extensive and needed renovation work. The following points include the City's response.

(a) The Grand Jury is only receiving part of the full and actual true picture as the result of listening to only one side of this multi-party situation. In order to gain a complete picture of the tenant lease buy-out negotiations, the actual payments made for the buy-outs, and true impacts of the renovation project, it would have been appropriate for the Grand Jury to talk to the present mall owners, the property managers, and most importantly to the former mall owner (Dr. Bill Janss or his project manager) who were actually negotiating with the tenants and making the payments. There is no indication that any such contact was attempted or made. Simply talking with a few disgruntled former tenants could very easily produce a different picture of the true events, reasons for any renovations, the negotiations, time pressures, and ultimate benefits of that work.

One observation the Grand Jury report makes is the number of present vacancies at the mall. Frequently, store sites are kept vacant for strategy reasons such as for adding the space for the expansion plans for an immediately neighboring business rather than simply releasing the space to a new tenant. Several new stores have come into the mall which appear to be viable and benefit the City's residents by meeting the community's entertainment, eating, and shopping needs.

(b) There was a clear need for parking structure to make this 35-year old mall competitive. A major facelift and upgrade was absolutely necessary for this 35-year old open-air mall to remain viable and competitive. This mall was competing for patrons with the more modern and enclosed Oaks Mall as well as with other newer, upgraded and better designed facilities such as the Westlake Promenade at Westlake and Thousand Oaks Boulevards. A good case in point of this need to stay competitive is the North Ranch Mall at the northwest corner of Westlake Boulevard and Thousand Oaks Boulevard. Without an anchor tenant and with an interior walkway design, that mall experienced numerous business failures and vacancies before a savings and loan lender eventually took over ownership of that project. In order to stay competitive, it was decided that this mall had to be almost entirely gutted and redesigned.

One or more viable commercial "anchor" tenants were essential to the success and, therefore, desperately needed at the Janss Mall to keep attracting potential customers and new visitors to that mall. In order to upgrade the appearance, to expand the mall stores, and to provide locations for these new anchors (Mervyn's and Mann Theaters), more vehicle parking was required.

Because of the limited land necessary to comply with the City's parking requirement, a new expensive parking structure had to be constructed. That parking structure was a vital and essential part of the mall's expansion and renovation, and survival.

(c) There was no financial windfall to City, our motivation was to prevent any further deterioration of an important community resource. The City's motivation in supporting this needed upgrade was to revitalize this historic and deteriorating commercial center, and not to receive any alleged financial windfall. If this mall failed to upgrade or the City took no steps whatsoever to encourage or assist in such an upgrade/renovation effort, the mall would surely become an undesirable business location, business would then be negatively impacted with increasing vacancies, eventually more undesirable blighting impacts seen and possibly public safety issues. The City would then have been justifiably criticized for doing nothing.

(d) Value of the land is the determinate factor, not the financial status of one of the two general partners. Under a Mello-Roos District, the property is the security to repay the bonds, and the financial condition of the developer is not relevant. The Janss Corporation had a very financially sound partner in Goldman Sachs & Co., as a general partner, which partner would take over the project if Janss ran into any problems. With Mello-Roos bonds, the assessed and appraised value of the private property (mall) must be at least three times greater in value than the bonds issued by the District (City). All Mello-Roos tax payments have been made and there are simply no facts supporting nor indicating any financial problem with this financing transaction.

An annual special tax assessment is levied on the property owners within the District. In a commercial Mello-Roos District, the special tax assessment may be some times passed on to the merchant tenants based on the individual lease provisions negotiated between the mall owner and the merchant tenant. In an open market society, this is obviously a negotiable item between the mall owner and tenant where government should be careful not to dictate the terms of those private leases.

(e) Merchants had time to plan for the obvious impacts to be felt during renovation. The renovation of the Janss Mall had been planned for many years. It should not have been a surprise to any of the mall merchants. The mall was the first shopping complex in the City built in the 1960's and was ready for cosmetic improvements and an increased major tenant base. The mall is located in a Thousand Oaks Boulevard commercial redevelopment project area, created by the City in 1979 as the result of blighting effects and influences previously identified along the boulevard. The City Council held a study session on this proposed renovation and topic on February 10, 1993.

(f) Merchant tenants were treated equitably and fairly. If the Janss Corporation had financed the renovation entirely through conventional private means, the merchant tenants would have been in the same situation in terms of additional possible costs. The merchant tenant buy-out amounts

and terms of payment were negotiated agreements solely between the tenants and the mall owner. The City Council required the mall owner to reach agreement with such tenants before the City would proceed with issuing the bonds. The tenants were in an exceptionally strong bargaining position because they could just delay increasing the pressure on the mall owner to deliver the anchor sites to Mervyns or Mann, merely waiting for the owner's offers to increase. It should be noted that the merchant's agreement to vacate was required in order for the mall owner to deliver the needed parking structure and a finished building pad to the new anchors -- Mervyn's Department Store and Mann Theaters. The mall owner was under a time crunch since Mervyn's set a time line; if not met, the deal was off and Mervyn's would go elsewhere, which would be a death blow to the entire renovation effort.

The tenants affected by this relocation effort received generous buy-outs (for example one operator, who did not show any signs whatsoever of recent investments or upgrades to his food business and with only two years remaining on the lease, received \$508,000). Further, several long-term tenants have decided the upgrade was beneficial and are continuing their business location in the mall.

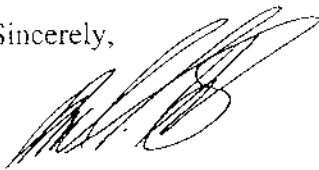
(g) Threats of condemnation were requested by the small tenants. The possible use of a threat of condemnation was actually requested *by a number of small merchant tenants* in order to provide them with a tax deferment benefit for the buy-out. It is extremely unlikely that the City Council would have mustered a four-fifths vote required to actually proceed to condemnation of any lease when they had already told the mall owner that he must make the tenants happy with the lease buy-out agreements or the Council would not authorize staff to proceed with the requested Mello-Roos financing.

(h) No before and after analysis of sales tax or revenues was asked for by the Grand Jury. In order to conclude "there is no indication that revenues are higher now than before" the Grand Jury could have requested and reviewed the sales tax generated, or leasing information at the mall.

3. "Responsiveness to Grand Jury Inquiries." We appreciate the candid and open review of respective cities responses to the Grand Jury. It would be most helpful if requests to cities were routed through the City Manager so that we may be sure that a prompt response is forwarded. Often a Grand Jury member may contact a staff person who may not be the appropriate contact. Our city will certainly brief all executive managers on working with Grand Jury members and the rules/procedures under which the panel operates, including timely responses.

In conclusion, thank you for allowing us the opportunity to respond to the 1997/98 Grand Jury report. We appreciate your efforts.

Sincerely,



Michael Sean Markey  
Mayor

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CJP	Redevelopment Study	Supp	City of Oxnard
CJP	Redevelopment Study	Supp	City of Santa Paula
CJP	Redevelopment Study	Supp	City of Simi Valley
CJP	Redevelopment Study	Supp	City of Port Hueneme
CJP	Redevelopment Study	Supp	Thousand Oaks
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