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Court Backs LAFCO In Agoura Hills Case

An appellate court has upheld the Los Angeles County Local Agency Formation Commission's decision to give Agoura Hills a small sphere of influence, reopening debate over the legal role LAFCOs play in determining land uses and development patterns — as well as the power county governments have over LAFCOs.

In *City of Agoura Hills v. LAFCO of Los Angeles County*, the Second District Court of Appeal in Los Angeles ruled that LAFCO's refusal to grant Agoura Hills a broad sphere of influence was legal — and, furthermore, that County Supervisor Michael Antonovich did not violate state political laws by voting on the decision, even though he had accepted campaign contributions from landowners affected by the sphere decision.

Meanwhile, Sen. Ed. Davis, R-Chatsworth, whose constituents include residents of Agoura Hills and incorporation advocates in nearby Calabasas, has introduced a bill seeking to restrict the power counties have over the LAFCO process and give greater voice to city incorporation advocates.

Statewide, relations between cities and counties have deteriorated because of incorporation efforts, which may provide more self-determination for local citizens but also transfers considerable tax revenue out of county coffers to the new city. (*CP&DR Special Report:* Drawing Boundaries, March 1987.)

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Mello-Roos Bonds Rise Sharply in '87

California localities continued to make broad use of bond financing to pay for infrastructure in 1987 — but the federal tax reform law is forcing a shift from special assessments to Mello-Roos financing schemes.

According to the California Debt Advisory Commission, assessment district bonding dropped from $1.2 billion in 1986 to a little over $600 million in 1987. At the same time, however, Mello-Roos financing rose from $147 million to an all-time high of almost $237 million.

The two types of bonds combined, however, totalled less than 10% of all California local government bonding in 1987. Preliminary figures from CDAC indicate that local issues totalled more than $11 billion. About half that amount went to capital improvements and public works, with another 10% going to redevelopment projects and the rest split between commercial and industrial development, education, and other purposes.

In part, the huge dropoff of assessment district bonds in 1987 reflects an abnormally high number of bond issues floated in 1986 in order to beat federal tax-reform deadlines. But CDAC's figures also show that local governments, like the state government, must rely heavily on bond financing for construction of public works projects such as roads, water and sewage systems, and schools.

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S.F. Bans Demolition Of Single-Family Homes

The San Francisco Board of Supervisors has imposed a five- month moratorium on demolition of single-family homes, but the Bay Area Council reports that housing construction in the city is high and the housing market is the best now that it has been in several years.

The supervisors approved the temporary ban on demolitions on Feb. 1, giving housing activists in the city until July 2 to develop a permanent ordinance governing demolition of single- family homes. The moratorium also affected two-family buildings located in areas now zoned for single-family and duplex homes.

Supervisor Richard Hongisto, sponsor of the demolition ban, removed his name from it at the last minute and did not on vote the proposal because of a possible conflict of interest. Hongisto owns housing units in the city which could be affected in value by the moratorium.

The moratorium was advocated mostly by neighborhood activists concerned not just about housing but about the preservation of neighborhood character. "Right now it's anarchy in the neighborhoods," Richmond neighborhood activist Lois Miyashiro told the San Francisco *Examiner*.

Meanwhile, the Bay Area Council, an industry-funded housing advocacy group, has found that construction and building permits in San Francisco have moved along at a rapid clip in the last three years. Thomas Cook, the council's director

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UPDATE

Committee Passes Indian Wells Housing Bill

Indian Wells' plan to use redevelopment funds to build low- cost housing outside its city limits has received the approval of the state Senate Local Government Committee.

Over the opposition of one citizen group and the Marriott Corp. the committee recommended approval of SB 1719 at its Feb. 23 meeting, with Sen. Newton Russell of Glendale casting the only vote against the bill.

Under the bill, Indian Wells and the Sunrise Corp. would be permitted to build up to 600 units of low- and moderate-income housing in unincorporated county territory, even though the units would be intended to house workers at Sunrise's billion- dollar Sunterra resort in Indian Wells, which voters approved at the polls last November.

Under state law, redevelopment agencies must set aside 20% of their tax-increment funds for low/mod housing and are not permitted to "export" these funds out of their cities. (*CP&DR Special Report: Housing and Redevelopment*, February 1988.)

SB 1719, sponsored by Sen. Robert Presley of Riverside, is part of a legal settlement between Indian Wells and low-income housing advocates from California Rural Legal Assistance and the Western Center on Law and Poverty. Poverty lawyers sued to force Indian Wells to provide housing for the employees of Sunterra, who would otherwise probably be unable to find housing in Indian Wells. (The case was *Sanchez v. City of Indian Wells*, Riverside County Superior Court Case No. Indio 50397.)

In the final agreement, Indian Wells and Sunrise Co. agreed to provide 750 units of housing, 150 of which would be located in the City of Indian Wells. The rest would be located nearby and may be funded, at least in part, by tax-increment funds generated by the Sunterra project.

At the legislative hearing in Sacramento, Indian Wells Mayor Richard Oliphant told the Local Government Committee that the state would not be setting a precedent because Indian Wells's situation is unusual: The city contains only six square miles, 85% of the land has been used, and only scattered vacant lots remain.

However, legislators questioned why the city could not annex the unincorporated property and then build the low-cost housing on it. Oliphant said the unincorporated area already contains some homes and residents have not been receptive to annexation.

Opposition surfaced in the form of the Marriott Corp., which owns a brand-new resort hotel in nearby Palm Desert, and a citizen group called Friends of Indian Wells. Both were active in the unsuccessful attempt to kill the project by placing it on the ballot. (In fact, Marriott contributed $60,000 to the $160,000 warchest opposing the project.)

"We feel the city has misused the redevelopment law to accommodate the hotel project, and also wants to change the state law so they can export poor people out of Indian Wells," said Pat Green, chairman of Friends of Indian Wells.

Marriott lobbyist Kurt Malmgren noted that the annexation proposal had not been decided by the county Local Agency Formation Commission, and that much of Indian Wells' "built- up" land is in the form of golf courses. (In fact, a week after the hearing a nationally televised golf tournament was held in Indian Wells.) When legislators asked him whether Marriott had contributed low-cost housing in building a project in Palm Desert, Malmgren said the company had not and acknowledged that Marriott's employees often live as far away as Los Angeles.

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Del Mar Voters Approve Downtown Hotel Plan

In Del Mar, developer James Watkins has proven that if you can't lick growth control fever the first time, a second try may be worth the effort.

Last September, voters in Del Mar (San Diego County) defeated Watkins' plans for a hotel/retail/condominium complex by 15 votes. (*CP&DR*, October 1987.) But on Feb. 9, the voters changed their mind, giving the project 54-46% approval the second time around. The February voter turnout was higher than the September turnout by close to 20%.

After the September defeat, Watkins scaled the downtown project down slightly, keeping a 125-room hotel but slicing the retail and condominium components considerably. A vote was required under a previous initiative, passed in 1986, which requires a vote on all substantial downtown commercial projects.

The Watkins project featured a lively campaign that included an unusually large amount of information and debate about the project's financial feasibility. During the campaign, Watkins presented figures claiming that if he cut the hotel project in half, as Del Mar growth-control advocates wanted, he would lose close to $1 million a year. However, growth-control advocates countered by arguing that Watkins' figures were based on outdated room rates and claimed that a smaller hotel could produce a *profit* of $1 million a year.

Watkins also emphasized the project's financial benefits to the community, including his commitment to contribute $1 million over 20 years toward a library, development of a 20,000-square- foot park, a community meeting room, and 60 public parking spaces.

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COURT CASES

San Jose Rent Law Upheld; Taking Issue Left Behind

The U.S. Supreme Court has upheld the constitutionality of San Jose's rent control ordinance, but failed to determine whether rent control can constitute a taking of property under the Fifth Amendment of the U.S. Constitution.

The court ruled Feb. 24 that the San Jose ordinance, which permits local officials to consider a tenant's economic and financial hardship in determining whether to grant rent increases, does not violate the U.S. Constitution's due process and equal protection clauses. "We have long recognized a legitimate and rational goal of price or rate regulation is the protection of consumer welfare," Chief Justice William Rehnquist wrote for the majority of the court in *Pennell v. City of San Jose*.

However, Rehnquist went on to write that consideration of the taking question would be "premature" because landlords presented no evidence that the hardship clause actually had been used to deny a rent increase to any landlord in the city.

Municipal attorneys called the decision a major victory, while property rights lawyers were disappointed that the taking issue had not been addressed. After the Supreme Court's rulings in *First English Church v. County of Los Angeles* and *Nollan v. California Coastal Commission* last year, property rights lawyers predicted that *Pennell* could become the next important case in determining when land-use regulations constitute a taking of property.

Landlord Richard Pennell and the Tri-County Apartment House Owners Association sued shortly after the rent control ordinance was approved by the city council in 1979. Under the ordinance, landlords are permitted rent increases of up to 8% per year automatically. Requests to increase the rent by more than 8% require a hearing before a hearing officer, and according the the ordinance the hearing officer "shall consider the economic and financial hardship imposed on the present tenant or tenants of the unit or units to which such increases apply."

In 1986, the California Supreme Court reversed lower courts by ruling that the ordinance was constitutional. (*Pennell v. City of San Jose*, 42 Cal.3d. 365.) Somewhat surprisingly, the U.S. Supreme Court, led by the conservative Rehnquist, affirmed the California decision.

After dismissing the taking claim as premature, Rehnquist wrote that the rent control ordinance fell within the legal history of other economic regulations which the court has upheld since 1944. The ordinance, Rehnquist wrote, "represents a rational attempt to accommodate the conflicting interests of protecting tenants from burdensome rent increases while at the same time ensuring that landlords are guaranteed a fair return on their investment."

Justice Antonin Scalia, who wrote the opinion in the *Nollan* case last year, dissented in the *Pennell* case, claiming that the San Jose ordinance did indeed create a taking of property under the Fifth Amendment. "Here the city is not 'regulating' rents. ... (R)ather, it is using the occasion of rent regulation ... to establish a welfare program privately funded by those landlords who happen to have 'hardship' tenants," Scalia wrote in a dissent joined by Justice Sandra Day O'Connor.

The full text of Pennell v. City of San Jose, 86-753, appeared in the Los Angeles Daily Journal Daily Appellate Report on Feb. 26, 1988, beginning at page 2296.

Environmentalists Win CEQA Case From Mt. Shasta

Another California appellate court has raised the standard of environmental review for development projects under the California Environmental Quality Act (CEQA), and the new ruling may dovetail with a decision last month to create a significant victory for environmentalists.

In *Citizens for Quality Growth v. City of Mt. Shasta*, the Third District Court of Appeal in Sacramento ruled that a local government cannot approve a development project that will create significant environmental damage unless both mitigation measures and alternatives have been considered.

Under CEQA, local governments may approve a development project which will significantly harm the environment if it adopts a "statement of overriding consideration." In Mt. Shasta, the city council approved a 35-acre rezoning of property to commercial use even though environmental review showed that development of the site would lead to a loss of wetlands. The citizen group that sued was concerned partly about the loss of wetlands and partly about the potential impact of a new commercial area on the economic health of downtown Mt. Shasta.

The appellate court ruled that Mt. Shasta's statement of overriding consideration illegally failed to make findings specifically rejecting mitigation measures and also failed to evaluate proposed alternatives. Subsequently, according to citizen attorney James Moose, the developer was denied a permit to fill the wetlands by the Army Corps of Engineers.

Moose said the requirement that both mitigation and alternatives must be considered is a victory for environmentalists, particularly in light of their January victory in *Goleta Valley v. Board of Supervisors.* (*CP&DR*, February 1988.) In that case, an appellate court in Ventura ruled that if a project will inflict significant damage on the environment, the environmental review must consider alternative sites, even when the landowner does not own other sites in the area.

Contacts: James G. Moose, lawyer for citizens, (916) 443-2745.
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N.Y. Developer Must Raze Top 12 Stories of Building

A New York City developer who constructed an apartment building taller than the zoning code allowed has been ordered to remove the top 12 stories of his building.

The New York Court of Appeals, that state's highest court, ruled Feb. 9 that even though the city helped to make the initial mistake of approving a 31-story building, Parkview Associates should have realized earlier than it did that the building permit was based on erroneous zoning information.

City officials said the top 12 stories of the building, on East 96th St. just off Park Avenue, would not be torn down immediately. Rather, the city will first process a request by the developer for a zoning variance. The developer's attorney said it would cost about $2 million to remove the 12 stories and put a new roof on the building, which cost about $7 million to build in the first place.

The permit was approved because a dotted line on the city zoning map was in the wrong place. However, the appeals court concluded, "Reasonable diligence by a good-faith inquirer would have disclosed the true facts and the bureaucratic error."

COURT CASES

State Supreme Court Expands Federal Water Rights

In a ruling that could have significant consequences for California's water supply, the state Supreme Court has ruled that the federal government may assert so-called "riparian rights" over water on the land it owns in California.

Though it is unlikely that the federal government would stake claims on water now used for other purposes, in theory the decision could be far-reaching. The United States owns almost half of all the land in California, a total of some 45 million acres. Under this decision, the government could claim that it controls much of the water used by farmers and residents throughout the state.

In particular, the ruling could affect the City of Los Angeles's water supply in the Owens Valley, because the federal government owns most of the watershed around Mono Lake, the body of water whose feeder streams the city diverts.

Lawyers for the federal government and the Sierra Club Legal Defense Fund insisted the ruling would not change the balance of power on water issues in California, largely because the federal government is not likely to lay claim to the water. But the state's lawyers said they found the ruling confusing and potentially significant. An appeal to the U.S. Supreme Court seems likely.

Unlike other arid western states, California recognizes so- called "riparian" rights, meaning a landowner upstream has the right to divert water for his own purposes, even if downstream landowners want to use it also. The state also recognizes the so-called "appropriative" right, meaning downstream users who diverted the water first may win rights over upstream property owners who claim to have riparian rights.

In *In re Hallett Creek*, the federal government asked that it be awarded the same rights as other private property owners. The case grew out of the federal government's desire to lay claim to water in a Lassen County creek in order to enhance wildlife. Though the state Water Resources Control Board ruled against the federal government, the state Supreme Court reversed the ruling.

However, elsewhere in the 40-page decision, the Supreme Court also ruled that other users of water may sometimes properly claim rights to the water if the federal government did not exercise its riparian right for many years. The court left such decisions up to the Water Resources Control Board.

Justice Department lawyer Robert Klarquist and Sierra Club lawyer Laurens Silver played down the importance of the ruling. "We're saying, whatever water rights area, we get it the same as everybody else," said Klarquist.

But Roderick E. Walston, the state's lawyer, said the ruling is confusing because while the Supreme Court indicated that the water board has broad power over these water disputes, the precedents cited in the case granted the board only narrow power in similar cases. "We don't really know what the Supreme Court was really saying," he said.

Walston did speculate, however, that the Sierra Club's involvement in the case was motivated by a desire to gain more leverage in the Mono Lake situation. For years, environmentalists have sought to force the City of Los Angeles to allow some of the Sierra streamwater to flow into Mono Lake, which has been shrinking in size. The federal government owns much of the land in the Mono Lake watershed — some of it originally acquired to protect Los Angeles's ability to divert the water.

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Tidelands Ruling Reinforces California Policy

In a case from Mississippi, the U.S. Supreme Court has strengthened California's claim that coastal states hold title to so-called "tidelands" even when the land is far inland.

In *Phillips Petroleum Co. v. Mississippi*, the high court ruled that the state of Mississippi, not several private landowners including Phillips Petroleum, holds title to some 42 acres of land in bayous and drainage streams of northwestern Mississippi because they are affected by the ebb and flow of tides, even though they are not navigable. The private landowners had claimed their land titles could be traced back to previous landowners who received Spanish land grants before Mississippi was part of the United States.

In making the ruling, the majority of the justices dismissed claims by the American Land Title Association that the decision would cloud title claims on millions of parcels of land — particularly in California, where the state has made aggressive tidelands claims far inland from the ocean to protect water quality and navigation.

Justice Antonin Scalia, who last year wrote the majority opinion in the controversial case *Nollan v. California Coastal Commission*, filed an aggressively worded dissent in which he argued that the ruling would "disrupt the settled expectations of landowners not only in Mississippi but in every coastal state." Scalia argued that non-navigable tidelands should not be considered the public's property, and noted that many coastal states, including Mississippi, showed no interest in title to those lands until the passage of environmental laws in the early '70s.

Besides California, one of the most aggressive states in making tidelands claims is New Jersey. In his dissent, Scalia specifically derided New Jersey's claim, which holds that all land affected by tides at any time since the American Revolution belongs to the state. In New Jersey, the Tidelands Resource Council reviews all applications from private landowners to clear title, with the proceeds devoted to public education. In fact, since 1980, tidelands title money has been used to guarantee local school construction bonds.

In California, Assistant Attorney General N. Gregory Taylor, head of the land law section of the Attorney General's Public Rights Division, claimed that the American Land Title Association's brief overstated the effect the court's ruling might have in clouding land titles. "It's the rule that's always been used by the federal government," he said. "It's the basis on which we've bought and sold title in California since we entered the Union in 1850."

The complete text of Phillips Petroleum Co. v. Mississippi, No. 86-870, was published in the Los Angeles Daily Journal Daily Appellate Report on Feb. 25, 1988, at page 2240.
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Court Backs LAFCO's Sphere Ruling in Agoura Hills

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In Los Angeles County, new and prospective cities have experienced considerable friction in dealing with the local LAFCO. In part this has come about because incorporation advocates believe L.A.'s county supervisors protect big campaign contributors who own undeveloped property by trying to keep their land outside city limits and spheres of influence.

The debate over Agoura Hills' sphere was a prime example. The city, incorporated in 1982, is located along Highway 101 on the western edge of Los Angeles County, near Westlake Village and Thousand Oaks. After incorporation, the city, which now covers about eight square miles, sought a sphere of influence covering a considerable area outside its boundaries, but the Los Angeles LAFCO limited the sphere to the existing city boundaries and one additional tract for which a map had already been filed.

Spheres, defined as "the probable ultimate physical boundaries and service area of a local agency," are important because they determine the amount of leverage a city can exert over new development likely to occur immediately outside its boundaries. If an undeveloped area is located within a neighboring city's sphere, that area is considered likely for eventual annexation and development will usually be bound by the city's general plan.

However, the Second District Court of Appeal in Los Angeles ruled that the L.A. LAFCO was well within its legal rights in giving Agoura Hills a small sphere. "Contrary to the city's arguments, no statutory provision requires that LAFCO adopt a sphere of influence beyond a city's existing boundaries," the court wrote, noting: "A sphere can be amended to include a larger area at a later date."

The court also rejected Agoura Hills' arguments that the sphere decision should have been subject to the California Environmental Quality Act and the state's political reform laws. In so doing, the court took pains to point out that while LAFCOs are charged with discouraging urban sprawl, they do not hold direct power over land-use plans.

With regard to CEQA, the appellate court concluded that the sphere decision was an exempt project. In addition, the court ruled that the Political Reform Act did not apply because the sphere decision "is not a 'license, permit, or other entitlement for use'" as required by the law.

Both Antonovich and L.A. City Councilman Hal Bernson, who sit on LAFCO, had accepted campaign contributions of $250 or more from affected property owners. Had the Political Reform Act applied, both would have had to reveal those contributions and sit out the debate. Antonovich voted in favor of the small sphere, while Bernson attended one meeting but did not speak and did not vote on the issue.

The court also rejected Agoura Hills' claim that LAFCO's sphere decision contained inadequate findings, though the justices said the finding statement "was not good and we do not recommend the statement as a model."

Agoura Hills has filed a petition for rehearing, the first step required before an appeal to the state Supreme Court. "We feel that this is a fundamental misreading of the record; this is a land-use decision," said Rochelle Brown, a Los Angeles lawyer who represented Agoura Hills in the case. She claimed that the sphere decision contained land-use implications because it determined whether the city or the county general plan would control the disputed area.

Sen. Davis's new bill, SB 2277, is the result of Davis's concern over tussles between several incorporation advocates in his district and the Los Angeles LAFCO, including those in Agoura Hills and Santa Clarita (both of which have incorporated) and Calabasas (where a recent LAFCO staff report concluded incorporation was not financially feasible.)

At present, most LAFCOs are part of the county organizational structure and even those LAFCOs that are technically independent are often located in county government buildings. Davis's bill would seek to place more distance between counties and LAFCOs in several ways, particularly with regard to incorporation efforts.

"Allowing a party to a divorce to be the judge of that divorce is not a good idea, but that's what's contained in the LAFCO law," Davis explained at a legislative hearing on the issue last fall in Van Nuys.

Davis's bill would change the LAFCO law so that the explicit legislative intent, in addition to discouraging urban sprawl, would be to "encourage the self-determination of the electorate in urbanizing and contemplating incorporation.

The bill would also require that the county supervisor representing the area sit as a member of LAFCO for the incorporation decision; that local state legislators sit in on such proceedings as non-voting members; and that LAFCO offices be moved out of county buildings.

Last year, Assemblyman Thomas Hannigan introduced a somewhat similar bill which would have required LAFCOs to make much stricter findings in its decisions. However, that bill, AB 169, has now been narrowed to change LAFCO funding so the money comes directly from property tax revenues, not from county appropriations.

The full text of City of Agoura Hills v. LAFCO of Los Angeles County, No. B022489, appeared in the Los Angeles Daily Journal Daily Appellate Report on Feb. 18, 1988, beginning at page 1864.
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S.F. Bans Demolition of Single-Family Homes

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of housing and land use, said construction approval was given to 2,400 units in 1987 — the highest figure since 1973 — while more than 1,500 units were built in each of the previous two years. These figures are up from an average of 1,200-1,300 units authorized and less than 1,000 units constructed each year in the early 1980s. In addition, about 30% of the new units have been dedicated to housing low- and moderate-income households.

"No matter how you measure it, we've had three, maybe four years of solid housing construction," Cook said.

Cook called the ban on demolitions "an emotional issue," claiming that demolitions account for a loss of only a small number of units each year in San Francisco.

The Bay Area Council's research also found that apartment rents have flattened and vacancy rates have doubled in recent years. The multifamily vacancy rate has increased from 0.8% in 1985 to 1.6% in 1987, while the average advertised rent for a two-bedroom apartment has remained at $900 for two years.

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Use of Mello-Roos Bonds Rise Sharply in '87

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Assessment districts have been permitted in California for some 75 years, but their use as mechanisms for bonds has grown dramatically in the last 10 years. Mello-Roos districts are special taxing districts authorized by the state legislature in 1982 as a response to Proposition 13. Mello-Roos districts have become popular because they allow financing of public facilities to be arranged up-front by large landowners and developers.

The use of Mello-Roos bonds has grown steadily since 1983, when one issue totaled $8.5 million. In all, 41 Mello-Roos Community Services Districts have been created, with about $500 million in bonds floated. About half of this activity took place in 1987.

Though Mello-Roos districts are often mentioned as a possible source of school construction financing, in fact only four of the 18 bond issues reported in 1987 went to schools. The other 14 were for capital improvements and public works projects. In dollar terms, CDAC reported that about 40% of the Mello-Roos bonds (about $100 million) went for multiple capital improvements and public works; about a third ($72 million) went for streets, roads, highways, and bridges; and 14% ($34 million) for schools. The remaining 12% ($29 million) financed flood control, storm drainage, and/or water and wastewater-related facilities.

The largest Mello-Roos financings were $25.7 million for roads, public transit, and a fire station in the Laguna area of Sacramento County and $32.8 million for streets, bridges, and highways in South Poway. The only large school bond issue financed via Mello-Roos was a $24 million issue conducted by the Elk Grove Unified School District near Sacramento.

Contact: Theresa Molinari, Executive Secretary, California Debt Advisory Commission, (916) 324-2585.

BRIEFS

The number of new cities is growing faster in the United States as a whole than in California, but the reverse is true of local special districts, says a new report from the U.S. Bureau of the Census.

City growth is slow throughout the country, but between 1982 and 1987 the U.S. added 129 new cities for a total of 19,205 (an increase of 0.67%), while California added 15 new cities for a total of 443 (0.35%), according to the Census Bureau's 1987 Census of Governments (Report No. GC87-1(P)).

However, the number of special districts grew 9% in California during the five-year period (to a total of 2,732), while the U.S. total increased 5%. School districts continued their historical decline in numbers, dropping far more rapidly in California (a fall of 1.2% between '82 and '87 to a new total of 1,098)) than in the rest of the country (a drop of less than one-10th of 1 percent.)

The original McDonald's arch, perhaps Downey's best known cultural landmark, has survived an effort to tear it down.

The 60-foot arch was first constructed in 1953. However, it violates a sign ordinance passed several years later. On Feb. 17, after hearing the testimony of architectural historians and a local historical society, the Downey Planning Commission authorized the staff to draft a variance that would permit the arch to remain standing.

The Planning Commission also gave tentative approval for Pep Boys to construct a 40-foot sign nearby the McDonald's arch. The Pep Boys sign will also violate the sign ordinance, but information about its cultural significance was not immediately available.

Dust-stricken residents in Reno won a $9.5 million judgment against a Pittsburg, Calif., developer whose land-levelling operations caused recurring dust storms in the neighborhood.

Albert Seeno Construction Co. levelled some 50 acres of desert land in Reno in 1984. But nearby residents claimed the company did not water or replant to mitigate the dust problem until residents in a nearby 2,000-home neighborhood had suffered damage to their roofs, swimming pool and automobile engine filters, and in same cases to their own health.

The residents were awarded $6 million in compensatory damages and $3.5 million in punitive damages. Earlier this year they settled for $1.5 million with another construction, Helms Development Co.

Development fees in Mission Valley were approved by the San Diego City Council in early February, meaning the city's plan to finance infrastructure in the so-called "urbanized" areas of the city is complete.

The fee system calls for residential developers to pay $2,307 for every unit, while commercial developers will pay $143 for each vehicle trip created by their projects and $65 per 1,000 square feet for fire protection. The fees are expected to raise $240 million.

Under San Diego's original fee system, the city tried to encourage infill development by requiring no fees in urbanized areas. However, the method worked almost too well — more development was funneled into urbanized areas than expected — and the city reversed its policy. Mission Bay was the last area to receive a fee system because, unlike other "urbanized" sections of the city, the area has large parcels of undeveloped land.

Nevada's Bullfrog County,, population zero, has been declared unconstitutional by a state court there.

Judge David Zenoff's ruling came Feb. 11, when he said that creation of the new county left too many constitutional issues "hanging in the air." Among other things, Zenoff said the authority granted to the governor to appoint three commissioners for the county (since there are no residents) ran "contrary to the democratic process."

Bullfrog County was created by the state legislature to hinder the federal government's attempts to build a nuclear waste dump in Nevada. However, Nye County sued to get the 144,000- square-mile piece of land back.

Think it's maddening to fight about political boundaries and geographic alignments? Apparently what city planners and real estate developers go through is nothing compared to boundary competition in high-school sports.

Believe it or not, El Camino High School in the Sacramento area actually went to court to fight a realignment from one sports conference to another — and won.

El Camino, located in the San Juan school district north of the city, argued that the school met only one of the six criteria required for realignment. But taking a page from the environmentalists' book, El Camino's lawyers focused not on substance but on process, claiming the school had been wronged in its attempt to obtain an appeal.

When the school requested an appeal before a sectional appeals board, interscholastic athletic officials sat on the request for two months, then told El Camino to bypass the regional board and move straight to the state appeals board. Then, when El Camino asked for a state appeals board hearing on Jan. 5, the hearing was scheduled for Jan. 25 (bylaws called for a hearing within two weeks) to be held 400 miles away in Orange County.

That proved too much for Superior Court Judge Ronald B. Robie. Robie, who knows a few things about appeal processes from his time as the attorney member of the state Water Resources Control Board, ruled in El Camino's favor, saying, "The appeals process was devoid of any substance."