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Court of Appeal Holds that Proposition 22 Protects City Sales Tax and Property Tax from Being Reallocated by the Legislature

In a long-awaited opinion, the Third District Court of Appeal ruled today in [League of California Cities v. Cohen](#) (Case No. C076075) that AB 1484 violates Proposition 22 (2010), a statewide initiative to protect local tax revenues that was co-sponsored by the League of California Cities®, to the extent it allows the Department of Finance (DOF) to order sales and use tax revenues and property tax revenues to be withheld from cities and distributed to other local taxing entities. The Court's opinion also covered similar issues raised in the case of *City of Bellflower v. Cohen*.

In AB 1484 (2012), the Legislature included two provisions that allowed DOF to order sales and use tax and property tax to be withheld if: (1) DOF determines that redevelopment funds were improperly transferred to the city; or (2) the successor agency fails to make the due diligence review (DDR) payments ordered by DOF. The League challenged these provisions under the section of Prop. 22 that does not allow the Legislature to "reallocate, transfer, borrow, appropriate, restrict the use of, or otherwise use the proceeds of any tax imposed or levied by a local government solely for the local government's purposes."

The fundamental legal question addressed by the Court was whether such diversions of local revenue were permissible under the new constitutional restrictions of Prop. 22. On March 3, the Court affirmed the intent of the voters that Prop. 22 was a limitation on the authority of the Legislature to take or otherwise divert local revenue.

The Court indicated that these provisions of AB 1484 violated the Constitution by proposing to allow the state to take away local tax revenues, and at the very least, reallocate, transfer, or otherwise use these revenues. The Court then concluded that Prop. 22 "is framed as a complete prohibition against the Legislature taking or using local tax revenues" and that "it is a prohibition on transferring away from the local government any tax revenue to which the local government is entitled." The Court further concluded if a local agency had inappropriately retained former redevelopment funds the state has other judicial remedies it may pursue, but that withholding local tax revenue is not available to the state.

The Court ultimately held that: *"In passing Proposition 22, the people took away from the Legislature the authority to withhold sales and use tax revenue and property tax revenue from local governments. Therefore, Proposition 22 can and must be viewed as a limitation on the authority of the Legislature, consistent with the People's authority to amend the Constitution."*

DOF has until April 12, 2016 to decide whether to file a Petition for Review with the California Supreme Court.

Reacting to the ruling, League Executive Director Chris McKenzie said: "In enacting Prop. 22 in 2010, the voters said clearly that local tax funds should be controlled locally under all circumstances and not by state government. We are grateful the Court's ruling today upheld that clearly stated intent of the voters, and we look forward to working with our state partners in serving the people of our great state and its cities."