

Welcome



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ATTORNEYS AT LAW

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REDEVELOPMENT LAW

How to Use Redevelopment Law in Your Real Estate Practice

What is a redevelopment agency?

- It is a separate entity from the city or county
- Typically, the Board is the same as the City Council or County Board of Supervisors
- Formed under the Community Redevelopment Act
- Can encompass an entire city or be a portion of the city
- There are 397 agencies in California

What powers do a redevelopment agency have?

- ❑ To acquire real estate, including the power of eminent domain.
- ❑ To develop properties
- ❑ To sell real estate without bidding
- ❑ To relocate displaced persons
- ❑ To finance their operations by borrowing from governments and selling bonds
- ❑ To impose land use and development controls

Why are redevelopment agencies created?

- ❑ To combat blight
- ❑ Revitalize deteriorated neighborhoods
- ❑ Facilitate economic development
- ❑ Encourage private sector development through the use of public funding

Examples of Redevelopment

- Acquiring parcels and packaging them to one developer
- Building and rehabilitating infrastructure
- Issuing low-interest loans to small businesses
- Clearing properties that are blighted or have environmental hazards
- Building public facilities
- Building and assisting with affordable housing

What is a redevelopment plan?

- Establishes long-term planning goals and implementation policies and procedures
- Very general document that does not provide much guidance for how and where redevelopment will take place

What is a project area?

- It is the area that is designated for redevelopment and revitalization
- It must be blighted
- It must urbanized

How are redevelopment agencies funded?

- Tax Increment Financing
 - ▣ Agencies receive a portion of the increased property taxes resulting from redevelopment
- Federal and State grants and loans
- Lease revenue, investments, etc.

How do redevelopment agencies finance their projects?

- General reserves
- Dedicated “set-asides”
- Bonds
 - Tax increment bonds
 - Lease revenue bonds
 - Assessment district and other bonds
- Federal/State grants and loans
- Private/commercial loans
- Land sale, lease revenue, and other financing

Property Acquisition

Buying Property

- Redevelopment Law does not require an Agency to go through a public bidding process
- Thus, an agency may negotiate with one purchaser without going through a competitive bidding process

Costs

- Redevelopment Law allows an Agency to dispose of property for less than acquisition cost
- However, price must be justified by the development opportunity:
 - Use
 - Constraints
 - Criteria imposed by the Agency

Terms

- Land Write-Down
 - Difference between acquisition cost and purchase price
- Fair Reuse Value
 - Less than the highest and best use and taken with the all restrictions imposed by the Agency
- Highest and Best Use
 - Looks at the land with only the redevelopment plan and zoning in mind

Purchasing Property from a Redevelopment Agency

- A report must be made that analyzes the fair reuse value in comparison with the fair market value
- Public hearing
- Exception: if sale is not for “redevelopment”

How Agencies Sell Property

- Public bidding process
- Request for Qualifications
 - General responses detailing the qualifications of the developer
- Request for Proposals
 - Particular responses detailing the program, design, and business terms of the proposal
- Single developer negotiations

Eminent Domain (Condemnation)

- Agencies have the authority to use eminent domain
- Eminent domain is the power to take private property for public use
- Agency must follow specific requirements to take property

Inverse Condemnation

- Occurs when private property owner sues government for not following rules of eminent domain
- Actual physical invasion of property
- Over-regulation of the property

Relocation

- If Agency (or Developer) makes a person or business be displaced from a property, that person or business is entitled to relocation fees
- Applies to both owners and tenants – and homes and businesses
- Applies even if Developer is attempting to make you move – if it uses public money

Types of Agreements

Exclusive Negotiation Agreement

- Once developer is selected, an ENA is entered into
- Gives structure to the negotiating process
- Allows for exclusive negotiations between agency and developer
- Typically, deposit is required
- Not an option – Agency will not be bound to accept developer's proposals

DDA

- Disposition and Development Agreements
- A DDA is the agreement between an agency and developer to sell and develop a property
- Agency “disposes” of land to developer who must “develop” the project subject to Agency’s requirements

Typical Terms

- Sale of Land
- Development
- Architectural Review
- Agency Assistance
- Financing Provisions
- Use Covenants
- Remedies

OPA

- Owner Participation Agreements
- This occurs when property is already owned by private person who wants to develop property in an redevelopment area.
- Similar to a DDA but there is no property sale

Methods to Assist Developers

- Land-Write Down
- Relieving developer of up-front costs (i.e. feasibility studies, title reports, etc.)
- Site acquisition (including eminent domain)
- Relieving holding costs by not selling property until development about to occur
- Constructing public improvements
- Paying for site-preparation

The Approval Process

- Negotiations occur initially with Agency staff and will eventually go to the Agency Board
- Differences between closed session and open session

Procedures and Terms

- Staff report
- Public Hearing
 - A public hearing requires notice and will be in front of the public.
 - Members of the public will be allowed to speak
 - Developer will be allowed to speak

CEQA

- Redevelopment projects almost always require some type of CEQA review:
 - ▣ Categorical Exemptions for minor projects
 - ▣ Negative Declarations for medium-sized projects
 - ▣ Environmental Impact Report for significant projects
- CEQA analysis looks at the impact upon both the environment and other impacts
- Even if an agreement has been approved, it is not “final” until CEQA process is concluded

Loans to Businesses

- Agencies are authorized to make loans to businesses:
 - Improve the exterior facades
 - Open businesses

Public Improvements

- Agencies can aid in development by building public improvements for developments:
 - Parking garages
 - Infrastructure

Affordable Housing

Affordable Housing

- Agencies are required to set aside funds for affordable housing (20% Set Aside)
- These funds may be used anywhere within jurisdiction and not just in the redevelopment areas
- Must be used to increase, improve, and preserve the supply of low and moderate income housing

What are the funds used for?

- Can be used for both owner-occupied and investments
- Can be used for low interest loans to purchase property, rehabilitate property

Types of Affordability

- Income Levels
 - ▣ Very low
 - ▣ Lower
 - ▣ Moderate
- Rent is determined by income levels and by size of apartments

CCRs

- In order to receive funds for affordable housing, you are required to enter into CCRs that restrict the housing up to indefinitely
- Not only are units restricted as to the amount of rent charged, they are restricted to the income of the households
- You must comply with the CCRs and update the Agency as to the rent roll and tenant qualifications

Prevailing Wage

- Redevelopment projects (commercial and residential) may require the prevailing wage
- It is very important to know whether the prevailing wage will apply or not



ABOUT US



About Alvarez-Glasman & Colvin

- A full service law firm founded in 1986
- Specialize in all aspects of real estate law
 - Redevelopment Law
 - Negotiations with Developers and Public Agencies
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Thank you



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