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[WWW.CRRSJ.COM](http://WWW.CRRSJ.COM)

Please check out our  
new (shorter) website  
address.

CRR meets the  
second Thursday  
of every month  
from 7:00 – 9:00  
p.m.

Want to learn  
more?  
Please call us for  
further  
information.

### COALITION FOR REDEVELOPMENT REFORM

Is hosting a reception on  
Friday, September 17<sup>th</sup>  
5:00 – 8:00 p.m.

Le Petit Trianon Theatre  
72 North Fifth Street, San Jose, CA 95112

Please join us to see projects of the San Jose Redevelopment Agency, what has been accomplished without redevelopment, as well as the story of Poletown and Tropicana. Food and beverages provided.

Please RSVP to 408-817-5678

### NINTH ANNUAL NORTHERN CALIFORNIA CONFERENCE ON REDEVELOPMENT ABUSE

Hosted by  
Municipal Officials for Redevelopment Reform and  
California United for Redevelopment Education

Saturday, September 18<sup>th</sup>  
San Jose Airport Hyatt  
1740 North First Street, San Jose  
8:00 a.m. – 5:00 p.m.  
Registration: \$55.00

Registration forms can be found at [www.crrsj.com](http://www.crrsj.com)  
Or call 714-871-9756 for more information.

Concerned about public education funding? Outraged about the big box retailers being subsidized by city government? Want to learn more about how redevelopment affects you, your property and your children's future? Then you should attend this conference!!

### **Did you know ???**

Even though we are in the middle of the infamous "Silicon Valley" the City of San Jose still cannot execute an effective public notification campaign. Did you know the City was holding public meetings for community input on the next Redevelopment director? Don't feel bad, you are not alone.

The office of the Santa Clara County Assessor reports that the assessed values for property within San Jose Redevelopment zones dropped from \$16.85 billion to \$14.91 billion. (Fiscal year 6/30/03 – 6/30/04) The \$1.94 billion decline represents an 11.3% drop. To view the 2004 Assessor's Annual Report, go to [www.scc-assessor.org](http://www.scc-assessor.org)

*California Redevelopment Association*  
**Legal Issues Symposium**  
Viewed through a Gnat's Eye

As a licensed member of the State Bar of California, I am always looking for interesting programs to satisfy my continuing education requirements. The CRA Legal Issues Symposium brochure promised a wide variety of topics and speakers with the particularly tempting teaser section entitled: "*Lessons to be Learned from the Tropicana Shopping Center, San Jose Parking and other Recent Redevelopment Cases.*" That and 7¾ hours of credit convinced me that the Symposium would be well worth the costs and the trip to Costa Mesa on August 11 and 12, 2004.

I was not disappointed – the Symposium was well organized and well presented and gave me an inside view of the workings of the California Redevelopment Association.

The Symposium was designed for attorneys and agency professionals who have the responsibility to make certain that Redevelopment's purposes are served. As would be expected, those purposes are not always in sync with what might be described as the views of a CRR "gnat" - some of the collective moans were my cheers!

In this brief overview – I have 11 single spaced pages of notes and a 3 inch program binder – I will touch only some of the highlights.

The general unspoken theme was "*the times they are a changing.*"

From a legislative perspective, CRA General Director John Shirey, Board Member Anne Moore and attorney Brent Hawkins expressed great disappointment in the budget bills and failure to protect Redevelopment Agencies. Originally, before the recall, the CRA lobby had worked closely with the Coalition of Local Governments to produce Prop. 65, carefully drafting it to protect Redevelopment Agencies.

The new governor had a problem with Prop. 65 and hence SB 1096 was drafted. In the original drafts, Pooled Borrowing would have been allowed and any extensions of the life of the Redevelopment Plan could have been made by simple ordinance without notice.

The CRA considers the Pooled Borrowing provision to be essential and is lobbying very hard to get a Budget Trailer Bill passed which will include that provision. *Pooled Borrowing* is an interesting concept. CRA concluded that the additional payments for ERAF required under the budget plan would put about 1/3 of the Agencies in financial difficulties so it came up with *Pooled Borrowing* whereby an "issuer" for bonds would be chosen and the "Issuing Agency" would lend to Redevelopment Agencies throughout the state to pay ERAF "so local government would not have to pay." The underlying security for the bonds would be Property Taxes from the "host" city or county and the LOANS WOULD NOT COUNT AGAINST THE AGENCY'S DEBT LIMIT. The bonds would, most likely, be taxable and, therefore would cost more.

CRA is also lobbying to delete the required noticed hearing provision in SB 1096 and to have the definition of local agency in Prop 1A broadened to include Redevelopment Agencies.

From a judicial perspective, CRA is concerned with the "developing trends" with successful challenges to: the Power to Take; the Legality of Certain Agency Actions; the Finding of Blight; Favoring of One Party; and Fairness.

The very recent Michigan Supreme Court case *County of Wayne v. Hathcock* (Mich. July 30, 2004) which overturned the *Poletown* case was described as "maybe a sign of things to come." *Poletown* allowed the taking of private property for private use – destruction of a whole area of a city in order to build a GM plant, purportedly for the public purpose of creating jobs. It was this case which was relied upon by Redevelopment Agencies throughout the country to broadly define "public purpose" and, basically, take any property, ie. The Tropicana situation. The *Hathcock* ruling looks to true public use, ie. Railroad.

San Jose City Attorney Robert Fabela spoke on *San Jose Parking* and the *Tropicana* cases. He described the *San Jose Parking* case a unique factual situation, where the Agreement made it very clear that there was no real property interest conveyed and there was no lease – only an option to develop. The California Supreme Court held that Redevelopment Agencies can only take real property even though cities can take any property. (Fountain Alley was described as "the hole in the donut of downtown" – very blighted property). The City Attorney said that the Options Holder, San Jose Parking, now has a DDA to develop within two years and within specific timelines.

The *Tropicana* discussion related most of the facts of which we are well aware. Of interest, the Attorney noted the City was faced with a "60 Minutes" episode on eminent domain aired the night before trial started and a very large, well organized protest, with signs and banners, outside the Courthouse and "protesters packing the courtroom throughout the trial."

The overall tone of the Symposium was that Agencies can no longer take it for granted that they can do whatever they want in the name of Redevelopment. They need to work on public relations and try not to alienate the people affected by the project because the PEOPLE WILL FIGHT BACK and the COURTS ARE LISTENING!

Loraine A. Wallace – August 2004

# RDA Exchanged Jobs, Sales Taxes, Property Taxes For A Park

In 1986 Oliver M. Johnson operated a 63 year old machine shop he founded in 1923. Within a few months, his business and all his machinery were taken by eminent domain by the San Jose Redevelopment Agency to build the Tech Museum. RDA paid Johnson and his partners \$6 million for the property at 320 W. San Carlos St. but the museum was never built on that location. Instead, there is a park which is used occasionally for large events but mostly is frequented by the homeless.

When the business was at its peak, it employed more than 50 people and had a very active apprenticeship program, according to Bill Herschberger, secretary-treasurer of the company for 40 years. Johnson was actively involved in both local and state apprenticeship programs and felt, "training apprentices was his duty," Herschberger said. Johnson also was a long time member of the Rotary Club of San Jose and served as president in 1948. In 1988 he was named a Junior Achievement Business Hall of Fame laureate. Johnson died in 1990.

Among customers of Oliver M. Johnson Inc. were Lockheed, United Airlines, Memorex, NASA and Stanford University. A 1941 article in the San Jose Mercury Herald described his business as "one of the best equipped and busiest shops in the area."

In a recent interview, Herschberger said that when news of RDA's plan to eminent domain the business was printed in the newspaper, customers began to look for new vendors. The owners talked of relocating the business and even bought property and built a building on 7th and Phelan Streets but, "We were all getting older and the customers were lost," Herschberger lamented.

The tools at the machine shop were appraised at \$2 million but the city hired an auctioneer from New Jersey who sold them for less than \$400,000, with no notice of the auction given to local machine shops, according to Herschberger.

With the loss of Oliver M. Johnson, Inc. San Jose lost a valuable business. By replacing the business with a park, the city lost many jobs, an excellent apprentice program, sales tax, property tax and the \$6 million it paid for the property. Hardly seems like a worthwhile exchange.

## BE CAREFUL WHAT YOU VOTE FOR

**Redevelopment Abuse:** California's 382 redevelopment agencies now divert over \$2.6 billion in property taxes away from other public entities. Typically, these funds subsidize new malls, giant retailers, hotels, NFL stadiums and even gambling casinos.

California needs more classrooms, not Costcos. Businesses should make money from customers, not public handouts. Redevelopment agencies need serious reform, not legal protections. Their revenue needs to be restored to provide public services, not bankrolling private projects. The League of Cities seeks to protect redevelopment agency revenue, but this is the very revenue being diverted away from cities, counties and school districts.

Local governments need a fair and stable revenue stream to provide essential public services. Before considering any constitutional protections for a broken system, we need to fix that system for the benefit of all Californians.

*--Norby Notes, July 2004*

The small landholders are the most precious part of a state.

*--Thomas Jefferson*

Next to the right of liberty, the right of property is the most important individual right guaranteed by the Constitution and the one which, united with that of personal liberty, has contributed more to the growth of civilization than any other institution established by the human race.

*--William Howard Taft*

The system of private property is the most important guaranty of freedom, not only for those who own property, but scarcely less for those who do not.

*--Fredrich August von Hayek*

"On it goes, to the point where the 'economic development' argument has essentially vitiated what the Founders intended by putting property rights in the Constitution in the first place: to prevent the rich and powerful from manipulating the law to take property from those less well connected."

*Review of Wall Street Article*

<http://www.fairdevelopmentbrooklyn.org/04-08-03wsj.php>

Supporters of the proposal say the current bill answers the concerns Pataki raised last year: that directly notifying property owners of government-condemnation plans would be too expensive and delay public works projects. .....Under current New York law, the only notice to property owners of condemnation plans that must be given is a small legal ad in a local newspaper.

--Excerpt from *TheJournalNews.com* by Len Maniace July 12, 2004

<http://www.thejournalnews.com/newsroom/071204/b0112domain.html>

### The Gnat Knows.....

-When do lower assessed values benefit us, our children and grandchildren? When they prevent RDA from issuing any new debt! RDA's primary income is from tax increment revenue and its right to survival is dependent on that revenue which allows it to issue more debt (\$10.00 for every \$1.00 of tax increment revenue). Currently, SJRDA has a debt of 1.53 billion, not counting interest and fees. Property values, both real and personal, in the tax increment areas have steeply declined. Under agreements with its current bond holders, RDA cannot issue more bonds unless it can show that it has \$1.15 in revenue for every \$1.00 in annual debt payments. RDA cannot meet this requirement this year so it cannot issue new bonds.

-BUT, be alert, RDA's mentor, CRA has come up with a plan which is included in the final version of AB2115 – "pooled borrowing" – whereby a chosen issuer borrows the money and then lends it to RDA's throughout the state – that Bill specifically provides that what the Agency borrows in this manner will not count against an agency's debt limit.

-Who will be the next RDA Director? At last report, the Mayor's schedule for selection is advertisements the first week of September, applications closed beginning of October, selection by Thanksgiving, confirmation in December and starting date January 1, 2005. If you care about the next Director, call, email or fax your council member to request that PAC and NAC members be included in the early selection process and that the "finalists" appear at a public forum to express their positions on what they will do for San Jose and answer community questions regarding their positions on issues of concern to the community.

### Links to Articles and Sites You Should See

- **ReviewJournal.com**  
*We Overrule Poletown*  
**Editorial – August 3, 2004**  
[http://www.reviewjournal.com/lvrj\\_home/2004/Aug-03-Tue-2004/opinion/24449762.html](http://www.reviewjournal.com/lvrj_home/2004/Aug-03-Tue-2004/opinion/24449762.html)
- **Mackinac Center**  
*Eminent Domain Extremism Runs Into Judicial Brick Wall*  
**Dale Buss. July 14, 2004**  
<http://www.mackinac.org/article.asp?ID=6692>
- **Property Rights Foundation of America Key Note Address**  
*Eminent Domain for Private Gain*  
**Dana Berliner. 2003**  
<http://www.prfamerica.org/EminentDomainForPrivateGain.html>
- **USA Today: Pushing the Limits of 'Public Use'**  
**Dennis Cauchon. March 31, 2004**  
[http://www.usatoday.com/news/nation/2004-03-31-eminent-usat\\_x.htm](http://www.usatoday.com/news/nation/2004-03-31-eminent-usat_x.htm)
- **ReclaimDemocracy.org:**  
*Walmart, The Abuse of Eminent Domain and Corporate Welfare*  
**Stacey Mitchell. December 2003**  
[http://reclaimdemocracy.org/independent\\_business/walmart\\_eminent\\_domain.html](http://reclaimdemocracy.org/independent_business/walmart_eminent_domain.html)

Articles and information in this newsletter are either written by or reviewed by CRR's Executive Board before publication.

Board Members include:

Loraine Wallace Rowe	Daniel J. Chavez
Yolanda Reynolds	Patti Phillips
Diana Davenport Padilla	

# SAN JOSE'S CRR WELCOMES YOU!

Join us for a reception before the MORR Conference

\* See the work of the "Mother of all Redevelopment Agencies"

\*See what can be accomplished WITHOUT Redevelopment

\*See where we've been and where we are now

\*Watch the documentary of Poletown

\*View the Tropicana Exhibit

FRIDAY SEPT. 17, 2004

5:00 PM to 8:00 PM

Le Petit Trianon Theatre

72 North Fifth Street, San Jose, CA 95112

Relaxed conversation... Food and Beverages will be provided

**PLEASE R.S.V.P.** -24 Hr. Hotline (408) 817-5678



We hope to see you there!

CRR- Coalition for Redevelopment Reform, [www.crrsj.com](http://www.crrsj.com)

You're Invited to Participate in the Ninth Annual Northern California

# Conference on Redevelopment Abuse

\*\*\* Sept. 18 (Sat.), 8:00-5:00

\*\*\* San Jose Airport Hyatt

*1740 North First Street, San Jose*

*Free Airport Shuttle*

\*\*\* Registration: \$55

*Includes Breakfast & Lunch*

## *Featured Speakers:*

**Michael Dardia**, *Public Policy Institute*  
*Author of "Subsidizing Redevelopment in California"*

**Terry Francke**, *General Counsel, CalAware*  
*Californians Aware: The Center for Public Forum Rights*

**Supervisor Chris Norby**, *County of Orange / 4<sup>th</sup> District*

**Chris Sutton and Bob Ferguson**, *Attorneys-at-Law*

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## R E G I S T E R N O W

Number in Party: \_\_\_\_\_ X \$55 each = \$ \_\_\_\_\_ Total (enclose your check)

Name/s: \_\_\_\_\_ Title/Affiliation: \_\_\_\_\_

Address: \_\_\_\_\_ City/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

\_\_\_\_\_ *I would like to speak to the conference on the subject of:* \_\_\_\_\_

Please send \_\_\_\_\_ copies of "Redevelopment: The Unknown Government" (\$5 donation each)

Return with your Check to: **MORR**  
**214 N. Yale Ave.**  
**Fullerton, CA 92831** Call 714-871-9756 or 323-567-6737 for more info.

# Conference on Redevelopment Abuse

*Sponsored by:*  
Municipal Officials for Redevelopment Reform (MORR)  
Californians United for Redevelopment Education (CURE)

## Who Should Attend:

**City Officials** *concerned about the growing fiscal and land use distortions caused by redevelopment.*

**School Board Members** *concerned about adequate public education funding.*

**Urban Homeowners** *fighting redevelopment agency land grabs that threaten their neighborhoods.*

**Small Business Owners** *outraged that their own tax dollars are subsidizing big box competitors who are trying to drive them out of business.*

**Attorneys** *seeking to learn more about how to help protect their clients from rampant eminent domain abuse by land-hungry redevelopment agencies.*

**Citizen Activists** *seeking the truth about redevelopment agencies' impact on their communities.*

**Journalists** *seeking to put a human face on redevelopment agency abuses.*



"It's easy . . . blight is whatever we say it is!"