



City of Thousand Oaks

CITY MANAGER
PHILIP E. GATCH

September 3, 2003

RECEIVED

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VENTURA COUNTY SUPERIOR COURT

Honorable Bruce A. Clark
Presiding Judge of the Superior Court
Ventura County Hall of Justice
800 S. Victoria Ave.
Ventura, CA 93009

SEP 11 2003

VENTURA COUNTY GRAND JURY

SEP - 5 2003

OFFICE OF THE
PRESIDING JUDGE

RE: REDEVELOPMENT AGENCIES AND REQUIREMENTS FOR LOW AND MODERATE INCOME HOUSING GRAND JURY REPORT

Dear Judge Clark:

In response to Foreman Duane Christensen's letter of June 5, 2003, the following is the Thousand Oaks Redevelopment Agency's comments concerning the above-referenced Grand Jury Report (attached):

Findings:

The Thousand Oaks Redevelopment Agency responds to the Grand Jury findings as follows:

Findings F-1, F-2, F-3, F-4, F-7, F-8, F-9, F-11, F-12, F-14 and F-15:

Response: Findings generally represent an accurate understanding of redevelopment law and practice.

Findings F-5, F-6, F-10 and F-13:

The following comments present the Thousand Oaks Redevelopment Agency exceptions to the Grand Jury's Findings F-5, F-6, F-10 and F-13 as follows:

Finding F-5:

"There is no specific agency with oversight and audit power over CRAs except for the legislative bodies that create the CRAs. Except as mentioned below, they are largely exempt from government oversight by any agency other than a Grand Jury."

Response: Partially Agree. There is no specific State or County agency with oversight power for Redevelopment Agencies. However, the Department of Housing

and Community Development and Attorney General have authority to audit redevelopment agencies. The State Controller's Office complies and reviews annual fiscal data submitted each year by Redevelopment Agencies.

Finding F-6:

"If a CRA defaults on its debt, a city has no legal responsibility to bail out their defaulting CRA. However city credit and credibility are damaged, because most CRA board members are also members of city council."

Response: Partially Agree. Not all Redevelopment Agency debt default would necessarily damage City credit ratings. It depends on the circumstances and situation that caused a debt default. For example, a loss of a major local employer or property tax generator in the community could affect both the Agency and City equally.

Finding F-10:

"Although a County Board of Supervisors has no legislative oversight of CRAs, many have adopted 'policies' within the Board of Supervisors policy manuals to have some oversight."

Response: Partially Agree. This finding states 'many' County Board of Supervisors' have adopted policies implemented over sight procedures pertaining to redevelopment agencies, yet the only example cited is LA County's' procedure. The City of Thousand Oaks is not aware of other counties adopting similar policies.

Finding F-13:

"Citizen involvement is minimal in most CRA planning operations. Project Area Committees are required at the formation of a CRA residential project. Once the project is approved, there normally is no continuing citizen involvement with the plan. Agencies are not required to notify or recall the PACs, if revised."

Response: Partially Agree. Noticing of public action and citizen participation is required for the adoption or amending of redevelopment projects and for various implementation actions is extensive throughout California. Establishing a PAC is required if an amendment to a redevelopment plan adds additional residential properties. Some Redevelopment Agencies in the state have very active PACs, depending on the nature of the project area and desire of citizens to participate.

Conclusions:

The City of Thousand respectfully disagrees with the Grand Jury's conclusions as follows:

Conclusion C-1:

"The citizens of Ventura County have little access to information regarding CRAs. There is no central location within the County where reports and other information are available. Each CRA is required to submit specific reports to the State Controllers Office. Compilation of these reports is published on the Internet. It is difficult at best to determine any city's information."

Response: This conclusion suggests citizens of Ventura County have little access to information regarding CRAs, because there is not a central location within the county to access reports and other information. Copies of the reports prepared by Housing and Community Development and the State Controller's Office are published on the Internet, sent to each governmental jurisdiction, and are made available to any citizen wishing to review them. Additionally, these reports can be obtained from libraries and directly from HCD or the State Controller's Office.

Conclusion C-2:

"There appears to be no specific agency with oversight and audit powers, as CRAs are largely exempt from oversight by any other agency other than the Grand Jury."

Response: Oversight is administered via audit should Housing and Community Development choose to audit an individual Redevelopment Agency. The State Attorney General has authority to pursue legal remedies to any agency in violation of redevelopment law.

Conclusion C-2:

"With many cities having City Council meetings and CRA meetings on the same night, the public may be discouraged from participating. In many cases the CRA meeting is held after all City Council business, and it is often quite late."

Response: City Council and Redevelopment Agency meetings held the same evening facilitate participation from the public. Holding separate meetings in Thousand Oaks could possibility confuse the public and result in less citizen participation.

Recommendations

The Thousand Oaks Redevelopment Agency responds to the Grand Jury Recommendations as follows:

Recommendations R-1, R-2, and R-3:

Response: No comments offered for these Recommendations. These are issues for the County of Ventura Board of Supervisors to consider.

Recommendation R-4:

"Cities should review their present policy and consider holding the CRA meetings as a separate function not related to the regular council meetings."

Response: Disagree with recommendation. Thousand Oaks Redevelopment Agency meetings are duly noticed in full compliance with State law. Scheduling regular City Council meetings and Redevelopment Agency Board meetings on the same night is a common and legally accepted practice throughout California. Holding both meetings on a predictable and publicly noticed Tuesday night schedule provides residents with certainty and convenience. Thousand Oaks residents desire and expect to be able to comment on City Council and/or Redevelopment Agency agenda items at the same meeting time and date. Therefore, holding separate Redevelopment Agency and City Council meetings on different nights will not be pursued at this time.

Recommendation R-5:

"The cities within the County furnish the same reports, as they are required to submit to the State Controller's Office to the designated County office."

Response: Partially disagree with recommendation. Thousand Oaks Redevelopment Agency files annual reports with the State Controller's Office, State Department of Housing and Community Development, and all other applicable federal and State agencies as legally required. These reports are completed using universal formats that are available for public review.

Requiring the Thousand Oaks Redevelopment Agency to also send copies of these reports to Ventura County may result in establishment of an additional layer of government review. The County has always had the ability to obtain copies of the Thousand Oaks Redevelopment Agency annual reports from the applicable State agencies. As a result, Redevelopment Agency staff is willing to provide copies of our annual reports to all interested County departments, as requested.

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Neither the City nor Redevelopment Agency denies public requests for such information. In fact, Thousand Oaks goes out of its way to ensure that the public has access to budget, financial, redevelopment, planning, land use, and related information. Much of this information is also available on the City and Redevelopment Agency's website (www.toaks.org).

Thank you for the Grand Jury's interest in the Thousand Oaks Redevelopment Agency's use of low and moderate income housing funds. As the Grand Jury's Attachment A indicates, the Thousand Oaks Redevelopment Agency has long been a leader within Ventura County with respect to Tax Increment funds spent on affordable housing, as well as actual number of affordable housing units produced. It is the City Council/Redevelopment Agency Board's desire to continue this practice well into the future.

Should you have any questions and/or comments, please contact Scott Mitnick, Deputy City Manager, at 805/449-2111.

Sincerely,



Philip E. Gatch
City Manager

cc: City Council
Mark G. Sellers, City Attorney
Scott Mitnick, Deputy City Manager
John Prescott, Interim Community Development Director
Russ Watson, Redevelopment and Housing Manager

Attachments

June 5, 2003 Grand Jury Letter
Duplicate Copy - response letter

county of ventura

Grand Jury
800 South Victoria Avenue
Ventura, CA 93009
(805) 477-1600
Fax: (805) 477-1610

June 5 2003

Philip E Gatch
Community Development Director
2100 Thousand Oaks Blvd.
Thousand Oaks, CA. 91362

Dear Director Gabler,

Enclosed is a copy of the 2002-2003 Ventura County Grand Jury report entitled
Redevelopment Agencies and the requirements for low and moderate income housing.

In accordance with California Penal Code section 933.05, this report is being provided to
you two working days prior to its public release. Please note that you are not permitted to
disclose any contents of the report outside your agency prior to the public release.

The above-cited penal code also requires that you respond to the report's findings and
recommendations within 90 days. A summary of these requirements follows:

Findings

State whether you concur, concur in part, or disagree with the Grand Jury's findings.
Explain the reasons why you disagree, in whole or in part, with each applicable finding.

Recommendations


State whether each applicable recommendation has already been implemented, will be
implemented (with expected date of implementation), will not be implemented (with an
explanation of the reason) or requires further study.

Please send your response **in duplicate** to:

Honorable Bruce A. Clark
Presiding Judge of the Superior Court
Ventura County Hall of Justice
800 S. Victoria Avenue
Ventura, CA 93009

The duplicate copy will be forwarded to the Grand Jury.

Very truly yours,


Duane Christensen
Foreman Ventura County 2002-2003 Grand Jury

03 JUN 27 PM 2:50
CITY MANAGER'S OFFICE
CITY OF THOUSAND OAKS

COMMUNITY DEVELOPMENT

REDEVELOPMENT AGENCIES AND THE REQUIREMENTS FOR LOW AND MODERATE INCOME HOUSING

Background

The Redevelopment Agencies Act had a primary goal to alleviate blight, develop property to stimulate economic growth and to provide for low and moderate income housing. The Ventura County 1999-2000 Grand Jury prepared a general report on Redevelopment Agencies within Ventura County. The Ventura County 2002-2003 Grand Jury has focused on the 20% set aside for use on low and moderate income housing.

Methodology

The Grand Jury reviewed past Grand Jury reports, the last published Community Redevelopment Agency (CRA) annual reports posted by the State on the Internet, the California Health and Safety Codes sections 33330 thru 33354.6 covering redevelopment agencies and obtained and reviewed the last three years of California State Assembly reports on Redevelopment Agencies. The Jury looked at more than fifty State Assembly and Senate bills affecting Redevelopment Agencies to determine the effect on the 20% set aside funds.

The Grand Jury requested from the ten cities within Ventura County copies of their bylaws, resolutions adopting a CRA and the required five year plan. In addition, a request was made for the date of when the CRA was started, the total funds received to date, total funds expended, number of low and moderate income housing units completed to date and the forecast for low and moderate income housing for the next 18 months. See, Attachment A.

Findings

F-1. In 1976 the State Assembly created the Low and Moderate Income Housing Fund Bill (AB3670). This legislation required that all new redevelopment projects set aside 20% of their tax increment revenues for use on low and moderate income housing.

F-2. In 1994 the State Assembly created a "use it or lose it," bill (AB1290) related to the 20% set aside funds. Agencies worried that the State could then take back unused funds. It stated that if agencies did not expend or encumber excess surplus (defined below) in the low and moderate income housing fund within one year from the date it became surplus, the agency must either, (a) disburse the excess voluntarily to a housing authority or other public agency exercising housing development powers or (b) expend or encumber its excess within two additional years. It also provided that after three years if it has not spent or encumbered, the agency would be subject to sanctions. The definition of "surplus" is any unexpended or unencumbered amount in an agency's low and moderate-income fund that exceeds one million dollars or the aggregate of the amounts deposited during the agency's last four fiscal years.

F-3. Health and Safety Code section 33334.2 subdivision (a), allows a CRA to make findings, based upon sufficient factual information, that need exists in the community to improve, increase or preserve the supply of low and moderate income housing or that some percentage less than 20 percent of the tax increment revenues are sufficient to meet those needs. If such findings are properly made, the CRA is not required to use all or part of the 20 percent set aside funds."

F-4. The present law indicates tax increments are only available to CRAs that are in debt. Once the debt is paid, the property tax increment is not available to CRAs for the project. This encourages the CRAs to remain in debt so they may collect the funds. It should be noted that most of the funds received by staying in debt goes to pay the interest on the debt.

F-5. There is no specific agency with oversight and audit power over CRAs except for the legislative bodies that create the CRAs. Except as mentioned below they are largely exempt from government oversight by any agency other than a Grand Jury.

F-6. If a CRA defaults on its debt, a city has no legal responsibility to bail out their defaulting CRA. However, city credit and credibility are damaged, because as most CRA board members are also members of the city council.

F-7. The California State Controller's office issues an "annual report of financial transactions" of CRAs. Each city is responsible to submit a report on the status of "low and moderate income housing".

F-8. The above report must also contain a form entitled "Statement of Indebtness". This report must also be filed with the County Auditor on or before October 1 of each year.

F-9. The Health and Safety Code, section 33080 (a) requires every CRA to file with the State Controller within six months of the end of the agency's fiscal year all the documents required by 33080.1. In addition, a copy of this report, upon written request, must be furnished to any person or taxing authority.

F-10. Although a County Board of Supervisors has no legislative oversight of CRAs, many have adopted "policies" within the Board of Supervisors policy manuals to have some oversight. Attachment B is a recent example of Los Angeles County Board of Supervisors action.

F-11. Before the approval of a redevelopment plan, the agency shall conduct a public hearing on the plan. CRAs are required to publish a notice of the hearing, not less than once a week for four successive weeks prior to the hearing. The notice shall be published in a newspaper of general circulation and published in the affected community. It is required that the notices be non-technical and in a clear and coherent manner using words with everyday common meanings.

F-12. Copies of the published notices shall also be mailed first class to the last known owner of each parcel of land in the area designated in the redevelopment plan. In addition, notice shall also be provided to all residents and businesses within the project area at least 30 days prior to the hearing.

F-13. Citizen involvement is minimal in most CRA planning operations. Project Area Committees (PACs) are required at the formation of a CRA residential project. Once the project is approved, there normally is no continuing citizen involvement with the plan. Agencies are not required to notify or recall the PACs, if the plan is revised.

F-14. Many of the cities within the County hold their Community Redevelopment meetings on the same night as the City Council meetings and on that night's published City Council agenda. Some of the cities have a separate agenda for the CRA meeting also listed.

F-15. The Grand Jury requested information from County Counsel as to what remedies are available if a CRA fails to comply with the provisions of its redevelopment plan or its implementation. The law

provides for judicial review of CRA actions, without specifying who may bring such action. There are specific procedures that have been established for review of redevelopment plans. A CRA may be subject to a taxpayer's suit. The Attorney General has the power to bring actions to enforce state law. While no specific agency is given oversight responsibilities with respect to CRAs, various means are available by which judicial review of the agency's actions may be obtained. There appear to be no penalty provisions contained in the law. The only enforcement mechanism available in the law is for bondholders, affected individuals or organizations, taxpayers or the Attorney General to file suit asking a court to enforce the requirements of the law.

Conclusions

C-1. The citizens of Ventura County have little access to information regarding CRAs. There is no central location within the County where reports and other information are available. Each CRA is required to submit specific reports to the State Controllers office. A compilation of these reports is published on the Internet. It is difficult at best to determine any particular city's information. (F-4, F-7, F-8, F-11, F-12, F-15)

C-2. There appears to be no specific agency with oversight and audit powers, as CRAs are largely exempt from oversight by any other agency other than the Grand Jury. (F-5, F-8, F-9, F-10, F-15)

C-3. With many Cities having City Council meetings and CRA meetings on the same night, the public may be discouraged from participating. In many cases the CRA meeting is held after all City Council business and it is often quite late.
(F-12, F-13, F-14)

Recommendations

R-1. The Board of Supervisors should monitor and publicize annually the accumulation and expenditures of the funds. (C-1, C-2)

R-2. The Board of Supervisors should designate a County office to provide for the issuance of a report with enough detail as to the types and sizes of housing units created and indicating the total amount of tax dollars diverted to CRAs so that the public can assess the benefits of the expenditures. (C-1)

R-3. Authorize an appropriate County agency to maintain a public file where annual reports and statement of indebtedness from all cities within the County would be located for public review. (C-1)

R-4. Cities should review their present policy and consider holding the CRA meetings as a separate function not related to the regular council meetings. (C-3)

R-5. The cities within the County furnish the same reports, as they are required to submit to the State Controller's office to the designated County office. (C-1)

Responses required

Board of Supervisors (R-1, R-2, R-3):

CRA's of the following cities

Port Hueneme (R-4, R-5)

Santa Paula (R-4, R-5)

Camarillo (R-4, R-5)

Simi (R-4, R-5)

Ventura (R-4, R-5)

Thousand Oaks (R-4, R-5)

Fillmore (R-4, R-5)

Ojai (R-4, R-5)

Moorpark (R-4, R-5)

Oxnard (R-4, R-5)

Attachment A
LOW COST HOUSING REDEVELOPMENT FUNDS

City	Start of Funds	Total Funds Received	Total Funds Spent	Funds Available	Units Completed	Next 18 month plan
Camarillo	1998/1999	\$1,654,463	\$1,654,463	\$0	28 (4*)	24
Fillmore	1983	\$6,510,708	\$4,635,708	\$554,251	46	67
Moorpark	1989/1990	\$4,365,000	\$2,869,982	\$1,495,018	69	190 (5* & 6*)
Ojai	1975	\$2,021,170	\$1,350,169	\$749,544	61	0
Oxnard	1995	\$8,414,282	\$4,361,900	\$1,549,986	382	103
Port Hueneme	1996/1997	\$3,502,969	\$3,078,102	\$283,839	215	28 (3*)
Santa Paula	1991	\$4,592,957	\$2,954,450	\$1,637,507	(1*)	(2*)
Simi Valley	1984/1985	\$17,617,879	\$9,422,210	\$6,706,000	1675	300
Thousand Oaks	1980	\$42,500,321	\$40,928,633	\$4,874,384	1826	177
Ventura	1979	\$4,404,733	\$1,961,700	\$2,443,033	55	350

1* Santa Paula RDA has spent funds on preservation and safety of existing units.

2* Santa Paula RDA will respond to requests for financial aid for low cost housing on a case to case basis.

3* Port Hueneme RDA is almost built out and will be concentrating on preservation and safety of existing units.

4* Camarillo RDA plans on establishing another housing project.

5* Moorpark RDA indicates 302 units but not clear if completed or in process.

6* Moorpark RDA issued a bond issue for the purchase of a mobile home park.

Attachment B

LA County Board of Supervisors CRA Policy

Policy #:	Title:	Effective Date:
5.160	Redevelopment Goals	10/08/02

PURPOSE

Establishes a County policy that defines the role of the Chief Administrative Office, in conjunction with County Counsel and Auditor-Controller, in monitoring Community Redevelopment Agencies (CRA) for the Board of Supervisors.

REFERENCE

February 4, 1997 Board Order, Synopsis 40.

February 6, 2001, State Legislative Policies and Goals.

POLICY

The following policies are recommended for adoption by the Board of Supervisors to guide the County's review and response to redevelopment activities pursued by the County's cities. The purpose of the policy is to protect the County's interests, and provide policy guidance to County departments interacting with redevelopment agencies. All correspondence with CRAs, and any Board letters concerning redevelopment matters involving the County's cities, must cite and be consistent with these policies. Any departure from these policies must be explicitly justified by (a) significant overriding consideration(s).

1. The County supports appropriate and justified redevelopment projects which seek to alleviate areas which constitute a serious physical and economic burden on the community, as defined by State Statute and clarified by recent Court decisions. for the purposes of

returning these areas to safe and productive neighborhoods.

2. The Chief Administrative Office (CAO), supported by the County Counsel and Auditor-Controller, will review and report to the Board on all newly-proposed CRA projects and expansions, or other significant changes proposed for existing projects, for consistency with applicable redevelopment law.

3. In working with cities to resolve any County issues or concerns with regard to proposed redevelopment efforts, the CAO should fully explore opportunities for mutually beneficial partnership endeavors with cities which mitigate negative impacts on the County or respond to identified County redevelopment needs, and which are fully consistent with applicable redevelopment law. Understandings in such partnerships may be memorialized in contractual agreements. Consistent with these negotiations, the County will employ reasonable and prudent fiscal assumptions and projections and will seek to ensure that the County General Fund is not negatively impacted.

4. The Board will consider the following criteria in determining whether or not to seek legal challenge against a CRA:

- A project is found by County staff and/or consultants to lack justification for findings of blight and the agency opts to proceed with the subject project despite these expressed concerns;
- The estimated fiscal impact on the County is significant; and/or
- The precedent-setting nature of the project is of sufficient concern.

RESPONSIBLE DEPARTMENT

The Chief Administrative Office.

DATE ISSUED/SUNSET DATE

Issue Date: October 8, 2002

Sunset Date: October 8, 2006