

News from the G.N.A.T.S.

Giving Neighborhoods Access to Truth and Strength

December 2003

CRR
Coalition for Redevelopment Reform

*A Publication From the
Coalition for
Redevelopment Reform*

In This Issue:

Who is CRR and how did we start?

Did You Know? Quick facts about San Jose's Redevelopment Agency.

Redevelopment Definitions - Terms you should know

The Gnat Knows....

San Jose drops eminent domain case against Tropicana

California State Supreme Court refuses to hear San Jose eminent domain appeal

Redevelopment areas get preferred status in San Jose's CDBG rating process.

Congratulations Melinda Hamilton - Sunnyvale's newest council member

Introducing CRR's new website

Surfing the Net Websites we think you will find useful

How did our newsletter get its name?

CRR – Coalition for Redevelopment Reform: Who are we and what do we want?

We are property owners, business owners and tenants who care about the City of San Jose and the county pockets within its boundaries; we are the stakeholders who have been here and intend to stay here. We are not against strong neighborhoods – we are the strong neighborhoods. We want the money going to redevelopment to go to the neighborhoods – it is our money. We do NOT believe that the people of San Jose should be forced to give up their constitutionally guaranteed property rights in order to receive money to improve the neighborhoods.

We are a coalition of concerned citizens who have joined together for the purpose of protecting the community from public and private entities engaged in redevelopment abuses. We provide education, advocacy and a public forum, enabling all voices to be heard.

We want the people of San Jose to take back our City – we want strong neighborhoods to be the voices of the people, not of RDA and its paid consultants.

Did you know ? ? ?

- **Redevelopment law allows your private property to be taken and given to a private developer via eminent domain. Not only does the developer profit from your property but in many cases he also gets subsidies from RDA to “help” complete the project**
- **San Jose has the largest redevelopment agency in the State of California. The San Jose RDA currently employs 130 people with an operating budget of \$26 million. - La Oferta July 27, 2003**
- **According to RDA Finance Director David Baum, the Agency's total indebtedness, as of July 2003, stands at \$1.9 billion. (Double this amount to obtain the total estimated cost including interest over the life of the bonds). This number has since increased with the issuance of additional bonds. - La Oferta July 27, 2003**
- **If you accept the RDA's total revenues as a basis for analysis, the Agency's dedication to affordable housing takes on a whole new perspective. The percentage of RDA total revenue dedicated to affordable housing in FY 2001-02 was 13.45%. - La Oferta July 27, 2003**
- **In 2001, just over \$2.1 billion statewide was diverted from public services to redevelopment via tax increment diversion. -Redevelopment: The Unknown Government, MORR 2002**
- **The state's general fund is used to supplement school budgets to make up for property tax income diverted to RDA via tax increment diversions**
- **The Redevelopment Agency Board and the City Council Board are one and the same.**

At the height of its power, the RDA, the largest redevelopment agency in the state, bulldozed its will upon the masses, exercising its powers of eminent domain with a take-first, ask-questions-later attitude. The RDA also earned a reputation for being disastrously finicky about which businesses would be allowed to set up shop in RDA projects..... Like a fox guarding the hen house, San Jose's City Council doubles as the RDA board of directors. It's time for a new type of redevelopment entity with oversight at least one step removed from the council chambers.

- Editorial, San Jose Business Journals, November 3, 2003

State Supreme Court Refuses RDA Appeal

The California State Supreme Court has refused to hear the appeal on Fountain Alley, so SJRDA has lost another battle to use eminent domain to take away the rights of its citizens. Al Schlarmann had been trying to develop the property on South Second Street for 23 years. He had been blocked at every turn by the Redevelopment Agency.

In 1980, Schlarmann approached the city with a plan for a 650 space parking structure with ground floor retail on the property. He had a design, and his financing was in place. Schlarmann's company, San Jose Parking Inc., got the go ahead and then RDA began to put all kinds of roadblocks in the way of the development.

By 1985, San Jose Parking had approved plans, a construction loan commitment and a general contractor ready to start, but RDA told Schlarmann they did not want him building until the transit mall was finished.

In 1993, the City decided they didn't want a garage on that property. Schlarmann sued for breach of contract and a settlement was made, giving San Jose Parking exclusive rights to negotiate to develop Fountain Alley, paying \$25,000.00 per month for that right. The RDA did not have to negotiate until 2007.

In 1999, Schlarmann tried to talk about developing the site. There were a few meetings and then everything stopped. The Urban Land Institute came in and the Greater Downtown Strategy was drawn up. An RFQ (Request for Qualification) was sent out to 1,200 developers, who were told RDA could deliver clear title to the property. The RDA made it clear that it was not interested in a development proposal from San Jose Parking, Inc.

In April 2003, the RDA initiated condemnation proceedings to speed up development by CIM, the company which took over when Palladium pulled out of the downtown redevelopment plan. Represented by the law firm of Norm Matteoni, Schlarmann lost in Santa Clara Superior Court. On appeal, the State Court of Appeals ruled in Schlarmann's favor saying eminent domain cannot be used to take San Jose Parking's development right to the parcel. Now that the State Supreme Court has refused to review the case, the condemnation phase is over. "But" Schlarmann says, "just like Tropicana, a lot of damage has been done from which neither Dennis nor I can ever fully recover. Maybe the City Council / Redevelopment Agency Board will not be so hasty in the future to rubber stamp every dumb recommendation that comes from the Agency Director."

The funds that are supposed to be spent on housing the poor are often stockpiled because, in fact, there's little political support for building such housing. And often, the housing money is lavished on high-end developments.

. - Dan Walters, Sacramento Bee, January 6, 2003

Sunnyvale Wins!

Congratulations to Melinda Hamilton.

Melinda Hamilton, who began her political career in an attempt to put the brakes on the Sunnyvale Redevelopment Agency, has won a seat on the Sunnyvale City Council.

Hamilton, a high tech marketing professional and graduate student at Santa Clara University, became alarmed when she saw how badly redevelopment was being handled. The city's only mall, built 20 years ago using eminent domain, was almost empty and in disrepair. The city's plan was to build more high rise buildings while three existing ones were almost empty.

Hamilton began talking to neighbors and advanced a plan to get three initiatives on the ballot. The first was to restrict downtown buildings to 46 feet. The second was to restrict eminent domain's use to public projects only. The third would require public approval for redevelopment projects. Hamilton and her neighbors began collecting signatures. In total there were about 80 people working on the signature drive. They were told that they needed 5,400 signatures to begin the initiative process....they collected 6,300. The city disqualified enough of the signatures to cause the measures to fail. When Hamilton challenged the city in court, the city stated that it had provided incorrect information and that actually the group needed 9,000 signatures to qualify for the ballot.

Instead of appealing, Melinda decided to run for city council. She beat incumbent Tim Risch by getting 56.3% of the vote. Hamilton wants to fix the budget and improve downtown. She wants more community involvement. "The City Council needs to do a better job educating people and being educated by them."

If you are interested in supporting Melinda by helping her reduce her campaign debt, contact her:

Melinda Hamilton

563 S. Taffe Street, Sunnyvale, CA 94086

Links on the Web



- **San Jose's Redevelopment Agency**
<http://www.sjredevelopment.org/>
- **San Jose City Council**
<http://www.sanjoseca.gov/council.html>
- **Castle Coalition**
<http://www.castlecoalition.org/>
- **Institute for Justice**
<http://www.ij.org/index.shtml>
- **Municipal Officials for Redevelopment Reform (MORR)**
<http://www.redevelopment.com/>
- **San Jose's City Charter**
<http://www.sanjoseca.gov/clerk/Charter.htm>
- **Dale Warner - San Jose Financial Management**
<http://www.dalewarner.com/enron.htm>

Check out our website!

Want to learn about Redevelopment abuse -
www.coalitionforredevelopmentreform.org



Below is just a sampling of the information you will find:

News and Events:

Reader's Digest August 2003 article "Home Wreckers"
Wall Street Journal - June 2001 - "Cities often misapply eminent-domain rule"
San Jose Mercury News - July 27, 2002 - "Blight claims in San Jose don't ring true"

Reference and Research

"Redevelopment: The Unknown Government - MORR Sept. 2002
"Public Power, Private Gain" - Institute for Justice April 2003
Redevelopment Law - Including the definition of Blight (Article 3)

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CRR meets the second Thursday of every month between 7:00 and 9:00 p.m.
Interested in learning more? We would love to come and give a personal presentation to your group.
Please call to set up an appointment or for more information.
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Community Development Block Grants (CDGB)

<http://www.ci.san-jose.ca.us/prms/nscdbgback.htm>

Each year San Jose received approximately \$13-15 million in HUD funding that is to be awarded as grant money to eligible applicants. Each grant application is reviewed and rated on a 5-point scale that assesses the eligibility of the projects and is used to recommend projects for funding. At a CDBG Workshop for SNI projects, Cora Velasco, SJ Grant Superintendent, repeatedly assured those attending that grants written for projects already listed on **San Jose Redevelopment's Strong Neighborhoods Top 10 Lists would get a higher priority** than other grants. Is this fair? Redevelopment already collects taxes from the redevelopment areas in order to fund these projects.....why then should these projects be given priority to the Federal HUD money that the City receives? Why should other non-profit or public entities be penalized just because they are lucky enough not to be considered blighted? Why should their projects receive a lower priority? For more information or if you would like to express your displeasure on the grant rating system, contact:

Parks, Recreation, & Neighborhood Services
4 North Second Street , Suite 600 San Jose, CA 95113
(408) 277-4971

The Gnat Knows

- The November issue of the Silicon Valley/San Jose Business Journal had a cover story entitled, "Beginning of the End for RDA." Let's hope the Business Journal is right. But, in the meantime, keep fighting. Now's not the time to quit when you have your enemy on the run!
- At the Oct. 27 City Council Rules Committee meeting, CRR president Loraine Wallace-Rowe spoke in support of a proposal submitted to the committee the week before that called for the next director of the RDA to be selected by a vote of the people. City Attorney Rick Doyle indicated that such a proposal could not be adopted by the council as state law dictates the way the agency director is selected/appointed. Councilmember Dave Cortese agreed with the notion that there should be public input on the selection of the next director. He suggested an outreach program similar to the ones conducted by the city to determine the next chief of police and fire chief. Let's see if this suggestion/promise is kept. Meanwhile, think of who you would like to see as the next RDA director. Certainly not newly appointed interim director who ordered city workers to remove "Not For Sale" signs from private property.
- There's a rumor around town that the RDA might be spending taxpayer money unwisely. (Oh...you've heard that one before?) It seems that a certain "facade improvement" project in Japantown, sponsored by RDA, has not gone well. According to the owner of the building, a project that initially was to cost \$55,000. and take two months has mushroomed into a job with a price tag of \$82,500 and will take almost an entire year to finally be finished!

RDA Definitions

Blight - A designation of "blight" is required in order to create or expand a redevelopment area. The Ordinance adopting the Strong Neighborhood Initiative Redevelopment Plan found that the Project Area was blighted because it included: "buildings in which it is unsafe or unhealthy for persons to live or work; factors that prevent or hinder the economically viable use or capacity of buildings or lots; adjacent or nearby uses that are incompatible with each other and which prevent the economic development of those parcels or other portions of the Project Area; inadequately sized and shaped subdivided lots that are held under multiple ownership; depreciated or stagnant property values or impaired investments; abnormally high business vacancies, abnormally low lease rates, high turnover rates, abandoned buildings, or excessive vacant lots; a lack of necessary commercial facilities that are normally found in neighborhoods; residential overcrowding; a high crime rate. ... The elimination of blight and the redevelopment of the Project Area could not be reasonably expected to be accomplished by private enterprise acting alone without the aid and assistance of the Agency."

Eminent Domain - An agency has expanded powers to condemn private property not just for public use but to transfer to other private for-profit owners.

NAC - Neighborhood Advisory Council

PAC - Project Advisory Council

SNI - Strong Neighborhood Initiative

Tax Increment - - A redevelopment agency has the exclusive use of all increases in property tax revenues ("tax increment") generated in its designated project areas

A Little Bit of History.....

More than two years ago, many of us had our first introduction to Redevelopment when we received certified letters telling us that the Agency wanted to take our properties and turn them over to out-of-town developers for high rise, high density, high cost housing to provide a critical mass of shoppers for the planned Palladium project and that if we were not willing to take what the developers would offer, the Agency would take our properties by eminent domain and transfer title to the developers. We were the "Not for Sale by Owner" folks. We won that battle, but we learned enough from that experience with the RDA to know that the "war" was not over.

During the following year, the City Council, acting as the RDA Board, issued Exclusive Negotiating Agreements and then Developer Disposition Agreements (DDA – *Done Deal Already*) to Blake Hunt Developers of Walnut Creek to take over the Tropicana Shopping Center from its owners who had spent more than \$9 million of their own money to renovate the Center. It then voted to spend hundreds of thousands of dollars on relocation and appraisal consultants, treating the property as if the agency already owned it, and voted to give the chosen developers a subsidy of \$50 million for this property and one across the street.

In May of 2002, the PAC, a grass-roots group guided by RDA, approved a Strong Neighborhood Initiative Plan (SNI) to put one-third of the City of San Jose in a merged Redevelopment Area under the control of RDA, subject to its power of eminent domain, *to take private property for private purposes*, and to subject it to another layer of government, whereby any property in an SNI area could not obtain a permit for improvement, renovation or change without the approval of the RDA even if such plans complied with current building codes and zoning regulations.

How did our newsletter get its name? With a little help from Leigh Weimers

Posted on Wed, Aug. 27, 2003

`Gnats' set to take on redevelopment agency

By Leigh Weimers
Mercury News

It's not only labor organizations and their community-benefits campaign that have San Jose's redevelopment agency in their sights. The ad hoc Coalition for Redevelopment Reform also is calling for a boycott of the new Black Sea Gallery furniture store downtown, months if not years before the place even opens. Attorney **Lorraine Wallace** says the coalition's call is the result of the city's decision to give

Oakland-based Black Sea rights to the former Woolworth building instead of to local businessman **Eric Sahn** of South First Billiards. "He even wanted to bid more for the property and the city wouldn't let him," Wallace complains. "Hey, where is this -- Russia?" Wallace adds that other boycotts could be in the works for redevelopment projects closer to completion, including the McCormick & Schmick seafood restaurant on Paseo de San Antonio. "We're willing to boycott any project getting an advantage that our local businesses aren't getting." Likely impact? The coalition is gnat-size compared with the valley's labor unions, but even gnats can bite. Remember the coalition's "Not for Sale by Owner" signs a couple of years ago that protested the redevelopment agency's power to condemn property?

Tropicana Victory!

Santa Clara County Judge Gregory H. Ward declared on Oct. 20 that the San Jose Redevelopment Agency's plans to take control of the Tropicana Shopping Center in East San Jose by eminent domain and turn it over for development to Blake Hunt Ventures of Walnut Creek "does not achieve the greatest public good with the least private injury."

On the following day, the city abandoned its plans to take over the shopping center agreeing, after several years of refusing to cooperate, that owners of the mall could continue to develop it as they had planned since 1997.

Judge Ward said the SJRDA's plan for Tropicana "appears to be arbitrary and capricious."

Dennis Fong, Tropicana property owner, who organized merchants and citizens, said the judge's decision was a "great victory for the property rights of ALL Americans. Judge Ward reaffirmed today that the Constitution is alive and well in San Jose. That every man, woman and child, regardless of national origin, can take part in the American Dream."

CRR has supported Dennis Fong and the other merchants since the beginning. We congratulate them on their strength and persistence while facing loss of their businesses and their livelihood.