

WILLIAMSON ACT UPDATE

Land Use and Environmental Law Department Update

by **Dan M. Silverboard, Esq. and Jeffrey K. Dorso, Esq.**

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The California Legislature adopted the California Land Conservation Act¹ (“Williamson Act” or “Act”) in 1965 to prevent “leapfrog” development and slow the conversion of California’s agricultural land to developed uses. Under the Williamson Act, landowners receive a property tax reduction in exchange for contractually restricting their land to agricultural and open space uses for a rolling 10-year term.² Land may be removed from a Williamson Act contract in several ways, including contract cancellation and nonrenewal. While only a landowner may cancel a contract, both a landowner and county may nonrenew a contract, which results in the subject land being free of Williamson Act restrictions after nine years.

Pursuant to the Open Space Subvention Act,³ the state partially reimburses, or “subvenes,” local governments for property tax revenue lost due to participation in the Williamson Act. The state pays on average \$38 million in subventions to local governments each year to support the Williamson Act program. Fresno County, for example, received \$5.2 million in subvention payments for the 2008-09 fiscal year.

In the 2009-2010 budget bill, the Legislature reduced Williamson Act subvention funding by 20%, to \$27.7 million. In July 2009, however, Governor Schwarzenegger used his line-item veto authority to virtually eliminate even the reduced Williamson Act budget proposed by the Legislature. For the 2009-2010 fiscal year, the state budgeted a token \$1,000 for subvention payments to counties.

Counties participating in the Williamson Act program have responded differently to the elimination of subvention funding.

- Siskiyou, Humboldt, Calaveras, Tuolumne, Santa Barbara, Glenn, Imperial, Napa and San Luis Obispo counties will continue to honor all existing Williamson Act contracts within their jurisdiction, and continue to enter into new Williamson Act contracts.
- Yolo County has decided to nonrenew all Williamson Act contracts within its jurisdiction.

¹ Government Code section 51200 et seq.

² Over 16.5 million acres are enrolled in the Williamson Act statewide.

³ Government Code section 16140 et seq.

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- Merced, Lake, and Mendocino counties have placed a moratorium on new contracts. Additionally, the Merced County Board of Supervisors voted to include a 5% tax reduction for all Williamson Act contracted properties.
- Tulare County has placed a moratorium on new contracts and decided to nonrenew all “nonconforming” Williamson Act contracts. These include contracts where, for example, the underlying property fails to satisfy the Act’s minimum parcel size requirements. The Tulare County Farm Bureau estimates that nonrenewing these contracts will enable the County to recoup \$1.2 million in property tax revenue.
- Fresno County, which has had a moratorium on new contracts since December 2008, recently voted to continue the moratorium indefinitely. The Fresno County Board of Supervisors also decided that it would continue to honor all existing Williamson Act contracts.

Overall, counties have been reluctant to simply nonrenew their Williamson Act contracts, given the many benefits of preserving the state’s agricultural land, and the expectation that the state will restore subvention funding next year. If the Governor and Legislature do not restore subvention funding in the next fiscal year, however, counties may implement wide-scale nonrenewal or pursue legislation authorizing immediate cancellation.

If you have any questions regarding subventions funding, or the Williamson Act in general, please contact Dan M. Silverboard or Jeffrey K. Dorso of Diepenbrock Harrison’s Land Use and Environmental Law Department.

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