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The Road to Redeveloping California's Military Bases

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I. INTRODUCTION

"The end of the Cold War forced the Pentagon to adjust its military power to meet the new geopolitical and budget realities."¹ Since 1988, about seventy major United States military bases have closed, along with another 230 smaller installations.² Due to the cutbacks in defense spending, federal officials ordered twenty-nine of California's military bases closed or realigned.³ In order to mitigate the economic and social degradation faced by the local communities surrounding these bases, the military bases slated for closure are in the process of being reformed.⁴

The redevelopment of California's military bases is proving to be far more difficult than previously anticipated.⁵ One of the main hurdles delaying the redevelopment of the former military bases is the "tremendous up-front costs of making these lands development ready."⁶ The relaxed requirements in Chapters 221,

1. SENATE FLOOR, COMMITTEE ANALYSIS OF AB 2736, at 4 (June 27, 1996).

2. See Deb Kollars & Cynthia Hubert, *Pain, Profit in Base Rebirth*, SACRAMENTO BEE, June 26, 1995, at B1 (discussing the economic impacts caused by base closures, especially focusing on McClellan Air Force Base); see also Bonnie Fisher, *U.S. Shouldn't Stick Local Governments with Full Cost of Base Conversion*, S.F. CHRON., Mar. 2, 1995, at A23 (stating that in the last eight years, the nation's armed forces have shrunk by 33%, but the number of military installations have declined only by 20%).

3. SENATE COMMITTEE ON HOUSING & URBAN AFFAIRS, COMMITTEE ANALYSIS OF AB 2736, at 4 (June 17, 1996); see GOVERNOR PETE WILSON, ECONOMIC REPORT OF THE GOVERNOR, 1995-96 REGULAR SESSION 12 (1995) (estimating that approximately 520,000 direct and indirect jobs have been lost as a result of defense industry cutbacks and military base closures, primarily in the Los Angeles, San Diego, Sacramento, and San Francisco Bay regions); see also Anthony J. Principi, *The Miramar of Tomorrow*, SAN DIEGO UNION-TRIB., Apr. 20, 1994, at B7 (noting that in 1994, the United States Senate passed a budget resolution calling for \$43 billion in additional spending cuts, of which 60%-75% will come from defense spending).

4. See John Marelius, *Golding to Lead Wilson Panel on Base Conversion*, SAN DIEGO UNION-TRIB., July 13, 1993, at A1 (asserting that Governor Wilson named San Diego Mayor Susan Golding as head of the military Base Reuse Task Force, to promote quick conversion of the soon-to-be-closed military bases to civilian uses).

5. Fisher, *supra* note 2, at A23; see CALIFORNIA MILITARY BASE REUSE TASK FORCE, REPORT TO GOVERNOR PETE WILSON I [hereinafter TASK FORCE REPORT] (stating that "only 35% of military bases closed from 1961 to 1990 were able to maintain a civilian workforce equal to or greater than the preclosure level"); *id.* (asserting that communities that have "successfully recovered from the closures often were saddled with largely empty bases for five years or more before securing new civilian uses for the impacted facilities").

6. Fisher, *supra* note 2, at A23; see *id.* (declaring that "the new hurdle to base reuse is the tremendous up-front cost of making these lands development ready, specifically the removal of toxic" contaminants and run down infrastructures like roads, utilities, sewers, and telephone lines, and the renovation or demolition of run down buildings); see also *id.* (claiming that "military bases require this costly up-front investment because the Defense Department is exempt from local building and safety codes," thereby allowing it not to "spend the money for up-to-date, well maintained facilities" if it does not want to); Thomas L. Lee, *Base Closures Can Be a Boon to State's Economy*, SACRAMENTO BEE, Oct. 28, 1995 at B7 (stating that "the cost of cleanup to meet existing Environmental Protection Agency standards sometimes exceeds the former base's market value").

222, and 165, such as allowing deferred payments, delaying the environmental impact report (EIR),⁷ and redefining "blight,"⁸ mark the legislature's increasing efforts to help mitigate the economic and social degradation that communities affected by base closures face.⁹

II. BACKGROUND

Under existing law, local officials can convert military bases into civilian uses by using the Community Redevelopment Law¹⁰ or by creating individualized legislation for each base.¹¹ Therefore, when former military bases cannot be redeveloped under the Community Redevelopment Law, local officials can still seek redevelopment through base-specific bills.¹²

Since the conclusion of the Cold War, the amount of individualized bills for redevelopment increased because many bases could no longer meet the broad requirements contained in the Community Redevelopment Law.¹³ In 1993, the legislature responded to this increasing legislation by passing a group of military base

7. See CAL. PUB. RES. CODE § 21061 (West 1996) (describing "environmental impact report" as a detailed document providing public agencies and the general public with detailed information about the potential effects a proposed project is likely to have on the environment, the ways in which these effects might be minimized, and alternatives to such a project).

8. See CAL. HEALTH & SAFETY CODE § 33030 (West Supp. 1997) (providing "blight" to include areas that are predominately urbanized and hindered by circumstances that prevent or substantially impair the economic viability of the area); see also *id.* § 33031 (West Supp. 1997) (listing the physical and economic conditions in an urbanized area that cause blight); *Gonzales v. City of Santa Ana*, 12 Cal. App. 4th 1335, 1342-43, 16 Cal. Rptr. 2d 132, 136 (1993) (stating that under community redevelopment law only blighted areas can be proposed for redevelopment (quoting *Sweetwater Valley Civil Ass'n v. City of Nat'l City*, 18 Cal. 3d 270, 277, 133 Cal. Rptr. 859, 863, 555 P.2d 1099, 1103 (1976)); *Morgan v. Community Redevelopment Agency*, 231 Cal. App. 3d 243, 254-58, 284 Cal. Rptr. 745, 750-53 (1991) (holding that if a community redevelopment agency and a city decide that a particular area is blighted, the decision will be upheld on judicial review if it is supported by substantial evidence); *Fellom v. Redevelopment Agency*, 157 Cal. App. 2d 243, 248, 320 P.2d 884, 888 (1958) (dictating that legislative decisions concerning the presence of blight are not binding on the court, but should be given great weight by the court, and that courts should not interfere with these legislative findings unless the findings appear clearly erroneous and without reasonable foundation).

9. CAL. HEALTH & SAFETY CODE § 33492 (amended by Chapter 221).

10. See *id.* §§ 33000-33738 (West 1973 & Supp. 1997) (discussing the creation and operation of redevelopment agencies, new community development, redevelopment procedures, special housing, and solutions to financing problems).

11. See *id.* § 33492.1 (West Supp. 1997) (authorizing extraordinary measures to mitigate the effects caused by the federal government's reduction of military bases).

12. SENATE COMMITTEE ON HOUSING & URBAN AFFAIRS, COMMITTEE ANALYSIS OF AB 2736, at 1 (June 17, 1996); see *id.* (describing the background of the Community Redevelopment Law).

13. See *id.* at 4-5 (discussing the Cold War's influence on the increase of redevelopment bills for individual bases); see also CAL. HEALTH & SAFETY CODE §§ 33492.50-33492.90 (West Supp. 1997) (listing the individualized code sections used to redevelop the former military bases of Castle Air Force Base, Mather Air Force Base, Fort Ord, March Air Force Base, and Mare Island Naval Shipyard).

redevelopment laws.¹⁴ The goal of the military base redevelopment laws was to create one law, which, in most cases, authorized redevelopment for all former military bases in California, thereby reducing the need for individualized redevelopment bills.¹⁵

In 1993, the legislature also amended the Community Redevelopment Law.¹⁶ However, these changes left many inconsistencies between the Community Redevelopment Law and the military base redevelopment laws.¹⁷ As a result, when bases attempting redevelopment could not meet the Community Redevelopment Law provisions, the affected communities chose to rely on individual bills instead.¹⁸

III. EXISTING LAW

The Community Redevelopment Law authorizes the establishment of redevelopment agencies¹⁹ to address the effects of blight in communities designated as project areas.²⁰ The military base redevelopment laws contain another definition of blight.²¹

14. See CAL. GOV'T CODE §§ 67800-67870 (West Supp. 1997) (authorizing cities and counties to establish a military base reuse authority to prepare, adopt, finance, and implement plans for the redevelopment of former military bases); see also *id.* §§ 7105-7115 (West Supp. 1997) (describing the Local Agency Military Base Recovery Act); CAL. HEALTH & SAFETY CODE §§ 33492-33492.29 (West Supp. 1997) (discussing many of the provisions relied upon by the military redevelopment law including military base closure redevelopment agencies).

15. See Marnie I. Smith, *Review of Selected California 1994 Legislation*, 26 PAC. L.J. 350, 682 (1995) (describing Military Base Reuse Authority); see also SENATE COMMITTEE ON HOUSING & URBAN AFFAIRS, COMMITTEE ANALYSIS OF AB 2736, at 1 (June 17, 1996) (stating that the military base redevelopment law was the legislature's attempt to create one bill that would act as a uniform response to local officials creating specialized bills for redevelopment).

16. See CAL. HEALTH & SAFETY CODE §§ 33012-33678 (West Supp. 1997) (amending several sections of the Community Development Law). See generally Eric L. Graves, *Review of Selected California 1993 Legislation*, 25 PAC. L.J. 368, 729 (1994) (describing the effects of the 1993 Redevelopment Reform Statutes).

17. SENATE COMMITTEE ON HOUSING & URBAN AFFAIRS, COMMITTEE ANALYSIS OF AB 2736, at 1 (June 17, 1996); see *infra* notes 19-24 and accompanying text (discussing the differences between the Community Redevelopment Law and the military base redevelopment laws).

18. See *infra* notes 19-24 and accompanying text; see also SENATE FLOOR, COMMITTEE ANALYSIS OF AB 3129, at 1 (June 20, 1996) (listing George AFB (1989), Norton AFB (1989), Castle AFB (1993), Mather AFB (1993), Fort Ord AFB (1994), March AFB (1994), and Mare Island (1994) as the seven military bases for which legislators passed special redevelopment bills).

19. See HEALTH & SAFETY CODE § 33020 (West Supp. 1997) (defining "redevelopment" as the planning, development, replanning, redesign, clearance, reconstruction, or rehabilitation of a surveyed area, and the creation of residential, commercial, industrial, public, or other structures or spaces as appropriate or necessary to the interest of the general welfare, including recreational and other facilities); *id.* § 33100 (West 1973) (establishing community redeveloping agencies); see also *Pacific States Enter., Inc. v. City of Coachella*, 13 Cal. App. 4th 1414, 1425, 17 Cal. Rptr. 2d 68, 73-74 (1993) (stating that when a dual capacity legislative body is acting as both the governing board of a redevelopment agency and as the legislative body of the community, the redevelopment agency and community are not one and the same governmental entity); *Redevelopment Agency v. Cooper*, 267 Cal. App. 2d 70, 75-76, 72 Cal. Rptr. 557, 560 (1968) (holding that the "elimination of blighted areas by redevelopment finds its constitutional basis in protection of the public health, morals, safety, and general welfare" (quoting *Redevelopment Agency v. Malaki*, 216 Cal. App. 2d 480, 482, 31 Cal. Rptr. 92, 94 (1963))).

20. CAL. HEALTH & SAFETY CODE §§ 33000-33738 (West Supp. 1997); see *id.* § 33320.1 (West Supp. 1997) (listing "project area" as an area that is a predominately urbanized portion of the community that is blighted, the redevelopment of which is deemed necessary to effectuate a public purpose and which the planning commission

Under existing law, the Community Redevelopment Law requires redevelopment officials to set aside twenty percent of their property tax increment revenue in a low and moderate income housing fund.²² Furthermore, the Community Redevelopment Law requires redevelopment officials to use statutory formulas to share property tax increment revenues with other local governments, including school districts.²³ Under military base redevelopment law, redevelopment officials negotiate pass-through agreements to share tax increment revenues with other local agencies.²⁴

has selected pursuant to California Health and Safety Code § 33322); *id.* (specifying “predominately urbanized” to mean that not less than 80% of the community is in the project area); *see also id.* § 33322 (West Supp. 1997) (setting forth the process of selecting a project area).

21. *See id.* § 33492.11 (West Supp. 1997) (stating that property in the military base redevelopment project does not have to be predominately urbanized); *id.* (authorizing local officials to define “blight” for closed military bases by using any combination of the four physical conditions and five economic conditions enumerated in the statute); *see also id.* § 33031 (West Supp. 1997) (identifying the physical conditions as: (1) Buildings in which it is unsafe or unhealthy for persons to work; (2) substandard design, inadequate size given to present standards and market conditions, lack of parking, or other similar factors that prevent or hinder the economically viable use or capacity of buildings or lots; (3) adjacent or nearby uses that are incompatible with each other and that prevent the economic development of those parcels or other portions of the project area; and (4) the existence of subdivided lots of irregular form and shape and inadequate size for proper usefulness and development that are in multiple ownership); *id.* (naming the four economic conditions as: (1) Depreciated or stagnant property values or impaired investment; (2) abnormally high business vacancies, abnormally low lease rates, high turnover rates, abandoned buildings, or excessive vacant lots within an area developed for urban use and served by utilities; (3) a lack of necessary commercial facilities that are normally found in neighborhoods, including grocery stores, drug stores and banks and other lending institutions; (4) residential overcrowding or other businesses that cater exclusively to adults; and (5) a high crime rate that constitutes a serious crime threat to the public safety and welfare). *But see id.* § 33030(b)(1) (West Supp. 1997) (stating that the Community Redevelopment Law has to have only one of the four physical conditions and one of the five economic conditions).

22. *Id.* § 33334.2(a) (West Supp. 1997); *see id.* (mandating that at least 20% of the revenue taken in by the project be used for the development of low and moderate income housing, absent a special showing that the 20% is not needed to provide adequately such housing to the affected area); *see also id.* § 33391(a) (West Supp. 1997) (stating that a redevelopment agency may also acquire property by eminent domain as long as the property falls within the defined blighted area); *Emmington v. Solano Redevelopment Agency*, 195 Cal. App. 3d 491, 497, 237 Cal. Rptr. 636, 639 (1987) (opining that blight must be at the foundation of a redevelopment agency’s attempt to acquire property by eminent domain).

23. *See, e.g., CAL. HEALTH & SAFETY CODE* § 33607.5(a)(3)(4)(A) (West Supp. 1997) (setting forth the various percentages of property tax revenues that each redevelopment area must provide to school districts); *id.* § 33607.5(a)(3)(4)(B) (West Supp. 1997) (specifying the total amount paid each year to community colleges); *see also SENATE COMMITTEE ON HOUSING & URBAN AFFAIRS, COMMITTEE ANALYSIS OF AB 2736*, at 2 (June 17, 1996) (detailing the difference between negotiated pass-through payments made by local redevelopment officials under the military base redevelopment law and statutory pass-through payments made under the Community Redevelopment Law).

24. *CAL. HEALTH & SAFETY CODE* § 33492.15 (amended by Chapter 221); *see id.* (describing the guidelines for apportioning revenues to local agencies and school districts).

The California Environmental Quality Act (CEQA)²⁵ requires public officials to review projects for their environmental effects.²⁶ Both the Community Redevelopment Law and the military base redevelopment law require officials to adopt an Environmental Impact Report (EIR) when a redevelopment plan is approved.²⁷ In addition, both the Community Redevelopment Law and the military base redevelopment law require the redevelopment plan to be consistent with the community's general plan.²⁸

IV. NEW LAW

Chapter 221 is a general bill making numerous revisions to the existing military base redevelopment law.²⁹ Although Chapter 221 creates new standards for redeveloping military bases, it continues to allow redevelopment bills for individual bases when unique circumstances prohibit those bases from being converted by the Community Redevelopment Law or the military base redevelopment law.³⁰ Chapter 222 is a bill that specifically focuses on the redevelopment plan for the Alameda

25. See CAL. PUB. RES. CODE §§ 21000-21165 (West 1996) (setting forth California's Environmental Quality Act); see also 42 U.S.C.A. § 4321 (West 1994) (providing the National Environmental Policy Act of 1969, whose purpose is to promote efforts to prevent or eliminate damage to the environment); CAL. HEALTH & SAFETY CODE § 33492.65 (West Supp. 1996) (applying CEQA to the Mather AFB redevelopment project); *Wildlife Alive v. Chickering*, 18 Cal. 3d 190, 202, 553 P.2d 537, 543, 132 Cal. Rptr. 377, 383 (1976) (holding that federal judicial interpretations of the National Environmental Policy Act are relevant in interpreting CEQA only to the extent that the provisions of the National Environmental Policy Act may be said to parallel the California Act); *Village of Laguna, Inc. v. Board of Supervisors*, 134 Cal. App. 3d 1022, 1028 & n.3, 185 Cal. Rptr. 41, 44 & n.3 (1982) (noting that since "CEQA was modeled on the National Environmental Policy Act, judicial interpretation of the latter is persuasive authority in interpreting" the former); *Mount Sutro Defense Comm. v. Regents of Univ.*, 77 Cal. App. 3d 20, 35, 143 Cal. Rptr. 365, 373 (1978) (demonstrating that when interpreting CEQA, courts should rely upon federal precedents as helpful authority in construing parallel provisions contained in the National Environmental Policy Act of 1969).

26. CAL. HEALTH & SAFETY CODE § 33490(a)(1)(B) (West Supp. 1997). *But see Lee, supra* note 6, at B7 (setting forth possible methods by which California can clean up former military bases and then transform them into valuable commercial, residential, and recreational resources). See generally Richard A. Wegman & Harold G. Bailey, Jr., *The Challenge of Cleaning Up Military Wastes When U.S. Bases Are Closed*, 21 *ECOLOGY L.Q.* 865 (1994) (detailing the challenges of cleaning up military wastes after base closure).

27. See CAL. HEALTH & SAFETY CODE § 33490(a)(1)(B) (West Supp. 1997) (subjecting base reuse plans proposed pursuant to both Community Redevelopment Law and military base redevelopment law to the adoption plan requirement promulgated by CEQA); CAL. PUB. RES. CODE § 21083.8. (West 1996) (discussing the requirements for EIR's prepared on the closure and reuse of military bases).

28. CAL. HEALTH & SAFETY CODE § 33492.20(a)(1)(B)(2) (enacted by Chapter 221); see SENATE COMMITTEE ON HOUSING & URBAN AFFAIRS, COMMITTEE ANALYSIS OF AB 2736, at 3 (June 17, 1996) (announcing that the legislature has allowed redevelopment projects for former military bases to proceed without making the "general plan consistency" finding, but has prohibited the projects from spending the property tax increment revenues until the plans become consistent with the existing housing requirements).

29. See ASSEMBLY FLOOR, COMMITTEE ANALYSIS OF AB 2736, at 1 (July 11, 1996) (discussing how Chapter 221 amends, enacts, and repeals several provisions of the military base redevelopment law).

30. See SENATE COMMITTEE ON HOUSING & URBAN AFFAIRS, COMMITTEE ANALYSIS OF AB 2736, at 5 (June 17, 1996) (describing how bills such as Chapter 222 and Chapter 165 will rely on the standards set by Chapter 221, but will also contain features unique to their particular bases).

Naval Air Station.³¹ Chapter 165 is also base specific; it creates provisions for the redevelopment of Tustin Marine Corps Air Station.³² Neither Chapter 222 nor Chapter 165 change existing law because both chapters rely on the modifications made by Chapter 221.³³

A. *The New Standards for Redeveloping Military Bases*

Chapter 221 eliminates the inconsistent definitions of blight and pass-through payments between military base redevelopment law and the more general Community Redevelopment Law.³⁴ Chapter 221 amends several provisions of the military base redevelopment law so that local officials can use Chapter 221 for military base redevelopment, instead of special legislation for each base when the Community Redevelopment Law does not fit the needs of local officials.³⁵

Chapter 221 repeals the economic conditions that define blight on military bases and adds three more conditions to the definition of blight.³⁶ Chapter 221 also allows local officials to include property that is not on a military base in a redevelopment project area, providing the off-base property meets the conditions for blight.³⁷ Moreover, Chapter 221 changes the existing requirements for pass-through payments.³⁸

31. See CAL HEALTH & SAFETY CODE §§ 33493.1-33493.4 (enacted by Chapter 222) (authorizing the adoption of a redevelopment plan covering all or part of the Alameda Naval Air Station and Fleet Industrial Supply Center in the City of Alameda).

32. See *id.* §§ 33492.100-33492.114 (enacted by Chapter 165) (providing a redevelopment plan for the lands comprising Tustin Marine Corps Station in the City of Tustin, and surrounding cities).

33. See COMMITTEE ON SENATE HOUSING & URBAN AFFAIRS, COMMITTEE ANALYSIS OF AB 2736, at 5 (June 17, 1996) (stating that Chapter 222 and Chapter 165 will rely on the standards set by Chapter 222, and then nest under its urgency clause).

34. See *infra* notes 36-38 and accompanying text (discussing the new conditions made by Chapter 221 on blight, property restrictions, and pass-through agreements).

35. CAL. HEALTH & SAFETY CODE §§ 33492, 33492.3, 33492.10, 33492.11, 33492.15, 33492.87 (amended by Chapter 221).

36. See *id.* § 33492.11 (amended by Chapter 221) (adding substandard works, substantial buildings, and obsolete facilities to the definition of "blight"); *id.* (describing the seven conditions which cause blight as: (1) Buildings in which unsafe or unhealthy people work; (2) factors that prevent or substantially hinder the economically viable reuse or capacity of buildings or areas; (3) adjacent or nearby uses that are incompatible with each other and that prevent the economic development of those parcels; (4) buildings on land that, when subdivided or when infrastructure is installed, would not comply with community subdivision, zoning, or planning regulations; (5) land that does not meet existing adopted utility or community infrastructure standards when the land contains buildings; (6) buildings that when built did not conform to the then-effective building, plumbing, mechanical, or electrical codes adopted by that jurisdiction; and (7) land that contains materials or facilities, including materials for aircraft landing pads and runaways, that would have to be removed to allow development).

37. *Id.* § 33492.10(b) (amended by Chapter 221); see *id.* § 33492.3 (amended by Chapter 221) (noting the project area may include all, or any portion of, property within a military base that the Federal Base Closure Commission has voted to close or realign).

38. Compare 1994 Cal. Legis. Serv. ch. 221, sec. 6, at 1494 (enacting CAL. HEALTH & SAFETY CODE § 33492.15) (providing for local officials to negotiate pass-through agreements for property tax increment revenues generated by military base redevelopment project areas) with CAL. HEALTH & SAFETY CODE § 33492.15 (amended by Chapter 221) (specifying that local officials must follow the statutory pass-through formulas in the Community Redevelopment Law).

In addition, Chapter 221 renames "military base closure agencies" to "military base conversion redevelopment agencies"³⁹ and allows for the deferment of the twenty percent tax increment revenue for up to five years after the adoption of the redevelopment plan.⁴⁰

Under new law, Chapter 221 allows a military base redevelopment plan to be adopted without an EIR, if a redevelopment agency at a specially held public hearing determines that an EIR is not necessary.⁴¹ If the redevelopment agency exempts the adopted redevelopment plan from CEQA, then the agency must certify an EIR within 18 months after adopting the redevelopment plan.⁴² If the EIR violates a CEQA provision, then the redevelopment plan must be amended to mitigate any violations.⁴³ If the EIR is inadequate, then the redevelopment agency is prohibited from beginning additional projects that implement the redevelopment plan until an adequate environmental document has been certified.⁴⁴ Finally, Chapter 221 also allows preliminary plans for the redevelopment of former military bases to be adopted without any consistency between the redevelopment plan and the community's general plan.⁴⁵

B. Alameda Naval Station

Chapter 222 authorizes the adoption of a redevelopment plan for the Alameda Naval Air Station (NAS) and the Fleet Industrial Supply Center in the City of Alameda.⁴⁶ The Alameda NAS and Fleet Industrial Supply Center are both scheduled to close in 1997.⁴⁷ The City of Alameda wants to use its redevelopment powers to

39. Compare 1994 Cal. Legis. Serv. ch. 221, sec. 1, at 1493 (enacting CAL. HEALTH & SAFETY CODE § 33492) (titled Chapter 4.5 of the Community Redevelopment Law as "Military Base Closure Redevelopment Agencies") with CAL. HEALTH & SAFETY CODE § 33492 (amended by Chapter 221) (substituting the word "closure" for "conversion").

40. See CAL. HEALTH & SAFETY CODE § 33492.16(a), (b) (enacted by Chapter 221) (providing that the legislative body may delay deferments if the legislative body finds that the funds are necessary for the effective redevelopment of base property and long-term tax generation); *id.* (stating that the vacancy rate for housing affordable to lower income households is greater than four percent as established by using the vacancy rates most recently published in the annual California Department of Finance Population and Housing Estimates, Report E-5, or a successor report); see also *id.* § 33492.87(a)(3) (amended by Chapter 221) (declaring that the law will consider the amount of the deferral, if any, the indebtedness of the agency, and if redevelopment officials do not repay the deferred amounts by the project area's tenth year, the county officials shall withhold tax increment revenues to make the required deposits).

41. *Id.* § 33492.18(a) (enacted by Chapter 221).

42. *Id.* § 33492.18(b) (enacted by Chapter 221).

43. *Id.*; see *id.* § 33492.18(c) (enacted by Chapter 221) (discussing the necessary requirements for an adequate military base redevelopment EIR, such as an analysis and mitigation of potential cumulative impacts); see also CAL. PUB. RES. CODE § 21081 (West 1996) (discussing procedures for environmental impacts discovered after certification and the need for monitoring programs).

44. CAL. HEALTH & SAFETY CODE § 33492.18(c) (enacted by Chapter 221).

45. *Id.* § 33492.20(a)(1)(A), (B) (enacted by Chapter 221); see *id.* § 33492.20(a)(2) (enacted by Chapter 221) (prohibiting the agency from expending tax increment funds allocated to it from the project area for project expenses until the redevelopment plan is consistent with the general plan of the community).

46. *Id.* §§ 33493.1-33493.4 (enacted by Chapter 222).

47. SENATE FLOOR, COMMITTEE ANALYSIS OF AB 3129, at 2 (June 20, 1996).

convert the former military facilities into mixed-use development areas, light industrial uses, a wildlife habitat, and housing projects.⁴⁸ Although Chapter 222 incorporates some provisions from Chapter 221, an individualized bill is still needed because Alameda's NAS needs specialized legislation authorizing its dwelling units⁴⁹ to be substantially rehabilitated⁵⁰ and permission for Alameda's redevelopment agency to transfer all or part of the federal military property from the Business and Waterfront Project⁵¹ to this redevelopment project.⁵²

After reviewing the NAS's situation, the legislature declared that because of the unique circumstances applicable to the closure of the Alameda NAS and the Fleet Industrial Supply Center, a statute of general applicability cannot be enacted within the meaning of Article IV of the California Constitution,⁵³ making the enactment of Chapter 222 necessary.⁵⁴ In enacting Chapter 222, the legislature intended to provide a specific and precise means of mitigating the serious economic effects of closing the Alameda NAS and Industrial Fleet Supply Center.⁵⁵

C. Tustin's Marine Corps Air Station

Chapter 165 authorizes the adoption of a redevelopment plan for Tustin Marine Corps Air Station (MCAS).⁵⁶ The 1600-acre Tustin MCAS, the main west coast helicopter base, will close down sometime between 1997 and 1999.⁵⁷

48. *Id.*

49. See CAL. HEALTH & SAFETY CODE § 33493.4(b) (enacted by Chapter 222) (defining "dwelling units" for this section as permanent or transitional residential units, but not student dormitory rooms or overnight emergency shelter beds).

50. See *id.* § 33493.4(c) (enacted by Chapter 222) (defining "substantially rehabilitated" as the state of a dwelling when its value equals 25% of the after-rehabilitation value of the dwelling, inclusive of land value).

51. See SENATE FLOOR, COMMITTEE ANALYSIS OF AB 3129, at 2 (June 20, 1996) (stating that "when Alameda redevelopment officials created the 'Business and Waterfront Improvement Project' they included some of the property controlled by the Fleet Industrial Center").

52. CAL. HEALTH & SAFETY CODE § 33493.4(a)-(c) (enacted by Chapter 222).

53. See CAL. CONST., art. IV, § 16 (stating that all laws of a general nature have uniform operation); see also *State Bd. of Dry Cleaners v. Thrift D-Lux Cleaners*, 40 Cal. 2d 436, 443, 254 P.2d 29, 33 (1953) (holding that general legislation must promote "welfare of a properly classified segment of the general public as contrasted with that of a small percentage"); *Franchise Motor Freight Ass'n v. Seavey*, 196 Cal. 77, 81, 235 P. 1000, 1006 (1925) (opining that a statute is discriminatory if it confers a particular privilege on a class arbitrarily selected from a large number of people).

54. 1996 Cal. Legis. Serv. ch. 222, sec. 1, at 1498 (enacting CAL. HEALTH & SAFETY CODE §§ 33493.1-33493.4).

55. SENATE FLOOR, COMMITTEE ANALYSIS OF AB 3129, at 2 (June 20, 1996); see Michael Dougan, *Civilians Begin Takeover at Converted Air Station*, S.F. EXAM., Nov. 11, 1995, at A1 (stating that closure of the Alameda NAS and related facilities could wipe out an estimated five percent of all jobs in the Oakland metropolitan area).

56. CAL. HEALTH & SAFETY CODE §§ 33492.100-33492.114 (enacted by Chapter 165).

57. SENATE FLOOR, COMMITTEE ANALYSIS OF SB 1861, at 2 (June 24, 1996).

Similar to Chapter 222, Chapter 165 will also incorporate some redevelopment provisions enumerated in Chapter 221.⁵⁸ However, an individualized bill is needed to redevelop the MCAS project area to include an additional fifty-two acres of privately owned land contiguous⁵⁹ to the air station.⁶⁰

Since the redevelopment law does not fit Tustin's situation, Chapter 165 is a bill designed to help Tustin develop the base.⁶¹ The legislature has declared Chapter 165 a redevelopment plan specially enacted to mitigate the economic effects to Orange County and the City of Tustin caused by the closure of Tustin MCAS.⁶² Moreover, the legislature has declared that because of the unique circumstances relating to the closure of the Tustin MCAS, a general statute within the meaning of specified provisions of the California Constitution cannot be made applicable. Thus an individualized statute is needed.⁶³

V. WHERE DOES CALIFORNIA GO FROM HERE ?

While base closures pose negative economic and social consequences to many communities, military base redevelopment presents local officials with an opportunity to reshape and revitalize many communities' social and economic structures. However, in order for base redevelopment to have a positive impact on its surrounding communities, local officials must work together with state agencies to attract as much federal funding as possible, embrace legislation which lowers building codes and initial clean-up regulations, and develop a more flexible approach to base development.

With California's tight budget plan, local and state officials have been "hard pressed to identify sufficient funding" for base redevelopment.⁶⁴ To date, federal funds, primarily those from the Office of Economic Adjustment and the Economic Development Administration, have become the major source of base reuse capital.⁶⁵ Furthermore, federal community assistance programs are designed to promote local

58. See SENATE COMMITTEE ON HOUSING & URBAN AFFAIRS, COMMITTEE ANALYSIS OF AB 2736, at 5 (June 17, 1996) (describing how bills such as Chapter 222 and Chapter 165 will rely on standards set by Chapter 221, and contain features unique to their particular base).

59. See CAL. HEALTH & SAFETY CODE § 33492.102(b) (enacted by Chapter 165) (listing the boundaries of the 52 acres of private land contiguous to Tustin); see also SENATE FLOOR, COMMITTEE ANALYSIS SB 1861, at 2 (June 24, 1996) (stating that local officials cannot use eminent domain to obtain this property).

60. CAL. HEALTH & SAFETY CODE § 33492.102(a), (b) (enacted by Chapter 222).

61. SENATE FLOOR, COMMITTEE ANALYSIS SB 1861, at 2 (June 24, 1996); see *supra* notes 59-60 and accompanying text (describing why Tustin needs a specific bill for redevelopment).

62. CAL. HEALTH & SAFETY CODE § 33492.100 (enacted by Chapter 165).

63. 1996 Cal. Legis. Serv. ch. 165, sec. 2, at 1186 (enacting CAL. HEALTH & SAFETY CODE § 33492.100, 33492.102, 33492.104, 33492.106, 33492.108, 33492.110, 33492.112, 33492.114); see *supra* notes 53-54 and accompanying text (discussing why the legislature cannot enact a statute of general applicability for Alameda NAS and the Fleet Industrial Supply Center).

64. CALIFORNIA DEFENSE CONVERSION COUNCIL, DEFENSE CONVERSION IN CALIFORNIA: ECONOMIES IN TRANSITION xvii (1996) [hereinafter DEFENSE CONVERSION COUNCIL].

65. *Id.*

economic development and land reuse.⁶⁶ In order to attract these funds, California must develop an effective defense conversion strategy because a substantial portion of federal aid to communities is awarded on a competitive basis, and those states with the most promising proposals will be successful in gaining the most federal funds.⁶⁷

Thus far, Chapter 221 has made a positive step toward cleaning-up bases for speedy reuse by exempting military base adoption plans from CEQA's standards. However, many other clean-up requirements still block the redevelopment of military bases. To clean-up California's bases and smooth out the redevelopment process, California should continue to adopt its Military Reuse Task Force⁶⁸ recommendations regarding CEQA.⁶⁹ In addition to the Task Force's suggestions, this author believes California should also adopt the California Defense Conversion Council's recommendation of permitting temporary waivers of building codes when there is no immediate threat to life or health.⁷⁰

Finally, for base reuse to be effective, "local, state, and federal governments must be creative as they adapt resource and regulatory requirements to the realities of military base closures."⁷¹ Although many existing federal and state regulations are designed to preserve California's natural resources and environment, local, state, and federal officials need to be flexible in applying them to military bases struggling through the redevelopment process.⁷²

It is no secret that redeveloping California's military bases is a long and difficult process bootstrapped with many state and federal regulations. However, the metro-

66. COMMISSION ON STATE FINANCE, *IMPACT OF DEFENSE CUTS ON CALIFORNIA: AN UPDATE 6* (1993).

67. *Id.* at 7; *see id.* at 8 (describing New York's Defense and Diversification Program, established in 1991, to provide technical, financial, and educational assistance to defense oriented firms, with state funds matched on a 50-50 basis by participating companies); *id.* (describing Ohio's Edison Program, which was designed to aid in the development of new technologies and promote small businesses, and consists of three elements: (1) Seven technology centers located throughout the state, (2) a seed development fund to provide small grants and loans to advance new technologies, and (3) business "incubators" that provide low cost space, clerical and computer support, and marketing assistance for small, technology-driven companies); *id.* (explaining that Ohio's General Fund supports the Ohio program, and appears well suited to coordinate the state's efforts in defense conversion); *id.* (discussing Pennsylvania's Ben Franklin Centers, which were created to promote the development of new commercial products and assist in job training).

68. *See* TASK FORCE REPORT, *supra* note 5, at ix (describing California's Military Base Reuse Task Force as a 15-member Task Force created by Governor Wilson and chaired by Susan Golding, that is responsible for developing a comprehensive plan to market California's base facilities, and recommending solutions to get over the barriers to base redevelopment).

69. *See id.* at 49 (setting forth several detailed recommendations for military base reuse, all of which emphasize the critical importance to expedite CEQA review and minimize the potential for litigation).

70. *See* DEFENSE CONVERSION COUNCIL, *supra* note 64, at 54; *see id.* (stating that most bases do not meet state and local building codes, including California's seismic standards, energy conservation, fire and safety standards, and Americans with Disabilities Act requirements); *see also id.* at 53 (estimating that "the statewide cost of bringing all base infrastructures into full usability and compliance is several billion dollars, financed over a period of 40 years or more").

71. *Id.* at xvii.

72. *Id.*; *see id.* (listing some of the potential restrictions placed on the future use of real property because it came from a Public Land Trust: the impacts of the Endangered Species Act, insufficient Air Emission Credits, the requirements of the Historic Preservation Act, Native American Claims, or recycling mandates).

politan locations and accessibility to major transportation routes of these resource-rich facilities are not something Californians can afford to idly sit back and watch turn into virtual "ghost towns." In a time of diminishing resources, California needs to incorporate innovation and flexibility in its defense conversion program, particularly, in its redevelopment of former military bases to meet the continuing needs of our changing economy.

APPENDIX

Code Sections Affected

Health and Safety §§ 33492.4, 33492.16, 33492.18, 33492.20 (new), §§ 33492, 33492.3, 33492.10, 33492.11, 33492.15, 33492.87 (amended), §§ 33492.17, 33492.19, 33492.21, 33492.23, 33492.25, 33492.27 (repealed).

AB 2736 (Weggeland); 1996 STAT. Ch. 221

(Effective July 20, 1996)

Health and Safety Code §§ 33493.1, 33493.2, 33493.3, 33493.4 33493.5, 33493.6, 33493.7, 33493.8, 33493.9 (new).

AB 3129 (Lee); 1996 STAT. Ch. 222

Health and Safety Code §§ 33492.100, 33492.102, 33492.104, 33492.106, 33492.108, 33492.110, 33492.112, 33492.114 (new).

SB 1861 (Johnson); 1996 STAT. Ch. 165

(Effective July 15, 1996)

