

CRA, League Sue to Overturn Redevelopment Remissions

BY JOSH STEPHENS

HERE WE GO AGAIN.

In 2009 the redevelopment agencies of California, represented by the California Redevelopment Association, filed suit to block the state’s requisitioning of over \$1 billion of tax increment financing. That suit failed.

Last November, voters passed Proposition 22, which was backed by the CRA and League of California Cities, to forbid the state from demanding such payments in the future. Facing a \$26 billion budget deficit upon coming into office in January, Governor Jerry Brown made an end-run around Prop. 22 by seeking the dissolution of all redevelopment agencies.

With the passage of Assembly Bill 1X 26 and Assembly Bill 1X 27, a pair of budget bills that force agencies to shut down unless their parent jurisdictions – cities and counties – pay a total of \$1.7 billion to the state by Jan. 15, 2012, the CRA and League have yet again filed suit.

Same objective. Higher stakes. Different law.

The suit, which was threatened from nearly the first moment the governor announced his plan, was filed July 18 in the California Supreme Court. The plaintiffs’ petition for writ of mandate asks the court to find AB 1X 26 and AB 1X 27 unconstitutional on the grounds that they violate

Prop. 22 and Prop. 1A. The petition refers to the options to pay or shut down as a “Hobson’s Choice” amounting to no choice at all.

The petition also asks the court to stay the implementation of the laws no later than Aug. 15 so that agencies can await the suit’s verdict before mustering funds or commencing shutdown proceedings. Otherwise, agencies could dismantle themselves to such an extent that they would not be able to reconstitute themselves if the suit succeeds.

“We think we’ve shown the court that if the redevelopment agencies are dissolved as of October 1 in those jurisdictions...and then the bills are later invalidated, that would be a terrible situation,” said Steven Mayer, an attorney at the firm Howard Rice, who is representing CRA and the League. “Once the egg is broken it’s very difficult to put it back together again.”

Prop. 22 outlaws both the “direct and indirect” transfer of tax increment funds from redevelopment agencies to the state. Plaintiffs argue that the elimination of agencies constitutes an illegal indirect transfer.

“The governor and Legislature have blatantly ignored the voters and violated the State Constitution,” said League executive director Chris

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Budget Cuts Could Imperil Review of Housing Elements

BY JOSH STEPHENS

THE PROCESS OF planning affordable housing in California just got, inadvertently, more affordable.

Among the many cuts that Gov. Jerry Brown enacted in his effort to balance the budget is a \$1 million hit to the Department of Housing and Community Development Building Equity and Growth in Neighborhoods Fund. This fund supports the department’s housing element review activities, and the roughly 20 staff members who review housing elements will be effectively reduced by half.

Cathy Creswell, acting director of HCD, said that the cuts do not signal a change of attitude or policy within the department.

“Those cuts do not reflect any lack of commitment or support for a positive state role in housing policy and in particular, the housing element,” said Creswell. “It is a time of tough cuts and tough issues.”

Creswell added that the department acknowledges the role well planned housing can play in combating climate change, as mandated by laws such as SB 375 and

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Cities could get little feedback if HCD budget cuts extend through 2012

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Carmageddon is the least of L.A.’s problems Page 12

THIS SPRING, two inspectors at the Los Angeles Department of Building and Safety were caught in an FBI corruption investigation for accepting bribes. The inspectors in question have already admitted to receiving cash bribes in exchange for building safety approvals. But the bureau isn't stopping there. The FBI has launched a probe to determine the extent of the corruption at the city department. The FBI hopes to determine if higher-ups colluded with the two Building and Safety inspectors, or if poor oversight was to blame. Internal communications between city administrators blame budget-induced layoffs and early retirement of managers – some 100 staff members were lost to the budget axe – for the lax oversight of those who took bribes. To help prevent further lapses, Mayor Antonio Villaraigosa has instructed Building and Safety General Manager Robert Ovrom to overhaul his agency's internal investigations unit.

A \$2.1 BILLION SOLAR PROJECT in the California desert has received permission to proceed from regulators at the U.S. Fish and Wildlife Service. The agency ultimately concluded that the impacts to the endangered Desert Tortoise were tolerable, despite the fact that between 405 and 1,136 tortoises were expected to be injured or killed as a result of construction and relocation. Last year the project had been put on pause by the Bureau of Land Management after solar developer BrightSource Energy attempted to relocate more tortoises than it was originally permitted to. Local conservationists have argued that the Endangered Species Act should offer more protections to the tortoises than the animals are receiving under this agreement. BrightSource counters that its team of biologists are working to protect wildlife before at every step of the construction work, though some impacts are unavoidable, they admit. At peak capacity, the solar thermal project will provide renewable electricity for over 100,000 Californians.

BAY AREA RAPID TRANSIT has cleared the way for the first phase of construction en route to linking San Jose to the East Bay, San Francisco and points beyond. Warm Springs Constructors won the two-year contract from the BART Board of Directors and will begin work this year. The first 5.4-mile stretch will extend tracks from Fremont southward – up to the

Santa Clara County border at Milpitas – at a cost of \$300 million. At that point, the Santa Clara Valley Transit Authority will take over construction of BART tracks from Milpitas to San Jose and Santa Clara. The full 16-mile build-out from Fremont to San Jose is expected to cost over \$6.1 billion. The goal is to provide commuters with a fast and less polluting alternative to being stuck in traffic on Interstates 680 and 880.

THE SOLANO LAND TRUST has purchased 330 acres of open space at a cost of \$3.5 million in an effort to protect its cultural and ecological value from development. The area, known as Green Valley, is an important wildlife corridor for Napa County and also the site of former Native American hunting grounds. The 330 acres, however, are just a small part of a larger 1,500-acre site that the Trust is hoping to preserve. To purchase the entire parcel from White Wing Highlands Associates, the Trust will need to come up with roughly \$10 million more by early 2012. Otherwise, White Wing would then be eligible to build nearly 200 homes as per the terms of a settlement. An earlier plan to build over 300 homes was successfully fought off by the Green Valley Landowners Association and the Sierra Club, which sued to stop the development in 2008. They contended that there would be insufficient water, transportation and waste disposal infrastructure for the site. The suit was eventually settled on the condition that the developer would sell the land to the trust. Or in the event that not enough money could be raised for the purchase, the developer would be permitted to build half the entitled homes. Toward the remaining \$10 million shortfall, the California Coastal Conservancy has committed \$3 million, with the Solano Land Trust hoping to garner the remaining \$7 million from the public and conservation foundations.

A \$2 BILLION HYDROGEN-POWERED energy plant planned for 463 acres near the Kern County city of Tupman has been put on hold by the multinational joint venture that was developing it. Partners Rio Tinto and BP are seeking to sell the project, possibly to Massachusetts firm SCS Energy. The plant is projected to generate power for up to 150,000 homes and is designed to be environmentally friendly. Carbon emissions would be sequestered underground in abandoned oil wells. A recently approved plan to build

a massive mixed use development on Treasure Island, in the San Francisco Bay, has been hit with a lawsuit. Citizens for a Sustainable Treasure Island filed the suit against the City and County of San Francisco. The suit alleges that the project's environmental impact report does not fully account for the impacts of having over 19,000 residents on the island

NOTWITHSTANDING some remaining concerns about toxic remediation, a court ruling has cleared the way for the redevelopment of the Hunters Point Naval Shipyard in San Francisco. On July 11 Superior Court Judge Ernest Goldsmith released a ruling that the city and developer Lennar had properly completed its environmental review of the 700-acre bayside site that is planned to include over 10,000 homes. The transfer to two parcels will be delayed because the Navy still must do more remediation work. The legal challenge had been brought by local activist group Power; environmental organizations such as the Sierra Club pulled out of the suit months ago after reaching an agreement over a controversial bridge over the Yosemite Slough.

A PANEL OF SCIENTISTS has concluded that a \$1.2 billion dam removal program on the Klamath River is unlikely to restore salmon populations or significantly reduce pollution in the watershed. The report concludes that the removal of the hydroelectric dams – scheduled to begin in 2020 pending federal approvals – would not undo decades of ecological damage. In particular, stretches of the river are too hypoxic to sustain spawning salmon. The dam removal program is part of an agreement struck two years ago by farmers, environmentalists, and Native American tribes. The program includes significant federal and state funding.

THE FOLSOM CITY COUNCIL unanimously approved a plan to annex and develop 3,500 acres on the city's south side. The plan was praised by executives from the Sacramento Area Council of Governments for promoting mixed use and relatively high density plan. Forty-one percent of over 10,000 planned units would be considered high density and accessible by high speed transit. It also includes a projected 1:1 job-housing balance. The plan, which is over 10 years in

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the making, will now be considered by the Sacramento Local Agency Formation Commission, which must approve the annexation.

THE WILD EQUITY INSTITUTE filed a lawsuit against Secretary of the Interior Ken Salazar and the United States Fish and Wildlife Service for failing to protect the recently rediscovered Franciscan manzanita under the Endangered Species Act. The Franciscan manzanita was rediscovered in San Francisco's Presidio in 2009, over 60 years after it was declared extinct in the wild. However, because the plant was presumed extinct it was never given legal protection. To remedy this problem the Wild Equity Institute filed a formal legal petition to list the Franciscan manzanita as endangered under the Endangered Species Act in December 2009, shortly after the species was rediscovered. The Endangered Species Act required the federal government to respond to the petition no later than December 2010 – but to date the Service has not made a decision on the petition.

HOPING TO STAVE OFF MASSIVE FLOODS, the likes of which have taken lives and damaged property in the past, the cities of Murrieta and Temecula are considering a joint flood control project along 7.5 miles of the Murrieta Creek. The cities had expected the federal government to pay for most of the \$120 million Murrieta Creek Flood Control Project, which was devised in 2000. Local officials have lobbied for the money in Washington, D.C., but have thus far failed. Council members from both cities are reportedly considering the idea.

FRIENDS OF THE RIVER, the Center for Biological Diversity and Defenders of Wildlife filed a lawsuit in federal court challenging the implementation of a U.S. Army Corps of Engineers program in the Sacramento Delta requiring removal of all trees and shrubs from levees despite clear evidence that this vegetation provides important habitat for endangered fish, birds and

other species, and its removal may actually reduce levee safety. The suit alleges that the changes could significantly affect endangered species in the Central Valley and Southern California that rely on vegetation along levees for habitat. It claims that by imposing a blanket rule limiting vegetation on levees – adopted in the wake of Hurricane Katrina – the Corps ignored its legal obligation to analyze the impacts of this new program under the National Environmental Policy Act by failing to prepare an environmental impact statement before adopting the decision. It also ignored its requirement, under the Endangered Species Act, to consult with federal wildlife agencies for the impacts on threatened and endangered species.

CONCERNED THAT THE STATE'S proposed high speed rail network could bypass it, the City of Palmdale is suing the California High Speed Rail Authority over a conceptual study of a route that would take the line over the Grapevine pass instead of through the Antelope Valley. The city contends that it has invested significant funds in station area planning and that voter-approved Proposition 1A, which partially funds HSR planning, specifically lists Palmdale as one of the intended station stops.

THE SENATE COMMITTEE on Governance & Finance has compiled a list of the most salient facts from a recently released draft annual report, for FY 2009-10, compiled by the Office of the State Controller. This report was based on data reported by the agencies themselves.

- There are 425 community redevelopment agencies, but only 399 are active
- Every city with a population over 250,000 has a redevelopment agency
- 94% of the 174 cities with populations over 50,000 have redevelopment agencies
- 81% of the 480 cities have redevelopment agencies
- 31 of the 58 counties have redevelopment agencies

- There are 750 redevelopment project areas
- 65 redevelopment project areas cover 50 acres or less
- 34 redevelopment project areas cover more than 6,000 acres
- Frozen property values were \$164 billion; incremental values were \$544 billion
- New construction fell to 12.5 million square feet, the lowest level since 1995-96

- New construction of public buildings boomed from 222,000 to 1.4 million square feet
- Rehabilitated construction was down in every category except industrial buildings
- Redevelopment agencies created 36,000 jobs, more than double than in 2008-09
- Agencies' total revenues & other funding fell to \$8 billion, down from \$8.3 billion
- Property tax increment revenues were \$5.4 billion, 5% less; first drop since 1995-96

- Pass-through payments were \$1.2 billion, about the same as in 2008-09
- Pass-throughs & other aid to K-14 schools was \$315 million, down from \$328 million
- Agencies spent \$943 million in Low & Moderate Income Housing Funds
- Of that amount, 20.7% went for administrative, professional, planning, & design costs
- Low & Moderate Income Housing Funds' total revenues were \$712 million

- Of that amount, \$552 million came from property tax increment revenues
- Agencies' equity fell by \$1.4 billion to \$16.5 billion
- Agencies had unmatured long-term debts of \$29.8 billion
- Agencies issued \$825 million in tax allocation bonds
- Agencies' unmatured tax allocation bonds totaled \$19.1 billion ■

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Inequitable Assessments Doom Prop. 218 Assessment

Emergency services in Calaveras Co. cannot be funded due to faulty engineering report

BY WILLIAM W. ABBOTT

ASSESSMENTS FOR SERVICES traditionally funded by property tax have faced an uphill battle after the passage of Proposition 218, the 1996 voter initiative that requires the local governments and special districts to seek voter approval for any proposed new or increased assessment before it could be levied. That hill has gotten steeper in the wake of a recent decision.

The decision from the Third Appellate District in *Citizens for Responsible Government v. West Point Protection District* suggests that the drafters of and voters for Proposition 218 achieved what they were after: further restrictions on the ability of public agencies to raise new revenue irrespective of the salutary purposes or modesty of the imposition. The case involves a fire protection assessment approved by 61.8% of the vote cast in a 218 election proceeding in Calaveras County; despite this strong majority, the court ruled that flaws in the way that the measure assessed the property owners' payments made the assessment unlawful.

Formed in 1948, the West Point Fire Protection District derives most of its funding from property tax. But with a rapidly increasing service population, the demands for service outpaced tax revenues. A study prepared for the district estimated that it would require an additional \$146,000 per year (double its existing budget) to keep one full time firefighter/emergency medical technician available at all times. While that sort of service is standard in most urban areas, it can be scarce in rural parts of California.

However, neither the necessity for, nor the cost of the services is relevant to the legal question of whether or not an assessment is

valid. Proposition 218 requires that the assessments be based upon the benefits conferred to those paying the assessments. After reviewing the history behind Proposition 218 and the court decisions which followed, primarily *Silicon Valley Taxpayers' Assn., Inc. v. Santa Clara County*

Despite 61.8% voter approval, flaws in the way the measure assessed property owners' payments made it unlawful, the court ruled.

Open Space Authority (2008) 44 Cal.4th 431 (see *CP&DR Legal Digest* Vol. 23, No. 8, Aug. 2008 [↗]), the appellate court held this assessment to be flawed on several grounds.

The court's initial ruling was that the assessment was only for general benefits, and therefore did not qualify for an assessment. The court viewed the assessment as a general expansion of services which benefitted all properties. Since the delivery of general emergency services is a non-predictable event, this effectively precluded the existence of special benefits.

While the court's first holding disposed of the case, the court went on to say that even if one could argue that special benefits were found, the assessment was invalid as it failed the proportionality requirement. Relying on the holding of *Town of Tiburon v. Bonandur* 180 Cal.App.4th 1057 (see *CP&DR Legal Digest* Vol. 25, No. 2, Jan. 2010 [↗]), the appel-

late court acknowledged that a proportionality determination was based upon the costs as measured by the relative benefits.

In finding that the assessment failed the proportionality requirement, the appellate court noted that the district's engineer had first determined the cost and then worked backwards to establish the amount of the assessments. It was, the court said, an error of oversimplification. The engineer's report also relied upon three categories for assessments: improved, unimproved and exempt. Improved properties would be assessed \$87.58 per year, whereas unimproved properties paid \$45.00. Exempt properties paid nothing.

The appellate court concluded that this assessment structure was flawed in that all increased services would be "special benefits," with no discount for general benefits. The formula resulted in disproportionate assessments between improved properties and those unimproved. In reaching this conclusion, the court relied upon the relative value of the properties (land and improvements) as the metric for analyzing the proportionality of the assessment. The court also highlighted that the assessment report noted that exempt properties would receive a "major benefit," implying that assessment report authors ought to be more careful in how they write their reports. ■

► The Case:

Citizens for Responsible Government v. West Point Protection District No. C061110, 2011 DJDAR. Filed June 29, 2011. Ordered published June 29, 2011.

► The Attorneys:

Stephanie J. Finelli and Robert K. Reeve for Plaintiffs and Appellants.

Nossaman LLP and Stephen N. Roberts for Defendants and Appellants.

book review

© CRAIG KRULL GALLERY, SANTA MONICA. JULIUS SHULMAN LOS ANGELES: THE BIRTH OF A MODERN METROPOLIS
BY SAM LUBELL AND DOUGLAS WOODS, RIZZOLI NEW YORK, 2011.



Julius Shulman Los Angeles: The Birth of a Modern Metropolis

Text by Sam Lubell and Douglas Woods,
Foreword by Judy McKee,
Photographed by Julius Shulman
Hardcover, Rizzoli New York, 2011, \$60.00

Looking over Griffith Observatory and Los Angeles from Mount Hollywood, 1936.

Visualizing the Growth of Los Angeles

BY JOSH STEPHENS

JULIUS SHULMAN'S MOST FAMOUS IMAGE – the one in which disaffected young women in tea dresses float above Los Angeles – marks the end of the American experiment as well as does any other gesture in arts and letters. The steel-and-glass house embodies the equal measures of disappointment and satisfaction that come with a destination reached. All those decades of toiling across the frontier conclude at the Pacific. The American landscape is complete, its architecture is refined to its sparest elements.

And so, as the sun sets, we wait for cock-

tails to arrive.

That image also depicts with equal potency the abstraction that spreads out below. All those lights and twinkles appear like treasure against the darkness. And yet, by daylight, there was an entire city, the greatest of its generation, itself figuring out what it could, and should, be.

Julius Shulman Los Angeles: The Birth of a Modern Metropolis contains images of Pierre Koenig's Case Study House #22 – and of dozens of buildings above which it is perched. But the icon is conspicuously, perhaps intentionally, absent in the magnificent retrospective assembled

by editors Sam Lubell and Douglas Woods. There was a lot to choose from. Shulman, whom the editors describe as a “workaholic,” shot nearly incessantly from the mid-1930s nearly until his death in 2009, at the age of 98. On assignment and on whim, he chased off into the far reaches of Los Angeles to choose subjects both magnificent and mundane. He shot all of them with restrained, but palpable, artistry.

Yes, it's a coffee table book. But, even for urban planners, it reveals more about how the built environment evolves than could a million

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>>>> Schulman Offers Visual Feast, Lesson in Planning

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pages of zoning code. Captured in the very moment when Southern California burst into greatness, Schulman's images tell the story not just of modern architecture but also of what happens when national ambition meets with a blank landscape. He was clearly aware of the enormity of the transformation appearing before his lens.

Schulman knew that something interesting, photogenic and fleeting was going on. He knew that modernism extended not just to avant garde architecture but also to housing developments, factories, commercial buildings, and infrastructure. It permeated every aspect of the built environment. The revolution of the 1950s and 1960s was probably much like the Internet revolution of the current generation – except it was visible at every turn.

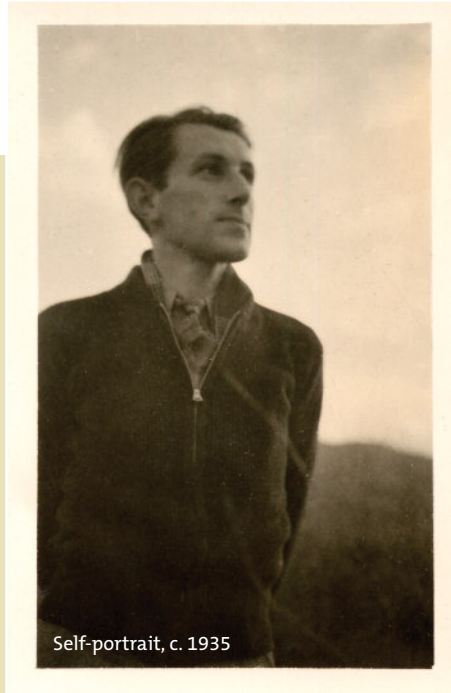
He understood that something radical – socially, economically, and architecturally – was happening, and, notwithstanding the Neutras, Eames, and Becketts, he sought to capture both the glorious and the mundane. What sort of lives would take root in these new landscapes is the open question that emanates most profoundly from his photos.

Perhaps the most important revelation in *Julius Schulman Los Angeles* is that Schulman did not reserve his reverence only for the brand-new. Pre-World War II downtown Los Angeles, with its stone-clad high-rises, dense streets, and Art Deco flourishes, seems to have more in common with the walled cities of Europe than with the schoolyards of Long Beach. Under L.A.'s blank skies, those schoolyards, along with other outdoor spaces that Schulman captured, appear to be an agoraphobe's worst nightmare.

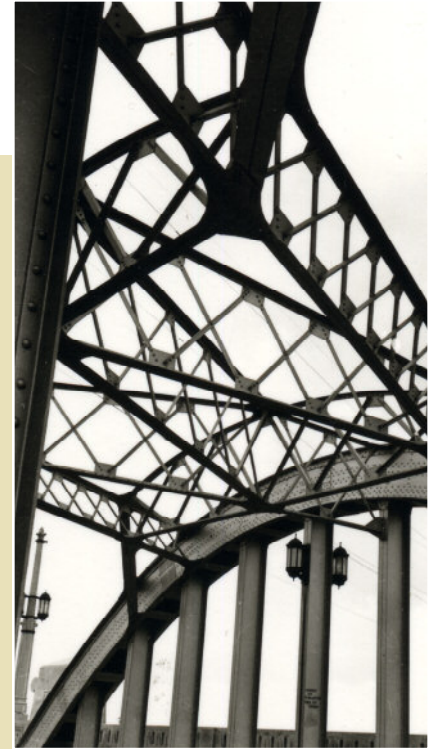
On one page, there's the Rush Drug Co. in the heart of downtown, or main street in Arcadia. On the next, there's the Department of Water and Power Building, the Century Plaza Hotel, some John Lautner fantasy, or a Googie punch line. Schulman shot a Thrifty drug store as big as a Walmart, with a freestanding sign that looks like the Eiffel Tower without the Seine. Some of his most poignant images are of shimmering new housing developments, with virgin hillside in the distance.

Schulman does not tell stories, and he pays no mind to the vernacular – of which there is little in Southern California anyway. His images are disarmingly static. Cars do not seem to move. Faces are obscured or expressionless. He seems well aware that each building, from gas stations to office towers, arose out of a process every bit as methodical as that of tak-

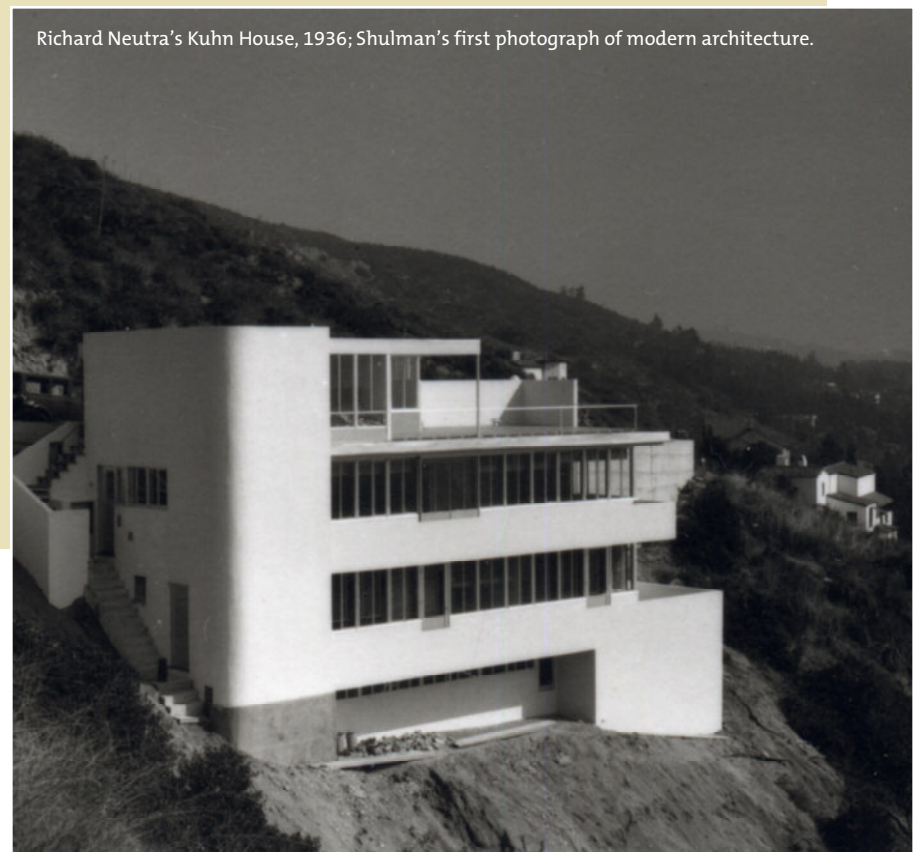
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Self-portrait, c. 1935



Right: A machine-age detail of the Sixth Street bridge, Los Angeles, 1933.

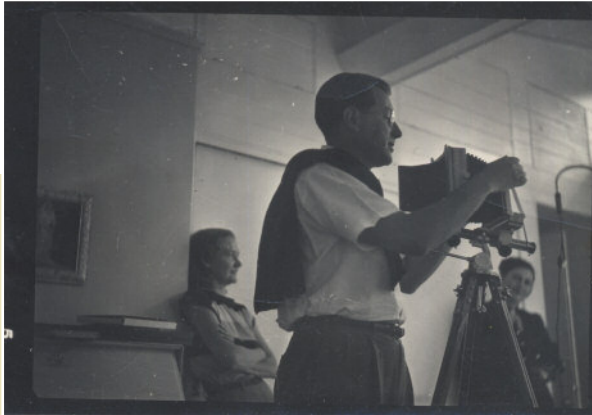


Richard Neutra's Kuhn House, 1936; Schulman's first photograph of modern architecture.

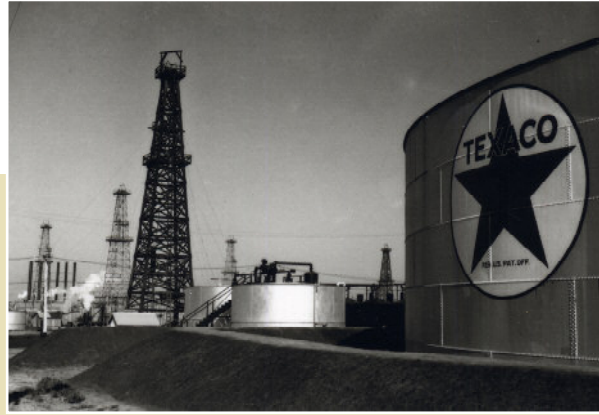
IMAGES: © CRAIG KRULL GALLERY, SANTA MONICA, JULIUS SCHULMAN LOS ANGELES: THE BIRTH OF A MODERN METROPOLIS BY SAM LUBELL AND DOUGLAS WOODS, RIZZOLI NEW YORK, 2011.

>>>> Schulman Captured Masterpieces High and Low

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Julius behind the lens, 1938.



Long Beach Pioneer Oil Field, 1933.



In the 1930's, oil fields dotted the Southern California landscape.



Highway over rail yards, Los Angeles, 1934.

IMAGES: © CRAIG KRULL GALLERY; SANTA MONICA: JULIUS SCHULMAN; LOS ANGELES: THE BIRTH OF A MODERN METROPOLIS BY SAM LUBELL AND DOUGLAS WOODS; RIZZOLI NEW YORK, 2011.

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>>>> Planners Must Now Take Stock of Modernism

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ing photographs. For those of us who are close to Los Angeles, the collection is mesmerizing but unsettling – like looking at your own baby photos. You wonder what happened to you, and what choices were made, before you gained a will of your own.

The breadth of Shulman's work reveals that he knew a fundamental truth about modern architecture: it is most interesting in context – or lack thereof. The most fascinating of Shulman's images are those that depict brand-new factories set against empty, virgin land. Shulman knows that the land will not be empty for long. Leave it to a photographer to understand that modernism's claims of timelessness were bunk from the get-go.

Amid the contemporary cries for smart growth and the vilification of post-World War II planning that prevails today, it's easy to disregard how exciting the 1950s and 1960s must have been. Everything that draws hatred today – from freeway interchanges to aloof office towers – was fresh, novel, and so easily legible. Shulman's work should remind planners that they have the power to create the context for what comes next.

Yes, *Julius Shulman Los Angeles* is obviously an aesthetic romp. But it carries far deeper lessons. It provides a comprehensive look into how and, to an extent, why Southern California embraced sprawl so heartily. He reveals that for every modern gem on a hilltop there are endless square miles of banality that need help from planners, not flattery from photographers.

Ultimately, Shulman was not an architectural photographer. He was a documentarian. As is often the case with modern architecture, reality rarely does the photographs justice. Especially when the photographer is Julius Shulman. ■

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>>>> Suit Seeks Stay of RDA Remittance Payments

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McKenzie in a statement. “We must now go to the Supreme Court to uphold the voters’ will and the Constitution by overturning this unconstitutional legislation.”

The state’s defense rests on the claim that even if TIF funds are protected, agencies themselves are not. Though the state’s lawyers have yet to be named, they will likely argue that Prop. 22 does not obligate the state to support or allow redevelopment agencies.

“Prop. 22 did not address the broader, fundamental underlying issue of the existence of RDAs,” said H.D. Palmer, deputy director for external affairs at the California Department of Finance.

Moreover, Palmer notes that AB 1X 27 requires payments not from redevelopment agencies but rather from their parent jurisdiction. Therefore, the state may argue that cities and counties are choosing to give up funds in exchange for the opportunity to sponsor redevelopment agencies. But TIF funding need not contribute to their voluntary payment.

“If redevelopment is to continue, then the parent agencies – whether it’s a city or a county – makes a payment for schools,” said Palmer. “It can come from revenue from base property tax, sales tax, or vehicle license fee – or any combination thereof. It does not specify or require that that money, should they choose to continue redevelopment, come from tax increment.”

The petition rejects both of these positions.

The petition notes that the amounts that cities and counties “nominally” would have to pay the state are “apportioned according to RDA revenues, and the money used to make them will inevitably come from the RDAs’ tax increments.” Furthermore, it contends that redevelopment agencies “fulfill...constitutional and statutory responsibilities” to invest in blighted areas, per the original 1954 legislation that established them.

Whether the court will agree to hear any of these arguments remains to be seen. The petition entreats the Supreme Court to hear the case as an original matter because the petitioners consider the matter “of statewide importance” and because a Superior Court would likely be unable to rule in a timely manner.

Mayer said that the \$1.7 billion that is at stake gives petitioners “a reasonably good claim on the court’s attention.”

If and when the court agrees to hear the case, Mayer said that the parties will be entering uncharted territory. He noted that because

Prop. 22 is less than a year old, “obviously there are no court cases that interpret what that particular initiative means.”

In the absence of prior rules, Mayer said that precedent calls for the court to construe the law according to its stated purpose. On that count, Mayer believes that his side has the advantage.

“The governor and Legislature blatantly ignored the voters and violated the State Constitution.”

– CHRIS MCKENZIE,
EXECUTIVE DIRECTOR,
LEAGUE OF CALIFORNIA CITIES,
IN A STATEMENT

“The purpose of Prop. 22 is plainly stated to stop the state from interfering with local government revenues,” said Mayer. “If the court construes the measure according to its purpose, hopefully we will prevail.”

Joining the CRA and League in the suit as petitioners are the cities of Union City and San Jose. The cities of Brentwood, Oakland, Modesto, West Sacramento, and Guadalupe also filed declarations in support of the suit.

Mayer said that the plight of those cities illustrate reasons why the Legislature’s scheme will be costly to cities and devastating to projects that agencies’ are pursuing.

“They tell, each in its own way, a variety of stories about the way that the redevelopment bills will affect various cities,” said Mayer. “I think they are compelling narratives.”

“We’re very proud to be part of the lawsuit,” said Union City Redevelopment Agency manager Mark Evanoff. “We have a good story to tell. We can document how the local community, how the region, and how the state are going to be hurt by these disastrous new laws.”

Union City joined the suit in part because, according to Evanoff, it offers a particularly compelling tale of hardship. The agency has invested \$56 million in projects around its BART station that are designed to support Senate Bill 375 by clustering development around a transit hub. Either dissolution or the remit-

tance could cripple these projects.

“We’re also doing what the region has called for, which is to focus 90 percent of new growth around our local transit hub,” said Evanoff. “We’re implementing the goals of the State Legislature to reduce greenhouse gases by having housing and jobs around the transit hubs.”

CRA spokesperson Kathy Fairbanks said that the CRA does not have authoritative information on the number of the state’s nearly 400 active redevelopment agencies that might fold, but reports indicate that the vast majority are prepared to make the payments. But merely staying in business does not, according to many officials, mean that agencies will be able to conduct business as usual. Under the laws as passed, agencies would have to notify the Department of Finance of their intentions by Oct. 1; remittance payments would be due Jan. 1.

“Since the budget bills passed, many redevelopment agencies have notified us that they cannot afford the ransom payment and will cease to exist,” said CRA executive director John Shirey in a statement. “And those agencies that are planning on making the payment tell us that it will greatly diminish their ability to pursue vital local projects.”

Barring a stay, Palmer said that the Department of Finance will be preparing to receive word from agencies about their intentions. He said that the final amounts of each jurisdiction’s remittance payments will be calculated and made public by Aug. 1.

If the suit succeeds and the state receives neither remittances nor TIFs recovered from defunct agencies, then – regardless of the economic benefit of intact redevelopment agencies – Sacramento will have another budget headache on its hands.

“If revenues are not going to be part of the equation, then we’re talking about extremely deep and difficult reductions above and beyond those that have already passed,” said Palmer. ■

➤ Contacts & Resources:

Text of CRA Suit
<http://www.cp-dr.com/sites/default/files/Petition%20Writ%20Mandate%20071811.pdf>

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>>>> Wave of Housing Elements to Arrive in 2013

— CONTINUED FROM PAGE 1

Assembly Bill 32. She said that the department is still evaluating its staffing options but insists that the department is open for business and intends to adapt to its financial constraints.

“We are currently evaluating what we can do and what our options are to maintain this important function,” said Creswell.

In many ways, the budget cuts could not have come at a better time. The implementation of Senate Bill 375 has pushed back the Regional Housing Needs Assessment cycle for the state’s four major metropolitan planning organizations. The RHNA process, which is renewed in five-year cycles, sets the parameters for the amount of affordable housing that local jurisdictions must account for in the housing elements of their general plans.

With this delay in the RHNA process, no housing elements are scheduled to come up for review within the next year.

“For the next year it’s manageable, even with less than half the resources,” said Creswell.

Whereas many HCD functions fund themselves through special funds and fees associated with programs that HCD administers, the housing element department relies entirely on the General Fund operating budget granted to it by the Legislature and governor. In the era of extreme cost-cutting, the department is being forced to take its share of the pain. Legislators had proposed a stopgap measure by which funds from Proposition 1C, an affordable housing bond measure, would be dedicated to housing element review.

Brown vetoed that provision even though state law requires cities to produce and abide by housing elements. HCD review is intended to ensure that housing elements comply with the Regional Housing Needs Assessment allo-

cation provided by councils of governments.

“The whole state-mandated planning system provides a counterweight to local parochialism that can sometimes affect the backbone of local elected officials and their staff,” said Michael Rawson, co-director of the Public Interest Law Project.

HCD plays a consulting role, reviewing housing elements and helping cities determine if their housing elements conform to their respective MPOs’ RHNA prescriptions. If housing elements appear to be out of compliance, HCD, the only public entity with the authority, will offer recommendations. HCD, however, does not enforce compliance. Lawsuits – often brought by affordable housing advocacy groups – are the typical method by which housing elements are found to be lawful or not.

If the cuts extend into 2013, however, it may be a different story. As the RHNA process gets back on track, a deluge of city housing elements are expected to come in. The jurisdictions of the Southern California Association of Governments alone are expected to produce 197 housing elements.

“That is, under the best of circumstances, a huge amount of housing elements due out of one region basically at the same time,” said Douglas Williford, deputy executive director for plans and programs at the Southern California Association of Governments. Rawson called it “more of a juggernaut than a rolling series of reviews.”

Presumably, a shortage of staff and financial resources could impede the review process, or even mean that some housing elements go unreviewed. Review is not technically required for cities to adopt housing elements and implement them. Reviews can go through multiple rounds

if a draft housing element is off-base, and that process often leads to substantial changes.

“I’ve experienced the full gamut, between sailing through with only minor comments that you could address literally within a few days, all the way to months and months of discussion, negotiation, and meetings,” said Williford, who praised HCD for being accessible during SCAG’s RHNA process.

Even cities that are diligent can wind up with noncompliant draft housing elements, in part, because RHNAs offer significant room for interpretation and variations among cities.

“It is arcane detail and often does require a lot of discussion. And ... every city is unique,” said Williford. “That is why it’s not always so easy as checking the boxes.”

Moreover, advocates fear that the governor’s refusal to fully fund housing element review could send the wrong messages to cities, especially those that are reluctant to plan for affordable housing.

It could also mean that faulty housing elements go on the books and thus become ripe for lawsuits.

“If there seems to be a creeping recalcitrance because of a perception of a diminishing state of review, that will cause more advocacy,” said Rawson.

HCD is doing some advocacy of its own. Creswell said that the department will be reaching out to jurisdictions to assure them that housing elements will get reviewed, while also asking for their assistance.

Creswell said that she will be sending a memo to all jurisdictions assuring them that HCD remains in business. “If they’ve got a housing element in with us, it will be done in an appropriate amount of time.” ■

“It’s said that great minds think alike. Sometimes great firms do, too.”

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The State of Northern California, Starring Los Angeles

I DON'T WANT TO APPEAR OUT OF STEP with rational people – it's so hard to regain people's trust once they suspect you've gone off the rails – but that doesn't mean that I don't endorse Riverside County Supervisor Jeff Stone's suggestion last week to partition California into two states.

The beauty of this two-state idea is the epic gerrymander that would force Northern California to take Los Angeles – a magnet for entertainment types, Beverly Hills matrons, hip-hop artists with jewelry in their teeth and people who speak foreign languages, among other annoyances – as its new capitol. For its part, the new State of Southern California would include up to 13 counties, including Riverside, Orange and San Diego.

The motivation? "Our taxes are too high, our schools don't educate our children well enough, unions and other special interests have more clout in the Legislature than the general public," Stone said in a statement.

Speaking as the self-appointed representative for Los Angeles, I'm willing to strike a deal with Supervisor Stone, as long as he meets the following demands:

1. I want a redwood grove immediately transported to Edwards Air Force Base, located in the desert region in northernmost L.A. County. If we arrange all the redwood trees in a giant circle, they can make a convenient target for incoming spacecraft.

2. I want giant fog-making machinery, so clouds can drift poetically over the LA in the afternoon, just before the evening gets that oceanfront chill. (Believe me, they'll never miss the fog in Tiburon.)

3. Move Malibu to Eureka, so we don't have to deal with people who challenge us as we wade waist-deep across their "private" beach waters. Granted, such people are a tiny minority of the good people of Malibu, but relocating them northwards improves the chances they will be eaten by sharks.

4. Move the Golden Gate bridge to Long Beach, which could serve as a wonderful "image piece" to celebrate that city's industrial waterfront.

5. Move Santa Monica to a site just outside Pleasanton – they're roughly in the same demographic and median household income, so they should get along – while bringing Big Sur and Point Lobos Reserve to the area to the Santa Monica Bay, so I don't have to drive so far to visit my favorite parts of Northern California.

6. To keep undesirables out of the new State of Northern California, a barrier fence can be built along the borders of the two states, to keep Southerners from attempting to infiltrate our citadel of affluence and scenic shorelines.



Travelers attempting to enter Northern California would be stopped at checkpoints. Those lacking special work visas would be turned away.

7. In recognition of the region's emerging majority population, Spanish becomes the official language of the new State of Southern California.

I'm prepared to deal, Supervisor Stone. And I'll make a special offer: if you and I can come to an agreement before Labor Day, I'll throw in Kern County, as a kind of goodwill gift, or *lagniappe*, as such gifts are known in Louisiana. Think it over. Lunch is my treat. We'll have Humboldt fog for the cheese course.

– MORRIS NEWMAN | JULY 11, 2011 ■

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The Real Problem With Carmageddon

IF YOU HAVEN'T HEARD, we're expecting a little traffic here in west Los Angeles this weekend. Actually, we're expecting it all over the city. No, wait. All over the county.

Forget it. The entire state is going to be paralyzed. Now everybody freak out!

I am writing, of course, about the two-day closure of Interstate 405 between the 101 and 10 freeways [↖], otherwise known as "Carmageddon". This weekend, LA Metro turns off the busiest freeway in the country, like Niagara Falls running dry.

The stanching of the flow of 500,000 cars daily will be a grand experiment in transportation planning and public relations, and as far as I'm concerned, there's not a single credible hypothesis. I'd like to think that I have special insight into what's going to happen because I live a two-minute drive from Ground Zero – the Sunset exit of the 405, where the cascade of cars from the Valley splashes down into the pool of gridlock that is the Westside – but I don't have a clue about whether this will be a blessing or a curse.

It's quite likely the parallel routes to the 405 will be stuffed. I wouldn't drive Topanga, Coldwater, or Laurel canyons for all the oil in Saudi Arabia. The 101 and the 5 are likely to absorb traffic well beyond their carrying capacity.

But it's the broader network effects that are going to be most interesting. For instance, if drivers want to get to Century City but take the 101, does that mean that all the east-west streets between Hollywood and Century city are going to be clogged? Will through-traffic – from, say, Santa Clarita to LAX, or even San Francisco to San Diego – have to make massive detours, thus backing up the entire statewide freeway system?

Or will most people just stay home and fire up the grill?

Carmageddon has elicited some hopeful proclamations [↖] from folks who say that it presents a great opportunity to stay home, hang out with local friends, smoke a few joints, and contemplate the lamentable role of the automobile in modern life. I'm all for it. But I'm not sure that people who have to work Saturday and Sunday feel the same way.

However fun or inconvenient it may be, all the speculation about Carmageddon weekend ignores important questions that policymakers may have missed in their original cost-benefit analyses. For sure, the improved freeway will be better than the old freeway. But you can't compare the new and the old. You also have to consider the costs that we have incurred in between.

If you haven't seen the construction site, you'd be amazed at what's already been going on for two years. This isn't Texas, where another lane just requires laying down another strip of asphalt. And it's not even the San Francisco Bay, where you can build a new bridge right next to the old one.

We're talking about demolishing houses. We're talking about cutting 200-foot-high chunks off hillsides and replacing them with retaining walls. They're tearing bridges down one half a time, so traffic can squeeze past until they rebuild them whole (that's what they're doing this weekend). On- and off-ramps have been jury-rigged. Lanes on surface streets have disappeared.

In short, Carmageddon may be arriving this weekend, but we've been on a highway to hell for as long as this project has been underway.

Everyone, save a few transportation planners, is familiar by now with the arguments about induced demand [↖]. Once the lanes are added, they could fill up almost instantly. But that's only half the problem with freeway construction.

The other half – which is never mentioned or measured, as far as I know – is the time and money lost to drivers while the freeway is being improved. Even if the 405 doesn't clog up instantly and does flow freely for a few years after the project is finished, I find it hard to believe that the time savings will compensate for all the time lost during its construction.

To whit, a 1.5-mile drive from my apartment to Westwood, via Wilshire Boulevard, that can take five minutes can now take over a half-hour. Walking is literally faster. Multiply that by the tens of thousands of other drivers who take that route daily. Then multiply it by

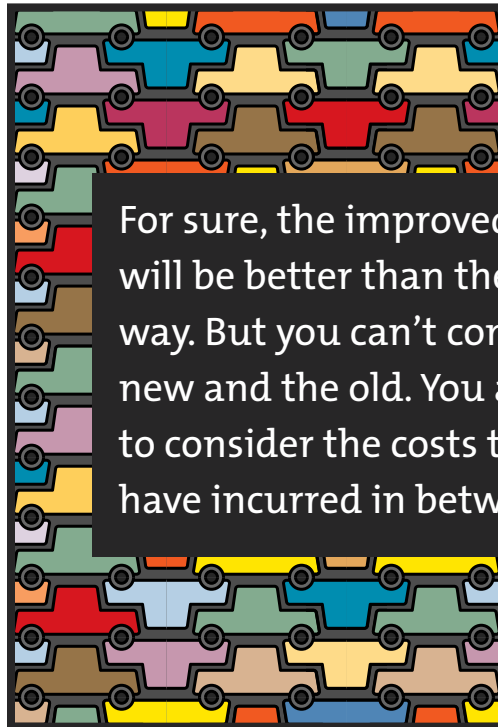
the other chokepoints. We'd all need Buggatis and open roads for years in order to make up for what we're now enduring.

Then there's the pollution. One of the arguments in favor of carpool lanes is that commuters consolidate their vehicles and that they'll pollute less because they're flowing freely. But the cars stuck on Wilshire are now polluting more. Again, unless every car stuck in traffic on the new 405 runs on hydrogen and fairy dust, the construction alone will have caused a net increase in pollution.

In other words, by the time this thing has a chance to reduce pollution and traffic – if it ever does – it will already have generated plenty of pollution and traffic.

So who benefits from this feat of engineering? I know that a certain construction firm is reaping \$1 billion in revenue. But I'll get something more sublime. On Saturday evening, perhaps near sundown, I get to stroll across the Sunset bridge, peer into the twilight, and see, for once, what an empty freeway looks like.

– JOSH STEPHENS | JULY 13, 2011 ■



For sure, the improved freeway will be better than the old freeway. But you can't compare the new and the old. You also have to consider the costs that we have incurred in between.

