

OPINION

Suburban sprawl awaits sunset

By Richard G. Opper

In less than 18 months, the sun could set on an important tool of urban redevelopment, and a new dawn of suburban sprawl awaits its decent. The so-called Jan. 1, 2004, "sunset provision" in the Polanco Act looms over the most successful means of cleaning up and redeveloping brownfields — primarily land used by manufacturers or others that now has chemical pollutants — in San Diego and elsewhere in the state. While little known to most and underused statewide, the Polanco Act is a powerful, cost-effective tool and limits liability for communities, developers and their business and residential tenants alike. Polanco is an incentive-laden act that lowers costs and speeds the process of cleansing contaminated land for eventual construction. Use of the act results in a boon to urban redevelopment, sparing further urban encroachment upon open space.

In San Diego — literally the parade marshal of the 10-year-old Polanco Act — several hundred million dollars have been invested to eradicate the city's urban blight. Meanwhile, developers have saved millions in cleanup and redevelopment costs as a result of the act's authority to recover funding and expedite the proper, government-approved removal of brownfields.

A survey completed this spring by the California Redevelopment Association shows San Diego is the state's poster child for the use of the Polanco Act. Of 29 municipalities that have cleaned up more than 440 brownfield parcels, San Diego tops the list at more than 110. The rejuvenation of urban San Diego, particularly in the last few years, has been greatly helped by the Polanco Act. The Padres' soon-to-be downtown ballpark sits on a 35-block stretch of previously considered "undesirable" land because of its brownfields label.

Many other commercial and residential high-rise buildings sprouting downtown are a result of the act, and a \$22 million "Education Village" project in National City might have been forced to find a home in suburbia if not for the provisions in this legislation.

The Polanco Act encourages collaborative efforts, like that of the Padres, Centre City Development Corp., and the San Diego Department of Environmental Health, to rid communities of the blight of these contaminated lands in a cost-effective, timely manner and with limited long-term liability.

Many of the thousands of brownfield sites throughout the state, some of which have yet to be discovered, are located in economically disadvantaged areas. The removal of the contaminants, and the ensuing business or commercial development, translates into increased property values and employment opportunities. And the expedited process of cleanup permitted by the Polanco Act can help limit the cost of construction. Ultimately, this can translate into lower rents, drawing businesses and residents back to downtown.



Cities also benefit from the cultural amenities that follow this new construction: arts, parks, entertainment and shopping. Downtown San Diego is fast becoming a city in which we can work, live and play.

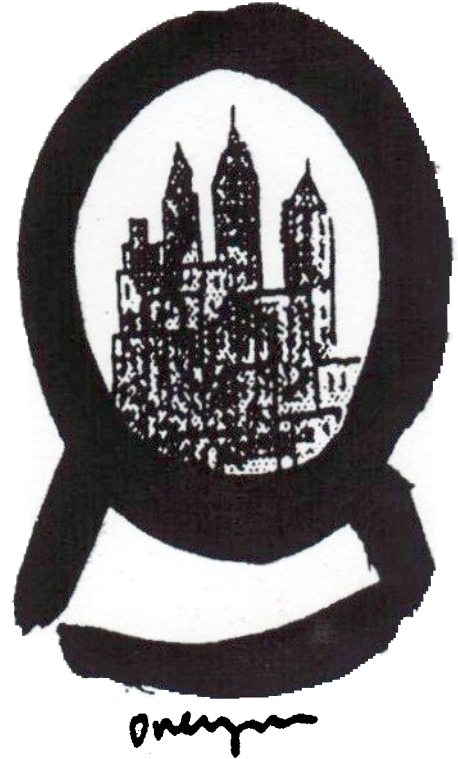
These positive changes to the San Diego skyline, however, are being shadowed by the sunset provision. Proponents of the Jan. 1, 2004, deadline have argued that the act has been used too sparingly throughout the state. The 29 communities that have used, or are using, the Polanco Act may not seem like an impressive figure, but the survey also reveals 25 more municipalities plan to use the act to remove contamination from their lands.

It has only been the last few years in which we have seen firsthand, particularly here in San Diego, the enormous potential the act provides. It is partly because of the success and leadership of San Diego that more communities are finally discovering that urban blight is not an irreversible blemish.

By permitting the sunset provision to remain, any further development in downtown San Diego, and any other California city riddled with brownfields, will be saddled with more cost and delay. Commercial and residential development, however, will not end; it will only find a new destination — what little is left of our cherished open space.

Brownfield advocates support the passage of SB 1684, which eliminates the "sunset." The sun can set on derelict and undesirable land, but it will take a lot longer if we don't remove the deadline from the Polanco Act.

Opper is a partner with Foley & Lardner and leads the San Diego office's Environmental Regulation Practice Group. Before entering private practice, he served as the attorney general for the Territory of Guam (1983-86), where he represented Guam EPA, among other agencies, in civil and criminal environmental enforcement matters. Opper is the only San Diegan on Gov. Davis' task force on brownfields.



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