WEBINAR TRANSCRIPT

Legal Foundations and Strategic Structuring of Lease Financing
Part 1: The Structure of Lease Financing: Legal Precedents, Conventions, and Misconceptions

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The first session of this two-part series covers the history of lease financing and examine the landmark court cases whose rulings created the "lease exception" to the state's constitutional debt limit. Speakers examine how the legal framework directly influences the compulsory structural elements of lease financings but also discuss those elements where the law is less settled and thoughtful decision-making by issuers is warranted. The session also provides issuers with practical guidance on separating the legally essential from financing decisions, such as debt service structure, fair rental value, overcollateralization, abatement, right to relet, insurance, substitution, and bankruptcy, among others.

Editor's Note: This transcript has been prepared by the California Debt and Investment Advisory Commission (CDIAC) and it believes it to be a fair and accurate reproduction of the comments of the speakers. Any errors are those of CDIAC and not the speakers.

Slide 1 – Legal Foundations and Strategic Structuring of Lease Financing 0:00:00

ROBERT BERRY: Good morning, everyone. Welcome to the first session of our webinar series on The Legal Foundations and Strategic Structuring of Lease Financing, produced by the California Debt and Investment Advisory Commission. In our first session today, we intend to explore the structure of lease financing — its legal precedents, conventions, and misconceptions. I'm Robert Berry, the Executive Director here at CDIAC. Financing leases have been a consistently utilized tool in California public finance for the past 50 to 60 years. These structures are particularly useful when local public agencies need to borrow money and are confronted with the almost insurmountable hurdle presented by the California Constitution's prohibition on incurring indebtedness in excess of an agency's income and revenue for the fiscal year without two-thirds voter approval. Through a series of cases, the California Supreme Court created an exception for long-term financing that is repaid through rental payments on a leased asset, commonly known as the lease exception to the debt limit of the California Constitution. The validity of lease financing is based on several important legal principles that cause the financing structure to walk and quack like a lease. The critical elements of financing leases, which will be discussed in this series, are these: the rent obligation is contingent upon, and is paid in exchange for, beneficial use and occupancy of the leased asset; there is a provision for rent abatement if use and occupancy of the leased asset is not maintained; and rental payments cannot exceed fair rental value. These elements form the foundation of what we have called the lease construct under the lease exception to the Constitution. The challenge is how to finance your project, with all the practical and circumstantial considerations you face, while staying committed to the lease construct. Next, please.

Slide 2 – Local Agency Lease Financing Trends 0:01:50

ROBERT BERRY: This graph is compiled from CDIAC's debt database, and it illustrates the consistent use of leases in California local public finance since CDIAC began collecting debt issuance data. As a percentage of all local debt issuance, the use of lease financing — that green slice — has narrowed somewhat, especially in the years following the passage of Proposition 39 in 2000. K-14 schools gained the ability to issue general obligation debt, which presented a better financing option because of the lower voter threshold for approval, but also because of the opportunity to raise the tax revenue to service the debt — leveraging the limited resources of the general fund was not required, provided they had the 55% vote threshold and could obtain it. The better alternative for the K-14 segment explains some of the narrowing, but more recent narrowing is likely attributable to the decline in general fund revenues that cities and counties — the primary issuers of lease financing — have available to service these debts. However, even with the narrowing, lease financing has represented 7–9% of the total principal issued by California local governments since the Great Recession of 2008. It has been a consistently used tool, particularly useful to agencies that have important projects, as I mentioned, where general obligation debt is impractical. Next slide, please.

Slide 3 – Financing Lease Structure: "Lease-Lease Back" 0:03:10

ROBERT BERRY: To provide some general context for this series, I've included a slide that portrays a simplified schematic of a very typical lease financing — actually, the most common one, the lease-lease back structure. As pictured, the agency identifies an owned asset that can be leased. The agency leases the asset to a finance entity, usually a captive joint powers authority, in exchange for a lump-sum lease payment derived from the sale of bonds, or the issuance of certificates, to investors by the JPA. The lump sum, or bond proceeds, are used by the agency for the project. Simultaneously, the agency subleases the asset back from the JPA in exchange for rental payments that the JPA uses to service the debt. I recognize there are structures not portrayed here, where the asset under construction is the leased asset. That structure relies on elements born of the same legal principles, however. Next slide.

Slide 4 – CDIAC's *Lease Financing in California* Series 0:04:05

ROBERT BERRY: Also, to support your understanding of the fundamental aspects of lease financing, I want to draw your attention to CDIAC's *Lease Financing* content series. Available in our publications library, and linked to the event page for this program, we have three publications that cover the elements we'll discuss during our series — from the legal fundamentals, to the decision points, to the recommended practices. It's important to point out that CDIAC and the numerous contributors to our content series on lease financing were motivated to produce these publications not only to update work that CDIAC had produced in the early nineties, but also as a business continuity measure to facilitate the generational transition occurring in public finance. Our presenters today and next week are very experienced and recognize that practices, approaches, and markets have changed over the years, and that a fresh view of even the frequently used tools is needed to make sure the next generation of public finance officials are prepared for the challenges ahead. Next slide, please.

Slide 5 – Part One: Program Objectives 0:05:08

ROBERT BERRY: That brings us to our objective for today's installment. Building from the concepts discussed in our written content series, which I just outlined, we'll more closely examine the law and learn more about how the law and financing conventions have influenced how leases are structured today. First, our presenters will discuss the origins of lease financing, the case law, and the resulting legal principles that underpin what we call the lease construct. Then they'll explore the key structural elements considered compulsory — necessary to establish and maintain a legally valid lease financing consistent with the lease construct. Lastly, in this session, they'll examine structural elements of financing leases that are born of conventions and misconceptions, not necessarily legal necessity, and that should provoke some thoughtful consideration among issuers. This is where the practices, approaches, and markets have evolved. And in our next session, on May 21st, our presenters will have a very practical discussion about how these financing decisions unfold for issuers and how the market may or may not react. Today's discussion will really set the stage for next week as well. Our goal with this series is to help you execute a financing with greater efficiency, some additional risk mitigation, and perhaps some cost savings that will increase the value of your lease financing transactions. Before I introduce our faculty team and we get started, allow me to quickly run down our standard webinar housekeeping items.

Slide 6 – Housekeeping 0:06:38

ROBERT BERRY: The slides and links to our content series — our three publications — are posted to the event page on CDIAC's website, accessible from the front page of our website or the link on the screen. Questions during the program are submitted through the Slido application on the Q&A tab. If you don't see the Slido app come up on your screen when you click that tab, there's a link in the chat that will allow you to access the program. Sometimes it depends on how you access — through the web or through the application — whether you'll see that, so take a look there if you don't see the Slido app. You may submit questions at any time during the program, and I'll pose them to our presenters during our Q&A period. If you'd like captioning, there's a captioning button on the lower left of the screen. If you participate in 70% of the webinar, we'll send a certificate of participation in a couple of weeks. Also, in about two weeks, we'll make a full replay of the program available on CDIAC's Education Portal. And lastly, visit Webex's help center at the link on the screen if you have any technical problems. Next slide.

Slide 7 – Speaker Introductions 0:07:50

ROBERT BERRY: Now I'd like to welcome and introduce our three distinguished faculty presenters. First, we have Dan Deaton, Partner with Nixon Peabody. Dan is in the public finance group of Nixon Peabody, where he represents governmental agencies, nonprofits, underwriters, and others as bond, disclosure, and underwriters' counsel in a wide variety of public finance transactions. Dan is an advisor to the GFOA Debt Committee, has been a frequent presenter for CDIAC, and was a major contributor to CDIAC's *Lease Financing* content series.

Next, I welcome John Palmer, Partner with Orrick, Herrington & Sutcliffe, and a new member of the CDIAC faculty team. John is in Orrick's San Francisco office, where he focuses on financing for cities, counties, community college districts, and school districts. His practice includes serving as bond and disclosure counsel on revenue and tax-supported bond transactions in a variety of financing structures.

Then, rounding out our team this morning, we welcome David Brodsly, Managing Director at KNN Public Finance. David is a registered municipal advisor and has served cities, counties, special districts, state agencies, and school districts in California over the past 28 years. Prior to his time with KNN, David's experience includes a dozen years in public finance with the City of Los Angeles, where he created the city's leasing corporation. David has also been a regular presenter with CDIAC and a very large contributor to our *Lease Financing* content series. Thank you all for being here this morning. David, I believe you'll get us started.

Slide 8 – Lease Financing Has a Very Long History 0:09:21

DAVID BRODSLY: …if I remember to turn on my video and my microphone. Hi everybody.

My job here is to go over the deep history of lease financing. For me, deep history goes way back in time — leases are not a new instrument. In fact, they go back to the beginning of recorded business history. Clay tablets from Sumer have been found discussing leases. Hammurabi's Code has discussion of how to regulate disputes in leases. Continuing to more modern eras, Greek and Roman law discussed leases. In Rome, public property, if it were going to be sold, required a vote of the Roman Senate, but leasing property was a magisterial activity. So at least as far back as the Romans, leases were used to deal with difficulties in real estate law by public agencies. The medieval period is really interesting to me: the church had decreed interest prohibited under Christian law, citing Aristotle and Deuteronomy and Luke, and that caused a great deal of problem in commerce in the Middle Ages. Over the years, various canon lawyers worked out a scheme by which those prohibitions on charging interest could be avoided through the lease instrument — clearly the precursor of what we're going to be talking about today. Fast forward a little: English common law develops, and all the terms we think about with leases — how long they last, quiet enjoyment, remedies for default, the landlord's retained reversion at the end of the lease term, and most important to us, the rent consideration for current use — all of those were developed in common law and then incorporated into United States civil law, including California civil law. And then we come to the modern period, the one most relevant to us, which is California history, beginning around the middle of the 19th century: a series of defaults, constitutional limits on debt to prevent defaults, and then the various workarounds the courts allowed local government to keep the wheels running. Next slide.

Slide 9 – The Disease, the Remedy, and the Side Effects 0:12:00

DAVID BRODSLY: Okay. So, the 19th century: huge growth, lots going on. Early in the century, states were building canals, selling bonds to finance them, and when tough times hit — particularly the Panic of 1837 — states were defaulting on their bonds. Throughout the country, state constitutions were being amended to put restrictions on how the state could issue bonds. The next big wave of expansion: the railroad became the transportation mode du jour, and cities were the ones financing the expansion of railroad lines to their communities, knowing the line would guarantee prosperity and provide the resources to pay back the bonds. Boom. Another financial crisis — the Panic of 1873. Lots of defaults on municipal bonds, and throughout the country local government debt was becoming restricted by adding debt limits to state constitutions. California was very much in that mode. The first state constitution had a debt limit on state debt, and the second state constitution, in 1878, added a debt limit. The critical feature of California's is the two-thirds voter requirement. That is very rare — there were maybe one or two other states that set the bar so high for municipal debt. The drafters of the Constitution were very debt-averse. They favored pay-as-you-go financing and put a high barrier on the approval of GO debt. Well, the best intentions then meet reality. California is completely growing — tons of needs for public infrastructure. This restriction was really preventing California from doing what it had to do, and people were looking for alternative ways to accomplish public goals. One of those ways made its way to the Supreme Court: *McBean v. City of Fresno*. This was a contract for waste disposal — I think they call it a sewage farm, where they hauled off the stuff and put it on dirt — and it was a long-term contract, I think five years. It went to court, and the court said this is not debt, this is something else: this is a payment for use, a payment for services. It is a contingent obligation and not, therefore, long-term indebtedness. That was a key decision in creating a feature of municipal law. Let's go to the next slide.

DANIEL DEATON: David, right before the next slide, a couple of points to raise. There's a good reason for having a debt limit that regulates local agencies, which is different from, for example, corporations. The principle undergirding a lot of this is making sure that current tax revenues are applied to current services, so you don't end up with a generational inequity problem of people paying their taxes for something that happened in a bygone era. From a policy perspective, a lot of this is trying to keep current revenues with current services and make sure people are getting the services they're paying taxes for. So there's good policy undergirding it. But as you point out with *McBean*, you end up with an immediate practical problem under an absolute application of that principle, because it actually inhibits your ability to provide the current services you're supposed to provide — it's just not an economically feasible way. To that end, it's important to understand that the so-called "debt limit" is not a debt limit; it's a far broader concept. It prohibits counties, cities, and school districts from incurring any indebtedness or liability, in any manner, for any purpose, exceeding in any year the income and revenue produced in such year. So it's not just incurring debt — it's incurring any liability for any purpose. To your point about the two-thirds supermajority, the text of the Constitution doesn't comport with practical reality, if it ever did, even in 1879. Very quickly, it loses its ability to work in practical reality. Even in the *McBean* case, it's hard to argue that they had not incurred a liability for any purpose in a future fiscal year, and you see the Supreme Court already reckoning with the fact that the words can't actually mean what they say, otherwise the constraint on local agencies is too much. Anyway, just a couple of points on that slide.

DAVID BRODSLY: Yeah — the debt limit as aspiration, not absolute. We'll see this. We won't cover special fund exceptions to the debt limit, or the whole broad category of obligations imposed by law, whatever that means — but certainly pension obligations, where in most communities we're using current tax revenues to pay the pension associated with services provided long ago. It's that balancing act the courts have been trying to navigate, finding the space between lofty goals and the reality of keeping the machine running. And the other thing, Dan, is that municipalities don't go away. Corporations can go away; municipalities are going to be there. So there are a lot of differences in how you manage the obligations of a municipality.

JOHN PALMER: We're going to pick up later on the pitfalls of importing corporate concepts into municipal deals, and also the problem of having the Supreme Court act as intermediary between the legislature and reality. So more to come on both of those topics.

DAVID BRODSLY: Yeah — maybe the problem, or the gift. But let's move to the next slide.

Slide 10 – The Legal Framework of Lease Financing Established 0:19:06

DAVID BRODSLY: Okay, so now we get to where leases really become features of California law. There are two cases. First, the *Offner* case, which involved a lease agreement for an incinerator; there were various options to purchase over the term of the lease, but the options were probably at fair market value. Then, about eight years later, a case went to the Supreme Court — *Dean v. Kuchel*. The state has its own debt limit, but the concepts are really similar. In that case, the court was presented with a lease where, at the end of the term, the asset automatically vested in the lessee — a lease purchase, very similar to an installment purchase contract. In both these cases, the courts found these arrangements to be legal. And we were given the *Offner-Dean* rule, which some of you have probably heard before, which established the notion of municipal leasing as something excepted from the debt limit of the state constitution. Robert already mentioned the principles of that. One thing I found interesting — I hadn't read these cases in maybe decades — is that they're very short. I actually recommend them to anybody nerdy enough to care, and there were apparently 300 nerds signed up for this webinar. The word "abatement" isn't used anywhere in these cases. The provisions for abatement were in the contracts, and continue to be, but it never was a word used explicitly by the courts until much later decisions. And then we go on to using these tools. Oh, go ahead, Dan.

DANIEL DEATON: Yeah, just to emphasize this. When we look at something 80 years old, we can be tempted to treat it as written in stone, and we shouldn't ever do that with a case like this. Rather, realize the practical realities the court was actually dealing with. I can't stress that this is not what the explicit text of the Constitution says — the Supreme Court is wrestling with the fact that the explicit text doesn't work. It's not operative. As John pointed out, the Supreme Court is serving as an intermediary to figure out the appropriate boundaries of the debt limit. In doing so — and this pops a lot of people's bubbles, those who don't understand what courts actually do — the California Supreme Court is serving a policy role. It's not trying to think deep thoughts about what the words in the Constitution actually say. By the time you get to these two cases, it's clear the Supreme Court has sized up the actual words within the debt limit and determined, as a policy matter, that they can't apply to local agencies. They're starting to craft a policy boundary within which liabilities and obligations can extend beyond a current fiscal year, because they need to — otherwise it just doesn't operate within the economy.

DAVID BRODSLY: Yeah. And this is post-World War II — a tremendous boom in California, extraordinary capital needs with all this population showing up and the need to get things done. I've never been able to get my hands on much more information that's not in the opinions about these business transactions and what they looked like. I don't know how common they were elsewhere, but presumably the financing itself was arranged by the developer, who used these rental payments to service their loans. Which brings us to the 1960s, where the idea of something that looks like a lease revenue bond comes to be. We can go to the next slide for that.

Slide 11 – The 1960's: the Building of a Tool 0:23:27

DAVID BRODSLY: In 1962, the Dorothy Chandler Pavilion, the music center in downtown LA, went to the voters for a GO vote and got a simple majority — but that wasn't good enough to issue the bonds. As push came to shove, an alternative form of financing was developed: a lease financing that would secure loans placed with private investors. They weren't quite bonds as we know them, but it was a loan cut up into pieces for investment. And they got a private IRS letter ruling that the interest component on the lease payments was tax exempt. This is a magic moment to me — it's like when the god Janus emerges with both faces, one looking toward the debt limit (this is not debt, because we've decided under California law it isn't debt) and one looking toward tax exemption (this is municipal debt and therefore benefits from tax exemption). On that razor's edge came this transaction, and it really gets the ball rolling.

The next year, the IRS releases a private letter ruling that's not private — it's generally available — that nonprofit corporation bonds issued on behalf of governments could be tax exempt under certain circumstances. One key circumstance was that, at the end of the lease, the leased asset becomes public property. I don't know what was going on then — I was personally more concerned with getting to Disneyland than understanding the rules of public finance — but there must have been enough activity for the IRS to think it appropriate to issue a general rule and not just private letter rulings. In 1964 we get to Anaheim's baseball stadium, financed through lease revenue debt, and in this case they obtained a ruling from the Comptroller of the Currency that these obligations were eligible investments for national banks, and that up to 10% of a bank's assets could be invested in these kinds of municipal obligations. So this took what was a somewhat limited tool — limited to a handful of assembled investors — to a tool with much broader access to the capital markets.

In 1965 we move away from the nonprofit corporation to a joint powers authority. This is the Anaheim Convention Center. The switch to the JPA happened because, at some point, an assessor somewhere determined that these are leases of government property, which are subject to possessory interest taxes — suddenly a new cost emerged. To address that, the nominal party involved in leasing the public property became another governmental agency, which was itself statutorily exempt from property taxes. Then we get to 1966 — a huge transition. San Diego Stadium: bonds were sold to the public market, the first real lease revenue municipal bonds. Because now we have real securities, it's subject to the federal securities laws. The question was whether these require registration; municipal bonds didn't. At that point, the practice was to get a no-action letter from the SEC that this was not subject to registration. The key thing is that now you had a liquid investment, a secondary market that could develop, and liquidity leads to lower interest rates. Later that year, a nonprofit financing for Orange County was also sold at competitive bidding. I just realized I misstated — San Diego Stadium didn't need a no-action letter, because it was a government agency, a JPA. But the Orange County nonprofit needed a no-action letter to clarify that it was not subject to registration. This whole business of marrying the rules of securities and federal tax law, then local law and its exceptions, was a real art — a juggling act that the folks working on these deals were able to assemble into these novel forms of finance.

DANIEL DEATON: David, it's important to put the sixties into context in a couple of respects. It can't be ignored that 1962, as the first lease revenue bond, follows two years after the Supreme Court's decision in Redondo Beach, which struck down a series of bonds that effectively would have been payable from tax streams from the general fund. So by the late fifties, you have cities needing to borrow against their general fund, coming up against the debt limit, and trying to find ways around it. The approach in Redondo Beach is struck down in 1960, and then you get to 1962 for other statutory changes. None of these things become court-tested — none of these various transactions work their way through the courts; these are all practitioners developing these approaches. But when you hit the 1960s, you're also talking about an increased need for major public projects to use the general fund as credit over the long term, and you can see the things it's being used for here. You also don't have this massive, wide-scale indebtedness by local agencies, because we're before Proposition 13. You might want to talk about the impact of Proposition 13 and why, all of a sudden, debt explodes. So the 1960s is very discrete.

DAVID BRODSLY: Yeah, it's interesting — I hadn't even thought about this. Look at the projects: stadiums, convention centers, music centers. No courts, no police stations. These key things were quasi-public-private projects. I don't know the reason for that, but I'm struck by that. Let's move into the seventies.

Slide 12 – The Explosion of LRBs and COPs 0:30:58

DANIEL DEATON: David's favorite decade, right?

DAVID BRODSLY: It is the seventies, I remember, mostly. 1978, Proposition 13: a huge tidal-wave event. Assessments were rolled back to lower levels, but most significantly, the tax rate — which averaged around 2.5% when you added up all the overlapping taxing entities — was slashed to 1%. A 60% reduction in revenues to local government. The state stepped in, using surpluses to bail out local government and ease the transition. It was cataclysmic. I happened to graduate from college in 1978 with a burning desire to work for local government and succeeded — with my first job out of college being the Santa Claus at a department store, making my Jewish mother very proud and very aware of the importance of her investment in my tuition. It took me two years to find my way back to government, because government wasn't hiring. Government was a disaster. That complete lack of resources, but still the need to get things done, really exploded lease financing — lease revenue bonds becoming more common, and a new instrument showing up on the scene: the certificate of participation. This is another invented instrument. It's not a bond, but an interest in a flow of payments. It walks like a bond and talks like a bond, but it had a different name and was therefore exempt from bond law. At that time there was an interest rate cap of 8%. My first municipal deal, in early 1982, was at a 14% interest rate — you couldn't do bonds in that environment. This is also when the municipal market was starting to gravitate toward negotiated sale, while the bond laws all required competitive bid. So again, very clever bankers and lawyers, who still needed to pay their mortgages, figured out a way to keep the wheels running — creating an instrument that got to the same place, relying on the same basic legal principles, but abandoning the word "bond."

In 1985, the state legislature jumped in to deal with some of the tensions, with the Marks-Roos Local Bond Pooling Act. Not clear from the title, but it made major revisions to the JPA law, gave JPAs more power, removed some restrictions on how you could use them, and made the JPA the dominant financing entity for lease revenue bonds.

Then we chug along, doing deals, selling bonds, selling COPs, through the nineties. Late in the nineties, San Diego is working on its new ballpark. There's a gentleman named Mr. Rider who made a living suing the City of San Diego — there are at least three significant *Rider* cases I'm aware of. He sued against the ballpark deal, a classic lease revenue bond deal as we all know it, and the California Supreme Court looked at it and affirmed that it was indeed consistent with the rules long established by *Offner* and *Dean*, and that these were valid transactions. As a practitioner, I thought of this as kind of a non-event — it said what I already knew, that this stuff was fine; otherwise, how could we have been doing it for the last 20 years? What I didn't appreciate, which we're going to hear more about, was how important this case was to locking down the legal principles and allowing bond lawyers to sleep better at night. With that, I'll hand it over to John, who's going to pick this up. We're going to talk a lot about how *Rider* worked, because that really is the modern age. As far as I understand, these two other gentlemen weren't in practice at that point, and I'm embarrassed to say I had 18 years in public finance by then. So grandpa's done.

DANIEL DEATON: We brought David out of his dungeon for good reasons.

JOHN PALMER: Thanks, David. I think we can skip the next slide and go to the foundation slide.

DAVID BRODSLY: Oh, I'm sorry — I skipped a slide. I don't need to go back; it just summarized everything we talked about, and we're going to do it again anyway. So go for it.

Slide 14 – The Foundation: *Offner* and *Dean* 0:36:07

JOHN PALMER: Okay. David did a really nice job talking about *Offner* and *Dean*, but there were a couple of ideas I wanted to pick apart. The first, as David mentioned, is that these are short opinions, and the whole concept of how we can do debt and shove it into the lease exception hinges on a few sentences in each opinion and a lot of thinking. This has led to the practice of lease financing being more of an oral tradition than maybe other areas of public finance law — a lot of the thinking that went into interpreting those few sentences, and turning them into documents, is what undergirds the concept. And I think some issues have arisen as a result, because, like when we played telephone as kids, as we whisper the fundamentals of lease revenue bond law into each other's ears, they tend to morph. Dan, I don't know if you have thoughts on this, but it seems to have confused the practice a little — we haven't done a good job as an industry of being clear about what's absolutely necessary versus what features of these deals hinge on particular practitioners' interpretations of what gets said in *Offner* and *Dean*.

DANIEL DEATON: Yeah. The history here is very important, as all three of us agree. If you look at the levels of lease revenue bonds issued, as Robert said at the outset of this, the Supreme Court deciding *Offner* in 1942 — making a decision that would lead to a broad expansion of debt issuance by local agencies in the post–Prop 13 era — would have been unimaginable to the Supreme Court in 1942. So, it's really important to understand that the Supreme Court is serving this evolving intermediary role John talks about. We're drawing from certain expansions that existed in a prior economic era, for good reasons, and trying to bring those forward to argue for a further expansion from the debt limit that we think is necessary now. Lease revenue bonds clearly extend out beyond *Offner*. You saw in 1962— but for Redondo Beach, I still believe — you may not have had lease revenue bonds for a lot longer, or for other purposes, because you end up in a situation where general funds need to borrow money and their projects need it. Through various statutory changes, this basically goes away from the courts for 30, 35 years, as a practical matter, and lease revenue bonds kind of go under the radar there. Until you hit *Rider*, what practitioners understand they're doing, as a practical matter, is expanding a prior expansion. They are following first principles, and they are constraining the rent under the leases in accordance with *Offner* and *Dean*, to be sure. But it's also very clearly a subterfuge for the general fund to borrow money — and it's not all that well disguised. So in the pre-*Rider* era, as John and I are discussing, you have very narrow legal principles, but what develops out of that is a "go in a herd" approach, where everybody does this in sync, in the belief that the sheer size and fact of it would influence the Supreme Court against ruling in a way that would work against all these local agencies.

JOHN PALMER: We'll talk about that in the *Rider* context. But before we get there, it highlights an interesting tension in the role of bond counsel. As David mentioned, the role of bond counsel emerged out of the railroad expansion west, when there were municipal defaults on bonds issued to finance that expansion, and the investors in New York wanted a reputable law firm to opine on the enforceability of the bonds. In that sense, bond counsel was a conservative role, intended as a check on the overly greased wheels of the economy. On the other hand, we see bond counsel taking these notions in *Offner* and *Dean* and creating an entire market out of them — a role maybe more focused on greasing the wheels of the economy than on the conservative role they'd initially been asked to play. This tension between the push on bond counsel to innovate and to be conservative is one we see cyclically over the next 150 years, starting in the 1870s. And it's maybe worth drilling down on the fact that there were practices that evolved out of *Offner* and *Dean* — a level debt service requirement, static collateral pools, not a lot of flexibility for substitution and release — that don't exist anywhere in the opinions. These were ideas that sprang from bond counsel's heads and were imbricated in the practice. And, as Dan said, everybody hewed to them because they thought being in the middle of the herd provided the most safety. We'll pick apart in the coming slides how *Rider*, with its explicit approval of this structure, allowed us to move away from the rigid rules that don't exist anywhere in the opinions.

DAVID BRODSLY: Which seems to me, John, that a line was drawn, practitioners pushed it out to a point, and then *Rider* said, okay, that line is the new starting point. And now we're all pushing the line further. How far can we get away from the facts of, say, the *Rider* lease and still be comfortable rendering opinions and selling bonds?

JOHN PALMER: That's right. And as a community we need to be thoughtful about that, and about how the court works as a policymaker, because just as they're willing to give us some rope, they're also willing, at some point, to use it to hang us. So that presents two questions: how do we know as a community when we're getting too aggressive, and whether it's worthwhile to try to push some of this into actual black-letter law so we're not subject to the vagaries of the court going forward.

DAVID BRODSLY: It's funny — the other thing, and we're not going to spend time on it here, is the taxpayer. *Rider* is emblematic of folks like the Howard Jarvis Taxpayers Association who, once we get too far afield, show up with a new initiative to put new handcuffs on local government.

JOHN PALMER: Right. The taxpayer is super important, because the taxpayer wants infrastructure — they just don't want to pay for it. And that's the mandate we're all trying to serve.

DAVID BRODSLY: Yeah. Amen.

DANIEL DEATON: But that's also the reason there's a debt limit. Back to the beginning point: unlike corporations, municipalities get to tell people they have to pay money. With that power comes all these other things, and how you manage that appropriately.

JOHN PALMER: So let's move to the next slide and talk a little about *Rider*.

Slide 15 – *Rider v. City of San Diego* 0:46:38

JOHN PALMER: So along comes *Rider*. The most important thing *Rider* does is say: hey, we get it. We get exactly how this works. We get that the JPA is issuing bonds without voter approval, that the city is making all the payments to service the bonds, and that the JPA is controlled by the city. And none of that stops us from approving it. I think their explicit acknowledgment — that whether you call this a lease or not, a subterfuge or not, none of it really matters, because cities and counties need to be able to issue non-voter-approved debt to do what they need to do. The court says this fairly explicitly: because of the widespread use of similar financing plans throughout the state, and because any doubt about their validity could impact the cost of capital for the improvement of public resources, we've decided to weigh in and approve. You hear there, more explicitly than usual, why the court is wading into this, and that the considerations are entirely practical and not legal.

DAVID BRODSLY: John, on this page, one of the things I'm struck by is that Prop 13 changed a key issue. Before Prop 13, you didn't really need a vote of the people to raise property taxes — you had to for GO bonds, but if you did a lease revenue bond and needed more money, you had local taxing power to raise property taxes. As a matter of policy, I have to assume that was important in the background to the *Rider* court: you're not approving new taxes, the taxes are now limited, and it is a municipality juggling its own books, living within its means, and deciding how to allocate its resources. No longer are you giving them the power to tax on behalf of the state. In my mind, that always was an issue for distinguishing lease revenue bonds from GO bonds — even though, when lease revenue bonds were being developed, that wasn't even a fact. But after '78 it is a fact, and as a matter of policy, there's a whole other dimension.

JOHN PALMER: Yeah. It might be worth pointing out that the Jarvis-fueled mistrust of government has both tied our industry in knots and, I think, been generally deleterious to the overall operation of government in California. We've seen this presumptive mistrust of local government's ability to execute on its duties pervade our industry, and in each instance we've come up with reactionary rules that make it more difficult for public agencies to do what they're supposed to do.

DANIEL DEATON: Yeah. All of that goes to the point that if *Rider v. City of San Diego* were being decided on the first lease revenue bond in 1962 — the year before Prop 13, and well before Proposition 218 and a lot of these later measures that are coming in. By the time it's actually decided, we're back in another economic expansion era, at a critical point in terms of the infrastructure demands that are going to be necessary. As John said, all of those factors are clearly present in *Rider*, and the Supreme Court is intentionally creating the boundaries of this. The facts, the timing, the economic context, and the political context surrounding it were ideal for that decision. So one of the mistakes people can make is to see this as some sort of ordained, necessary ruling. It's not a necessary ruling. That goes to John's point about how you, as bond counsel — but more importantly, as a local agency — knowing this is a policy space created by the California Supreme Court for good reasons, manage that space. What you get from *Rider*, probably more than anything else, is the court operating under the assumption that it's working with municipalities operating in good faith and in a reasonable fashion, trying to do their job and being constrained by these various initiatives, and trying to provide a policy space to assist municipalities operating in that function and for those purposes. I think that's crucial.

JOHN PALMER: Yeah — which may not always be the case. We've seen recently how the U.S. Supreme Court has turned its back on stare decisis, and we can imagine how disruptive that could be if that attitude were brought to our industry.

DAVID BRODSLY: Hey, John, I'm not a lawyer. Is stare decisis a pop singer?

JOHN PALMER: Ha — thanks, David. Stare decisis means that once the Supreme Court has decided something, it continues to consider it decided and doesn't revisit it, under the theory that people have built structures relying on that decision and that overturning it would be incredibly disruptive.

DANIEL DEATON: And in any given iteration of the U.S. Supreme Court or the state Supreme Court, they absolutely follow, without any hesitation, stare decisis with respect to every decision they agree with. So that's the real doctrine — one hundred percent.

JOHN PALMER: So let's go to the next slide.

Slide 16 – Market Impact 0:54:06

JOHN PALMER: *Rider* left us with three really important points. It said your rent has to be for consideration given during the rental period — the corollary being you can't force somebody to pay rent when there's no consideration. That's the abatement concept: rent abates when the lessee doesn't have use and occupancy of the facility. It said you can't accelerate the debt — it can't be made due and payable. And rent has to be at fair rental value. What's interesting is that we got these core principles clearly articulated by the court, but we're not entirely sure how they work. So we come into a period after *Rider* where we know we can do lease revenue bonds, and the court has given them the gold star, but the court hasn't told us, in *Offner*, *Dean*, or *Rider*, how to calculate fair rental value. As many attendees know from personal experience, this is an area of law where, if you get four lawyers, you'll get at least five or six opinions on how to calculate fair rental value. To me — and Dan and David, please weigh in — this is adumbrated by the conversation we've been having about treating courts as policymakers, because we need to acknowledge that the winds may not always blow in the same direction, and we need to come up with ways of calculating fair rental value that give the courts purchase to continue to support this as a structure. David, I think you have strong feelings about how to calculate fair rental value. Maybe we could talk about that.

DAVID BRODSLY: Sure. I've been struck by the fact that there's such a range of approaches, and a range of discipline relative to the concern — from very casual to very focused. Sometimes it's bond counsel, often it's the issuer. I've had the experience where an issuer's judgment would have been accepted by bond counsel, but the issuer didn't have any basis for making judgments of fair rental value and wanted to get an appraiser on board because they didn't feel competent to make the representation. Personally, I think the gold standard is one of the three major appraisal methodologies: depreciated replacement cost. An appraiser looks at that, at market values, and at rental income possibilities — though government buildings don't have income possibilities and don't have a market. Depreciated replacement cost plus the value of land is, to me, almost unquestionable as a basis. But then you have to turn that number — the value of the facility — into rental value, and I tend to favor looking at commercial capitalization rates. I've discovered over the years that I'm becoming increasingly an outlier, the old fogey in the room, and that a lot of the time just using the insured value of a building is considered a sufficient benchmark. One could spend a lot of time on this, but, as you say, John, I don't think I fully appreciated until recently that there's no real guidance here, and a lot of discretion that the courts give local agencies in how they make these decisions. The one thing I'd encourage, when I work on a lease, is that there be some physical record of how the conclusion was reached that debt service is no greater than fair rental value — however it's made, and whether or not it's to my liking. Having a written record would be a really nice thing if you were ever challenged. But so far we haven't been challenged, and in areas of law where we're not challenged, our practices tend to get — I won't say sloppy, but we just don't focus our attention as much on the things nobody else seems to care about.

DANIEL DEATON: A couple of nuts-and-bolts points. First, it wouldn't have been possible for *Rider* to provide guidance on fair rental value, for a simple reason: it's a factual question, not a legal one. That's why the three Supreme Court decisions cite the fact of fair rental value, not a law about it — because there isn't one. The Supreme Court can only state that. Second, keep in mind that every bond counsel opinion is predicated on the certification of that fact by the local agency. Bond counsel's opinion does not cover fair rental value — that's important to keep in mind. There's a certificate executed by every local agency that the rental payments equal fair rental value. If the issue were ultimately litigated, that decision would be made at the trial court, by whatever the trier of fact is — a jury or a judge. There are obvious tensions in coming up with a fair rental value analysis. Fair market value of our facilities almost always has to be done on a replacement cost basis, not on an income generation or third-party sales basis, so it has to be done on a depreciated replacement cost basis or some legitimate basis for valuing fair market value. What's much less clear is how you then break that down on a year-by-year basis to come out with fair rental value. The way practitioners have handled this, and the way local agencies should approach it, is that you're not really trying to present the "right answer" — you're not trying to come up with the absolute correct fair rental value. What you're trying to do is present the background showing the local agency acted in good faith and in a reasonable way to reach these decisions. That's why my view, like David's and I know John's, is: document it, establish it — what you've done and why you've made the decisions you've made — so that if the trier of fact ever comes to your transaction, you can establish how you reached the conclusion of fair rental value. What concerns me most is when a local agency signs a certificate under the impression that it was bond counsel's responsibility, without realizing the certificate certifies that, and then, if put on the stand, can't explain why they reached the conclusion they did. That's what you want to avoid. It is a determination of the local agency, not the outside experts, and there isn't some absolute answer — but there are good-faith, reasonable ways to approach the question.

JOHN PALMER: Yeah. The idea of fair market value assumes there's a market, which there isn't — it's difficult to sell a jail or a city hall. So the reasonableness of the approach, and being clear — we decided to use insured value, or replacement value, or acquisition value, because of X — and having the transaction group aware of why we chose the approach we chose, and able to articulate that clearly if called upon, is really the key. I'd also say that, similar to establishing fair rental value, there's not a lot of guidance about how to abate rent if there's no use and occupancy of the facilities. I'm not sure a one-size-fits-all approach works here. So I'd ask you both: is this another situation where what we want is to make sure our approach is reasonable, if we ever face a situation where rent is abated and the local agency doesn't pay the entire lease payment anyway — or do you think there's a right answer here?

DAVID BRODSLY: I'll say I don't know of a single instance of abatement. I know of many instances where events occurred where abatement would have been appropriate. In the early days, when the leased asset was the building being constructed, the building not being finished before capitalized interest ran out was extremely common. And during major earthquakes there have been public facilities damaged. In all those cases, the government agency basically paid, and just paid, and didn't want to deal with the market impact of not paying — treating it that way rather than as abatement. I've been in many conversations where people talk with a presumption of how abatement works, especially if the value of the asset is greater than the par amount of the bonds, under the presumption that debt service is below fair rental value. I don't know how you get any guidance on this. It never happens, so it's a theoretical problem — it's kind of like Bigfoot. We can all believe it exists, but nobody's seen it.

DANIEL DEATON: Yeah, it's very different than Bigfoot, actually, I would say. But—

DAVID BRODSLY: So, Danny, you've seen Bigfoot, I know. Anyway, go on.

DANIEL DEATON: I maintain that Bigfoot's real. But — what you're touching on with the abatement question, John, is one of the larger tensions that I think remains out there post-*Rider*. When you look at the *Offner-Dean* exception, the concept is that the local agency is entering into a lease just like commercial leases, and so it's not debt. Then you get a migration into a legal fiction, where you end up with lease-leasebacks that, quite frankly, are not like commercial leases at all — they don't have the same purpose or the same mechanism. So one of the tensions is: are we still solving to the four corners of what a commercial lease looks like, or are we solving to this legal fiction the Supreme Court created that is based off commercial leases? I don't know whether you agree or disagree, John, but I think there's still a difference in practice in how you approach that question. I, for one, believe you're solving to the legal fiction — I don't believe you're trying to go out and do this in some broad commercial-market manner. And if you're solving to the legal fiction, what you want to make sure of is that your lease has an abatement provision that is defensible. How you actually do it on the day won't matter, to be candid, because how you do it on the day doesn't go to the validity of the lease, and the validity of the lease at the outset is what you're really concerned about. So any reasonable provision that establishes "if we don't use and occupy the premises, then we don't have to pay rent" is going to solve to *Rider* and to *Offner* and *Dean* just fine.

DAVID BRODSLY: But the problem, again — oh, sorry, go ahead.

DANIEL DEATON: Yeah — but if you actually measured up what we do against other commercial leases, you may find commercial leases are potentially more stringent. There may be other elements there. So it just depends on how you approach it. But that's how I approach it.

DAVID BRODSLY: Yeah. And then the problem really is partial abatement. If the building were completely destroyed, we know how it should work. But it's really a question of: well, you lost a third of the building — and you could argue we still have fair rental value capacity. How much? As you said, it's the provisions in the document, not the practical thing, because we never had to deal with it. It's what you put in writing at the beginning. You've made me more curious about looking at leases and how abatement is described, particularly partial abatement, because that really is the rub.

JOHN PALMER: And I think the *Rider* court actually says: we don't care if this is a lease — you could call it an installment purchase contract, as long as the payments are contingent on consideration during the period, we're happy. So "does it look like a commercial lease?" is a question that still comes up after *Rider*, but I'm not sure it's a question we need to be asking. Maybe we can go to the next slide.

DANIEL DEATON: Yeah. I agree with you, John.

Slide 17 – Disappearing Conventions 1:09:53

JOHN PALMER: Post-*Rider*, I think we've seen a few conventions start to change. The rigid adherence to what a commercial lease would look like has faded. We've seen the industry go from fully funded cash reserves to no reserves at all for highly rated issuers. And then there's this essentiality idea, which again doesn't show up in any of the cases but which we've spent a lot of time talking about — that question has really gone away as well. I've done a number of deals with obviously inessential assets, like parks, that the market has been happy to accept. I don't know whether you both have had similar experiences, or want to add to the list.

DAVID BRODSLY: The only thing I'd say is that some of these issues are not issues of law, but issues of credit and market acceptance. The reserve fund, for example, was never an issue of law — it was there to give investors comfort that there was a cushion if any of these pinhole risks ripened. Essentiality is another one of those things that investors, rating agencies, and bond insurers — which are now often a missing element of the review and the credit conversation — thought important, under the notion that a more essential asset is more likely to be paid in the event of abatement, because everybody wants to keep the thing running. The irony is that the less essential assets are often the most marketable ones. The office building may be viewed as less essential, but you could actually relet it, as opposed to the police station, which is absolutely essential but for which there's no remedy. That's the piece of it. And that voice — the voice of market concern — has gotten quieter. You don't get a lot of feedback anymore, and I think that's because the market has come to accept these as a valid form of financing, almost unsecured indebtedness, and lets the lawyers deal with the messy details.

DANIEL DEATON: Yeah. To John's point and yours, David, we've seen a progression. My perception — and you were there, David, I wasn't — is that as these were launching out into the investment community in the eighties and nineties, both bond insurers and others had a perception that there needed to be all sorts of holes to deal with the abatement scenario and that we needed to cover that very carefully. We do have a second webinar next week that will talk about where the investment and rating agency community is today and how that's changed. But to John's point, a lot of the lore of the oral tradition we've inherited was not legal to begin with. It never had anything to do with the cases. It had to do with the perception that, because there was an abatement risk, you needed reserve funds, rental interruption insurance, and full-scale insurance, and it had to be an asset the city desperately needed so that you knew they'd be able to rebuild it — otherwise the risk of abatement would be unmanageable from an investor's perspective, because you'd have no obligation to pay debt service at that point. The disappearing conventions John is alluding to are that whatever that risk perception was — and I know bond insurers had very specific requirements — we don't need to live like that in the same way anymore, if we ever had to. My example of essentiality is the unimproved plot of dirt used as the leased asset — that's about as inessential as you can get. Not a big abatement risk, of course, although you could have abatement with environmental issues. The point is that a lot of the perceived boundaries and constraints we live under were a hybrid of legal issues with some perceived credit demands. The legal principles have not gone out of style, but a lot of those credit issues have.

JOHN PALMER: Yeah. Continuing to clearly distinguish between the two is going to improve the efficiency of our transactions. Let's go to the next slide.

Slide 18 – Additional Bonds and Remedies 1:15:47

JOHN PALMER: I wanted to talk a little about additional bonds and the re-enter and relet remedy. It's helpful to talk about how the value of the asset figures into the fair rental value analysis, and how that's changed post-*Rider*. One question I get asked all the time by clients with a master lease structure is: can we capture increased value — capture appreciation — and issue bonds against that appreciation? Again, the decisions don't talk about this at all. Pre-*Rider*, there was a rigid adherence to the idea that we needed level debt across the lease, and an almost allergic reaction to issuing additional bonds against appreciated value. That seems to be changing now — I see more openness to issuing additional bonds taking advantage of appreciated value, and less of a rigid requirement for level debt service. I don't know if you're seeing something similar in the market.

DAVID BRODSLY: That's an interesting one, because I've been in deals where a partner at a big law firm — that one of you might actually work for — reached a different conclusion. This is one of those areas, which has been the history of lease financing, where there's no rigid guidance, you try to be reasonable, and different people come to different conclusions. This might be the one thing where I don't know what the real answer is. What you're saying is very interesting to me, and it's the answer I want, so I'm glad you feel that way.

DANIEL DEATON: Technically it's a fair rental value analysis. I think what John is saying is right — a lot of this is a market question. If the building burns down and the fair market value of the insurance proceeds you get won't equal the amount of the bonds, you're not going to get paid back. So there's a credit-quality element there, and that's why it's crucial. One of the ways people approach fair rental value is making sure fair market value equals the amount of the bonds, as a proxy to get comfortable with that. So it's both. But we've seen a loosening of additional bonds and a lot of these other things John has here. One point we've discussed in our preparation is that a lot of lease revenue bond deals were done for many years by bond insurers, and we didn't have a lot of deals go out to the pure market until after the bond insurers were no longer around — and even then there was a dip before we got back up and going. The bond insurers had very specific requirements and checklists that included a lot of the items John is listing. An important point is that we have not really fully tested what the market is willing to take and not take on a lot of these issues. That's a big topic for next week as well.

JOHN PALMER: Yeah. Whether we're talking about the re-enter and relet provisions or title insurance provisions, as we test the market to see whether it's willing to accept deals without these non-legally-required but credit-sponsored features, the market seems either very accepting of getting rid of them, or maybe just not paying attention at all. I wonder how that affects our responsibility as a community to police ourselves and ensure some minimum credit quality for our deals, in anticipation of the day when we do something wild and crazy, it blows up, and that prompts the court to change the rules underneath us.

DANIEL DEATON: I think the other side of that equation, which we've talked about and both strongly believe, is that the amalgamation of this history, and the way these things have typically been done, can very easily work to disempower the financial decision-makers from making good decisions. The point of a lot of this is that these are decisions for the local agency to make, not for the outside professionals. Because of this tradition, pivoting to saying "here are some traditional categories of things we've done, here's what we know and don't know about them" — including the risk that at some point we put together a structure so unreasonable that it starts to create a problem — is important. As David wisely reminds us, the debt limit started by putting bad debt out to investors, so the whole thing can become a circle. But in the end, it's the local agency that needs to be empowered to make these decisions, and we can't let the lure of this amalgamated history disempower them from making good decisions.

JOHN PALMER: Right. Let's go to the next slide.

Slide 19 – Persistent Conventions of Uncertain Value 1:22:42

JOHN PALMER: I think we've talked about most of these, but I did want to hit on title insurance, because it's a persistent requirement that isn't legally mandated, doesn't come from any of the cases, and is pretty expensive, especially for large-dollar deals. I'm frankly not sure what we get from the title policy other than the preliminary title reports the title company puts together, which seem valuable. But the title insurance policy itself, I'm not sure has a ton of value, particularly for assets the city, county, or school district has owned for a long time. I haven't tried to go out to the market without title insurance — I don't know if either of you has — but I'm curious whether we should investigate whether we need to continue with this, given how expensive it is.

DAVID BRODSLY: John, we're running out of time, but that's a topic I'd love to chat about after this. The real question is that what you're really paying for with title insurance is the title investigation — somebody going through this — and I don't know how you get that done without a title insurance company. It may be a matter of finding a company we can make realize they're charging way too much, that they're really not absorbing any risk whatsoever, and that they should give some accommodation to local government — maybe even a deeper discount. This would be an interesting little project, maybe one CDIAC wants to sponsor: a little offline workshop.

DANIEL DEATON: The other point — and this is one of the questions we received, so we'd be remiss not to answer it — is rental interruption insurance, and general insurance provisions as a whole. One thing I'm finding with some clients is that insurance is running out of control now. I'm dealing with situations where complete casualty insurance, let alone rental interruption insurance, would dwarf any savings they'd get in the marketplace. So we're at the point where these need to be culled. To the question: these are financial decisions. There is absolutely no legal requirement for rental interruption insurance to be in the lease. It's not a requirement the courts have laid down — it's another way people manage the risk of abatement. The bond insurers were absolutely insistent on two years of rental interruption insurance, with really no wiggle room. And the answer to the question — if you deleted rental interruption insurance, what would occur? — is that nobody actually knows.

DAVID BRODSLY: And it would be implied self-insurance. You can't explicitly self-insure rental interruption, because then you run into another debt limit problem. But it would sell to the market under the presumption that the abatement provisions are there for the lawyers and are never going to be exercised.

DANIEL DEATON: It's a risk they're not going to price out. Yeah.

JOHN PALMER: Let's go to the next slide. I think this is the last slide.

Slide 20 – Stockton's Parking Garage 1:26:34

JOHN PALMER: Just to talk quickly about Stockton's parking garage. The point here is that the remedies you include in your deal should flow from the asset you're using. There may be real benefit to a re-enter and relet remedy when you have something like a parking garage, whereas I'm not sure there's any benefit to the bondholder for a re-enter and relet remedy on a jail or a city hall. I'll also say I'm not sure trustees or bondholders really want to be in the re-enter and relet business at all — and even in Stockton, this got refinanced into parking revenue bonds. So I'd like to ask you, David and Dan, whether you see any benefit to a re-enter and relet remedy, maybe on a revenue-producing asset, or anywhere.

DAVID BRODSLY: My confidence in my opinions on this has been shaken. I thought there was value — talking to some investors, I thought there was — but I'm not sure I could measure that value. And you've mentioned the only time I know of the remedy being exercised. Dan Deaton has probably worn me down to where I'm beginning to think it just isn't a remedy that has any measurable value anymore.

DANIEL DEATON: The point I'd simply make — and we've got two minutes left — is that it's critically important to understand that we have critical, essential assets being leased pursuant to these lease revenue bond deals. If there is a right to relet, then in bankruptcy or other situations those assets can be taken away, or at least use and occupancy can be interfered with, and the local agency has very little ability to do anything about it. One thing to keep in mind is that, when that day comes, the question is going to be: why did you do it? So all I'd really encourage is that local agencies, if they do agree to a right of relet, know why they're doing it — ask, what benefit am I getting from this? What pricing difference does it make? It's a question that's appropriate to test. Then local agencies need to make the decisions they believe are appropriate. My only encouragement is: don't carry it forward just because it's been there in other deals.

JOHN PALMER: I think that that brings us to the end here.

Slide 21 – Summary and Discussion 1:29:28

JOHN PALMER: Any closing thoughts from either of you?

DAVID BRODSLY: I'm picturing Robert Berry having a mini-stroke as he tries to regain control over our clocks. So I'm inclined to let the readers read the summaries and let Robert bring us home.

DANIEL DEATON: Yeah, I have fear, so I'm going to pass.

Slide 23 – Upcoming Events 1:30:16

ROBERT BERRY: All right, that's going to bring us to a close. More on these business decisions next week. First, a huge thank you to Dan Deaton — Dan will be back next week, so we'll have some continuity from this program to the next — and thanks to John Palmer and David Brodsly for sharing your expertise on today's program. I'd like to quickly draw your attention to a few of our upcoming CDIAC programs. Of course, next week is *The Risks, Realities, and Market Preferences of Lease Financing Decisions*, so make sure you register for that webinar if you haven't already.

Just a quick advertisement for our Municipal Debt Essentials program — our full three-day in-person program on the issuance and administration of debt, to be held in San Jose. And then the Pre-Conference to the Bond Buyer's California Public Finance Conference — it'll be our 25th year — on October 14 in San Francisco. I'll mention this again next week. Full program details as they develop, and registration information, will be on the website. I'll note that for our Debt Essentials program, if there's staff on your team who should be attending, we're running a discounted price for about another week, so if you're interested, it's a good idea to get that discounted price.
Finally, please spend a few minutes completing our post-program evaluation and tell us what you think — it's very important to us. Just click on the Slido application, go to the polls tab, and that's where you'll find the program evaluation. Your feedback is very helpful to us. On behalf of our presenters today and all of us at CDIAC, including our education team — Emilia Shapiro, Trista Zepeda, and Anna Ramirez — thank you all very much for joining us this morning. We'll see you next week and have a great day.