

Consolidation & Disincorporation of Cities

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CALAFCO University
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Cities Merge?

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Overview

- Set Stage for Today's Discussion by:
 - Defining terms
 - Providing overview of bankruptcy, disincorporation, consolidation
 - Identifying open issues



Defining Our Terms

- Bankruptcy
 - Legal Process of Excusing Debts
- Disincorporation – GC 56034
 - Dissolution of a City
- Consolidation – GC 56030
 - Merger of two or more cities or districts into a single successor



Defining Our Terms

■ Charter City

- A City governed under a charter approved by voters pursuant to CA Const. art. XI, §§ 3, 5
- Other cities are called “general law cities” and are governed under laws passed by Legislature

■ Borough

- A unit of subgovernment for a City
- I.e., the five boroughs of NYC
- No examples in CA



Defining Our Terms

- In rem proceeding
 - There are two kinds of law suits
 - In personam actions affect the people who are party to them
 - In rem actions affect everyone who has an interest in the subject matter of the suit, whether they participate or not
 - Actions to challenge reorganizations are in rem, as are bankruptcy cases
 - Such cases forever resolve the issues they address as to the whole world



Bankruptcy

- Governed by federal law
- Public agencies' access to federal bankruptcy court is governed by state law
- CA was historically generous – any local government could file
- Last year's AB 506 imposed a mediation process; this year's AB 1692 would impose a "neutral evaluator" process



Bankruptcy

- Federal law requires proof of effort to resolve debt by negotiation before filing
- Can restructure or eliminate debts, but cost is high in terms of loss of credit-worthiness and legal fees
- Relatively uncommon



Bankruptcy

- Bankruptcies result from:
 - A lawsuit or other catastrophic event
 - Mammoth Lakes
 - Orange County
 - General financial problems
 - Vallejo
 - Stockton
- Prospect that bankruptcy could affect labor agreements & pensions explains recent legislation



Disincorporation

- Initiated by petition or resolution of an affected local agency – GC 56654, 56700
 - Petitions require signatures of 25% of voters – GC 56765
 - Resolution requires service plan – GC 56653
- Can be accomplished by statute
 - E.g., last year's AB 46 (Vernon bill)



Disincorporation

- R&T 99 agreement required
 - This allows County veto
 - *Greenwood Addition HOA v. San Marino* (1993) 14 CA4th 1360
- LAFCO review under usual factors –
GC 56668



Disincorporation

- Terms & Conditions – GC 56885.5, 56886
 - Labor contracts – GC 56886(l)
 - Bonds & other debt – GC 56886 (c, d, f, g)
 - Additional revenue – GC 56886 (b, s, t, u)
 - But, debt limit continues to apply –
GC 56887.5
 - Voter approval required for taxes under
Props. 13, 62 & 218
 - Non-City territory cannot be taxed to cover
City debts – GC 57419



Disincorporation

- Voter approval required – GC 57077
- Effect of Disincorporation
 - City ceases to exist – GC 57400
 - Assets revert to County – GC 57401
 - LAFCO or County must do audit – GC 57402, 57404
 - County may levy property tax to cover City debts – GC 57409
 - But voter approval required by Props. 13, 62, 218



Disincorporation

- **More Effects of Disincorporation**
 - **If funds left after City's debts covered, County must transfer to special districts serving former City or pave streets there – GC 57411**
 - **County may assume City utilities – GC 57415**
 - **Does this mean LAFCO cannot designate a special district as successor to utilities over County objection?**
 - **Newly incorporated city with 2/3 of assessed value of old city may assume its assets & proportionate share of its debts – GC 57418**
- **Over what time frame? 100 years later?**



Consolidation

- Process is Similar to that for Disincorporation
 - Petition for consolidation requires signatures of 5% of voters of each city to be consolidated



Consolidation

- **Effect of Consolidation**
 - **Voters can choose name – GC 57475**
 - **If a merged cities is a charter city, successor can be, too – GC 57475**
 - **LAFCO must designate which officials of merged cities hold office until next election – GC 57475**



Consolidation

- More Effects of Consolidation
 - Ordinances of predecessor city repealed except for assessments, zoning, etc. – GC 57478, 57479
 - Ordinances of city designated as successor remain in effect – GC 57480
 - Debts are not leveled as between merged cities unless terms & conditions so provide – GC 57481



Open Issues

- What happens to the employees? GC 56886(1)
- Who pays for all this?
- Ought LAFCO adopt local guidelines until CKH can be clarified?
- How ought LAFCO provide for meaningful input by the public, employees, the County, other affected agencies, and other stakeholders?
- What agencies other than the County are appropriate successors to City services?



Conclusions

- Bankruptcy, Disincorporation & Consolidation are all Unlikely
- However, communities may need to understand them to refocus on more realistic solutions
- The statutes bear review and revision, especially as to voter approval of new taxes
- Today's discussion will likely identify many more questions and areas of the statutes in need of clarification and update.



LAFCO's Role in Regional Planning

Questions?