



CDIAC

CALIFORNIA
DEBT AND
INVESTMENT
ADVISORY
COMMISSION

CURRENT TOPICS AND PRACTICES IN LAND-SECURED FINANCING

SESSION TWO: Legislative and Legal Updates

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Riverside, California

Building Industry Association v. City of San Ramon

- CFD levies tax for services on new development
- Gov. Code 53313 – allows landowner vote only for additional services that do not supplant services already available
- BIA asserts services must be brand new, qualitatively superior and completely different
- City asserts that additional services means increase in level of existing services (e.g., police, fire)
- BIA asserts tax is a general not special tax
 - Finances standard municipal services
 - Money commingled with General Fund
- Poison Pill
 - If special tax invalidated, City need only provide prior level of service

CFD Cases

City of San Diego v. Shapiro

- CFD established with boundaries coterminous with City
- Special tax levied only on hotels
- Landowner election – 92% approval
- Court ruled registered voters were qualified electors
- Practical effect
 - CFDs with no registered voters are proceeding
 - CFDs with up to 12 registered voters not proceeding

Proposition 218 Cases

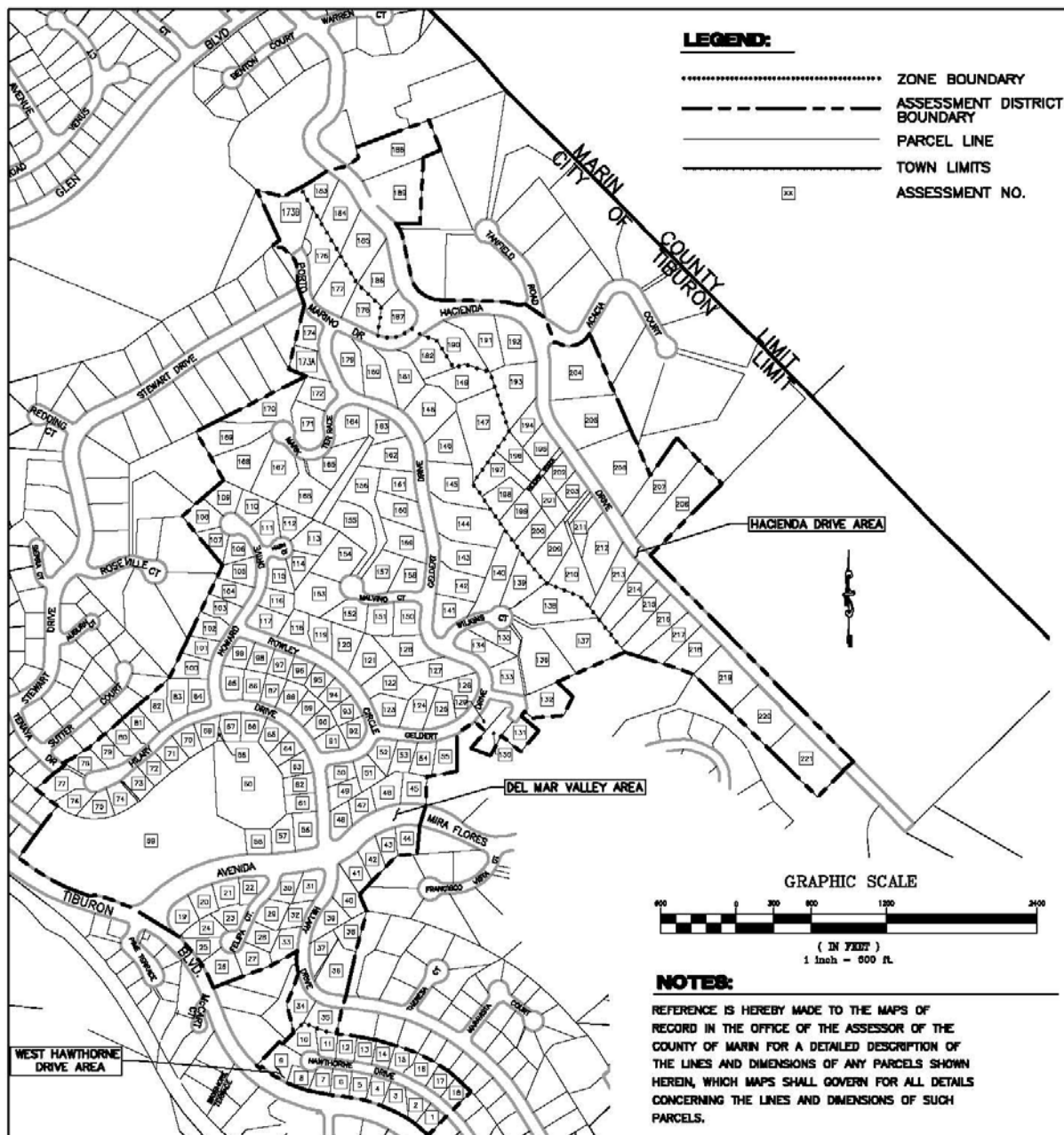
Tiburon v. Bonander

- Issues:
 - Challenge to components of utility undergrounding district – esp. proportionality, cost
 - 3 zones of benefit based on cost considerations
 - Each zone had different assessment based on cost of that electrical subsystem
 - Method of assessment identified several benefit factors

Proposition 218 Cases

Tiburon v. Bonander

- Outcomes:
 - Cost zones not allowed, zones must be based upon benefit only
 - All parcels benefitting must be included in district
 - Each parcel's proportionate special benefit must be based on cost of entire project
 - Court found no fault with methodology – special benefits identified in Engineer's Report were special, ok that special benefit was conferred equally
 - Court affirmed general enhancement of property value does not mean a benefit is general



Proposition 218 Cases

Pending Cases

- La Jolla Benefits Association vs. City of San Diego

Disclosure Legislation

SB 1029 (Government Code Section 8855(i))

The issuer of any proposed debt issue of state or local government shall, **no later than 30 days prior to the sale of any debt issue**, submit a report of the proposed issuance to CDIAC. Such report shall include a **certification by the issuer that it has adopted local debt policies** concerning the use of debt and that the contemplated debt issuance is consistent with those local debt policies.

Disclosure Legislation

SB 1029 (Government Code Section 8855(i)) (Continued)

An issuer's local debt policies shall include all of the following:

- The purposes for which the debt proceeds may be used.
- The types of debt that may be issued.
- The relationship of the debt to, and integration with, the issuer's capital improvement program or budget, if applicable.
- Policy goals related to the issuer's planning goals and objectives.
- The internal control procedures that the issuer has implemented, or will implement, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.

Disclosure Legislation

SB 450 (Government Code Section 5852.1)

Prior to authorization of the issuance of bonds with a term **greater than 13 months**, the governing body of public agency issuing the bonds shall obtain and disclose all of the following information in a meeting open to the public:

- The **true interest cost of the bonds** (“true interest cost” means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the new issue of bonds).
- The **finance charge of the bonds**, which means the sum of all fees and charges paid to third parties.

Disclosure Legislation

SB 450 (Government Code Section 5852.1) (Continued)

- The amount of **proceeds received by the public body** for sale of the bonds less the finance charge of the bonds and any reserves or capitalized interest paid or funded with proceeds of the bonds.
- The **total payment amount**, which equals the sum total of all payments to pay debt service on the bonds calculated to the final maturity of the bonds plus the finance charge of the bonds described above not paid with the proceeds of the bonds.

The information required above may be obtained by the bond issuer as a good faith estimate from an underwriter, financial adviser, or private lender, and must be disclosed in a meeting open to the public (i.e., disclosed in the public staff report regarding the resolution authorizing the issuance of the bonds or in the resolution itself).

PACE Legislation

Senate Bill 242

- Three day right to cancel linked
- Maximum funding disclosure
- Limitation on marketing reimbursement to contractors
- No deferral of first payment
- Same as cash pricing
- Confirmation terms
- Language requirements

PACE Legislation

Assembly Bill 1284

- Establishes underwriting criteria
 - Ability to Pay
 - Maximum value to lien with PACE assessment - 97%
 - Maximum Financing Amount
 - No involuntary liens in excess of \$1,000
 - Bankruptcy restrictions
 - Current on mortgage with no more than 1 late payment during preceding 12 months

PACE Legislation

Assembly Bill 1284 (continued)

- Establishes regulatory criteria for Program Administrators
 - California Department of Business Oversight
 - Requires licensing of program administrators
 - Requires program administrators to provide mandatory training for home improvement contractors and sales reps
 - Holds program administrators accountable for screening and monitoring contractors
 - Empowers DBO to take action against program administrators