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August 6, 2015

VIA CERTIFIED MAIL

The Honorable Tani Cantil-Sakauye, Chief
Justice, and Honorable Associate Justices
Supreme Court of the State of California
350 McAllister Street
San Francisco, CA 94102-3600

Re: Supreme Court Case No. S227681
Third District Court of Appeal Case No. C076343

Dear Chief Justice Cantil-Sakauye and Honorable Associate Justices:

The League of California Cities ("League") was granted leave to participate as *amicus curiae* in the above-referenced case at the Court of Appeal. The League now respectfully submits this letter in support of the petition for review filed by the City of Brentwood ("Brentwood"), seeking review of the published opinion ("Opinion") that allows the California Department of Finance ("Department") to compel the transfer of valid redevelopment funds from Brentwood to the State of California ("State") in violation of the California Constitution.

AMICI'S INTEREST IN THIS CASE. The League is an association of 474 California cities dedicated to protecting and restoring local control to provide for the public health, safety, and welfare of their residents, and to enhance the quality of life for all Californians. The League is advised by its Legal Advocacy Committee, which is comprised of 24 city attorneys from all regions of the State. The Committee monitors litigation of concern to municipalities, and identifies those cases that have statewide or nationwide significance. The Committee has identified this case as having such significance.

The League urges this Court to grant Brentwood's petition for review because the Opinion will have a significant adverse impact on many California cities. In fact, many of the League's members that entered into ***valid*** redevelopment agreements for the construction of redevelopment projects within their jurisdictions with their respective redevelopment agencies may lose the funding for these projects due to this Opinion. As demonstrated below, many California cities have entered into redevelopment agreements in the past, all of which may now be invalidated, under the Department's direction due to the Opinion, thus dealing a great blow to cities' finances throughout California.

THE OPINION'S REASONING WARRANTS REVIEW. The Opinion is deficient in that it ignores many of Brentwood's arguments and fails to discuss or apply certain constitutional mandates

imposed by the California Constitution and Proposition 22, which actually demand the opposite conclusion than that reached in the Opinion.

The dispute here arises as a question of law on undisputed facts, and therefore is amenable to efficient review by this Court. The Opinion fails to analyze the impact of Proposition 22 or the California Constitution on the case at hand, and instead relies on an interpretation of *California Redevelopment Assn. v. Matosantos*, (2011) 53 Cal. 4th 231 that is not supported by that decision or this Court's guidance provided in that decision.

In *Matosantos*, this Court held that the State was allowed to dissolve redevelopment agencies because (1) the redevelopment agencies were "creatures" of the State that are subject to the State's demands, and (2) the proposed dissolution did not allow the State to impermissibly transfer tax increment funds that were validly allocated to a city or local government.

Unfortunately, the Opinion fails to properly apply *Matosantos* or the constitutional principles on which that decision was founded. Instead, the Opinion focuses solely on the redevelopment agencies' role as a "creature" of statutory genesis, which somehow allows the State to not only dissolve the agencies, but then to also retroactively transfer funds that were provided for in a valid redevelopment agreement. (Opinion, at p. 9.) Almost as a platitude, the Opinion acknowledges that the State can be restricted in its actions by a "specific constitutional obstacle," but then fails to discuss the impact of Proposition 22 or the California Constitution on the case. (*Id.*) The fact that the State has the power to dissolve redevelopment agencies is not disputed by Brentwood or the League's member cities in this case. The Opinion, however, takes its application of the *Matosantos* decision too far, and states that since the State has the power to dissolve the redevelopment agencies, then the State can also retroactively cancel agreements that were valid before the agencies were dissolved. The Opinion cites to no direct or analogous authority that would support this interpretation and effectively creates new law that violates the California Constitution. (*Franco v. Arakelian Enterprises, Inc.* (2015) 234 Cal.App.4th 947, 956 ["Courts exercising inferior jurisdiction must accept the law declared by courts of superior jurisdiction. It is not their function to attempt to overrule decisions of a higher court."].) Furthermore, the Opinion's reasoning ignores the fact that this Court specifically upheld the dissolution law ***because*** the dissolution law ***did not threaten an unconstitutional transfer of redevelopment funds***, per Proposition 22 and the California Constitution. (*Matosantos*, *supra*, 53 Cal.4th at 267-268.)

Accordingly, because the Opinion misinterpreted *Matosantos*, this Court should grant review to set the record straight and clarify its past holdings. Otherwise, local governments across California will be negatively impacted, which, according to the Legislative Analyst's Office,

amounts to potentially "hundreds of millions of dollars" in one fiscal year. (Legis. Analyst's Off., The 2012-[20]13 Budget: Unwinding Redevelopment (Feb. 17, 2012) p. 22.)

REDEVELOPMENT LOANS BETWEEN FORMER REDEVELOPMENT AGENCIES AND THEIR SPONSORING CITIES IS/WAS A SIGNIFICANT REVENUE SOURCE FOR MANY CALIFORNIA CITIES. Many cities have entered into enforceable obligations that are substantially identical to the obligations at the center of Brentwood's appeal. Brentwood's redevelopment agency entered into multiple legally binding agreements between January 1, 2011 and June 30, 2011, i.e., before the February 1, 2012 dissolution of the redevelopment agencies. Many other cities also entered into similar agreements with their redevelopment agencies prior to the dissolution of the redevelopment agencies. All of these cities, including Brentwood, entered into the agreements at least partially because they expected that they would eventually be reimbursed via the tax increment from redevelopment project areas, now constituting Redevelopment Property Tax Trust Fund ("RPTTF") dollars administered by the Successor Agencies.

The Community Redevelopment Law, Health and Safety Code § 33000 *et seq.* ("CRL"), and other relevant statutes, expressly allowed and encouraged the use of city funds to further redevelopment projects. (*See, e.g.,* §§ 33004, 33132, 33133, 33220(e), 33600, 33601, 33610; Gov. Code § 3601(e).) Like Brentwood, cities throughout California operated under these provisions and provided funds to further redevelopment projects, with a reasonable expectation of receiving reimbursement once the redevelopment agencies generated sufficient tax increment funds over the life of a redevelopment project. (*See, e.g.,* Cal. Const., art. XVI, § 16; §§ 33020, 33021, 33030, 33031, 33670; see also *Pacific States Enterprises v. City of Coachella* (1993) 13 Cal.App.4th 1414, 1424 [cities and redevelopment agencies were legally separate public agencies].)

Cities entered into these agreements with the expectation and belief that the funds generated by their redevelopment agencies would be used to offset the cost of the redevelopment projects, as discussed above. However, the Opinion ignores this expectation, and allows the State to transfer those funds without regards to these cities' needs and expectations, effectively stripping the taxpayers of their local autonomy.

The transfer of these funds from local to State control is of serious importance to all Californians. If the law requires this result, this Court must say so as a matter of statewide importance.

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CONCLUSION. For these reasons, the League respectfully urges this Court to grant Brentwood's petition for review. This Court alone can speak authoritatively and facilitate prompt resolution of the many pending cases on these issues. It alone can provide an authoritative interpretation as to the scope and moment of the *Matosantos* decision. And furthermore, the amount of taxpayer money at stake – potentially hundreds of millions of dollars – justifies this Court's attention.

Very truly yours,

RUTAN & TUCKER, LLP

William H. Ihrke
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WHI:tv

PROOF OF SERVICE

(City of Brentwood v. California Department of Finance, et al
Supreme Court Case No. S227681
Court of Appeal, Third District Case No. C076343)

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed by the law office of Rutan & Tucker, LLP in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 611 Anton Boulevard, Suite 1400, Costa Mesa, California 92626-1931.

On August 6, 2015, I served on the interested parties in said action the within:

LETTER IN SUPPORT OF PETITION FOR REVIEW BY *AMICUS CURIAE*, LEAGUE OF CALIFORNIA CITIES

as stated below:

[X] (BY MAIL) by placing a true copy thereof in sealed envelope(s) addressed as shown on the attached mailing list.

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Executed on August 6, 2015, at Costa Mesa, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Norma Dehnadi
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