



Judicial Council of California · Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: February 26, 2013

Title	Agenda Item Type
Trial Court Allocation: Reimbursement of Costs Related to Processing Redevelopment Agency Writ Cases	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
N/A	February 26, 2013
Recommended by	Date of Report
Administrative Office of the Courts	February 19, 2013
Zlatko Theodorovic, Director, Fiscal Services	Contact
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Executive Summary

The Administrative Office of the Courts (AOC) recommends that the council, on a two-tiered cost-rate reimbursement basis, allocate up to \$2 million in new General Fund monies provided by Assembly Bill 1484 to the Superior Court of California, Sacramento County (Sacramento Superior Court) for work related to processing redevelopment agency writ cases. Section 38 of AB 1484 appropriates up to \$2 million to the court “for work associated with Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code.” By statute, any action challenging the validity of the dissolving of redevelopment agencies must be brought in Sacramento Superior Court.

Recommendation

1. Allocate up to \$2 million to Sacramento Superior Court on a reimbursement basis for work related to processing redevelopment agency writ cases associated with Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code.

2. Approve a reimbursement basis using a two-tiered cost-rate approach, as opposed to reimbursing the court based on actual costs in each individual case.
3. Direct the Administrative Director of the Courts, or designee, to work with the Sacramento Superior Court in developing a reimbursement process.

Previous Council Action

None. This is the first time a trial court has received specific funding for costs related to processing redevelopment agency writ cases.

Rationale for Recommendation 1 – Allocation of Up to \$2 Million on a Reimbursement Basis

The AOC recommends that the council allocate, on a reimbursement basis, up to \$2 million from the Trial Court Trust Fund (TCTF), using the funding provided by AB 1484 through a transfer of General Fund monies to the TCTF, to Sacramento Superior Court. This recommendation, allocating funding to the court based on its costs associated with work related to processing redevelopment agency writ cases, is consistent with Section 38 of AB 1484, which appropriates up to \$2 million to the Sacramento Superior Court “for work associated with Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code.” The entire section reads as follows:

There is hereby appropriated up to twenty-two million dollars (\$22,000,000) from the General Fund, for allocation to departments by the Director of Finance in furtherance of the objectives of this act. Up to two million dollars (\$2,000,000) of this amount may be allocated to the Director of the Trial Court Trust Fund for allocation by the Administrative Office of the Courts to the Superior Court of California, County of Sacramento for work associated with Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code. An allocation of funds approved by the Director of Finance under this item shall become effective no sooner than 30 days after the director files written notification thereof with the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the fiscal committees in each house of the Legislature, or no sooner than any lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.

By statute, any action challenging the validity of the “Dissolution Law,” (i.e., AB 26 and AB 1484), or acts taken pursuant to the Dissolution Law, must be brought in Sacramento Superior Court. According to the court, the actions generally raise two types of challenges: (1) facial challenges to the constitutionality of the Dissolution Law and (2) challenges to the Dissolution Law as applied to a particular set of facts. The court believes most of the actions challenging the constitutionality of the Dissolution Law will be filed within the first few years after adoption of

the Dissolution Law. In contrast, the court believes the “as applied” challenges are likely to persist for many years.

The court is projecting that 68 cases will be filed during fiscal year 2012–2013. As of February 15, 2013, the court has disposed of 17 cases, with filing dates ranging from January 11, 2012 to December 21, 2012: 9 dismissals, 7 post-judgment, and 1 stayed (settled).

The Department of Finance notified the Legislature on October 18, 2012 of its intent to transfer \$2 million to the TCTF to reimburse the court for its costs related to redevelopment agency litigation (see Attachment A) and on January 29, 2013 transferred \$2 million to the TCTF and created a new \$2 million expenditure authority item (0250-601-0932) to be used for distributing reimbursements to the court. As a non-budget-act appropriation it will not have an expiration date, unlike budget-act appropriations, which last 3 years. It is possible that the court’s total costs will not exceed \$2 million. If that were to occur, the AOC would return any unneeded funding back to the state General Fund.

Rationale for Recommendation 2 – Two-Tiered Cost-Rate Reimbursement Basis

The AOC recommends that the council approve a reimbursement basis using a two-tiered cost-rate approach, as opposed to reimbursing the court based on actual costs in each individual case. Because it is not required to do this for any other cases, the court believes it would not be cost-effective to set up an administrative system to track the actual cost of processing redevelopment agency writ cases. A two-tiered cost-rate reimbursement basis is a reasonable alternative to an actual-cost reimbursement basis.

Based on a review and analysis of the case history of all disposed redevelopment writ cases¹, the court believes these cases will generally fall into two categories: (1) those having more than 30 documents filed or more than one hearing and (2) those having up to 30 documents filed and no more than one hearing. Using 22 cases filed, the court estimates that the average cost of processing cases having more than 30 documents filed or more than one hearing (or Tier 1 cases) is \$11,293 per case, which includes costs for judicial and staff time as well as transcripts (see Attachment B). Using 28 cases filed, the court estimates that the average cost of processing cases having no more than 30 documents filed and no more than one hearing (or Tier 2 cases) is \$4,506 per case (see Attachment B).

The estimated average cost of Tier 1 and Tier 2 cases include the cost of a subordinate judicial officer (SJO). While SJOs will not adjudicate these cases, the additional judicial workload brought on by these cases results in other caseload being reallocated to SJOs. Although it would not be appropriate to reimburse the court for the cost of a judge, because judges are not a direct cost to the court but are paid directly from the Trial Court Trust Fund, it would be appropriate to

¹ The earliest filing date of disposed cases is January 11, 2012.

reimburse the court for the cost related to work reallocated to SJOs, who are paid directly by the court.

Rationale for Recommendation 3 – Reimbursement Process

The AOC recommends that the council direct the Administrative Director of the Courts, or designee, to work with the Sacramento Superior Court in developing a reimbursement process. There currently is no process for reimbursing a trial court for work associated with redevelopment agency writs. The AOC and the court are working on the details of the reimbursement process, particularly the true-up based upon whether a case ends up being a Tier 1 or Tier 2 case, and believe they can develop a process, including information required to be submitted, that will minimize the administrative burden for the court yet still allow for timely reimbursement of the court.

Comments, Alternatives Considered, and Policy Implications

The Sacramento Superior Court supports the recommendations contained in this report.

Implementation Requirements, Costs, and Operational Impacts

Not applicable.

Relevant Strategic Plan Goals and Operational Plan Objectives

Not applicable.

Attachments

1. Attachment A: Department of Finance 10/18/12 Notice to Legislature
2. Attachment B: Court's *Redevelopment Agency Writs – Case Processing Cost - Tier 1 and Tier 2 Cases*



October 18, 2012

Honorable Mark Leno, Chair
Joint Legislative Budget Committee
Senate Budget and Fiscal Review Committee

Honorable Bob Blumenfield, Chair
Assembly Budget Committee

Honorable Christine Kehoe, Chair
Senate Appropriations Committee

Honorable Mike Gatto, Chair
Assembly Appropriations Committee

Pursuant to Section 38 of Chapter 26, Statutes of 2012 (AB 1484), the following report is respectfully submitted.

AB 1484 provides up to \$22 million General Fund for allocation to departments by the Director of Finance in furtherance of the objectives associated with the dissolution of redevelopment agencies (RDAs). Up to \$2 million of the amount appropriated may be allocated to the Administrative Office of the Courts (AOC), for distribution to the Superior Court of California, County of Sacramento, for their work associated with the dissolution of RDAs.

The Department of Finance (Finance) is the state entity responsible for the implementation of Chapter 5, Statutes of 2011 (ABX1 26) and AB 1484. These measures require Finance to review and approve, every six months, all enforceable obligations of the former RDAs that are proposed to be paid with property taxes, bond revenues, and any other funding available to the former RDAs. Additionally, Finance is responsible for reviewing and approving housing asset transfers from the former RDAs to successor housing entities and due diligence reviews of the low and moderate income housing fund and all other accounts and funds. The legislation also requires Finance to establish a meet and confer process to handle disputes in these areas as they arise.

To facilitate this effort, Finance has established a stand alone Local Government Unit (LGU) that is responsible for overseeing the winding down of the RDAs. The objective of the LGU is to protect core public services at the local level by ensuring proper collection of former RDA tax increment and liquidation of property assets for distribution to local taxing entities, including cities, counties, special districts, and K-14 schools (see Attachment A for an overview of the LGU and associated workload and budget). To cover the costs associated with this workload, I am allocating \$20 million of the amount provided in AB 1484 to Finance for these activities. These funds will be spent over a multi-year period.

Additionally, I am allocating \$2 million to the Trial Court Trust Fund for allocation by the AOC to the Superior Court of California, County of Sacramento, to cover costs they incur related to RDA litigation. Currently, there are approximately 25 active cases related to RDA dissolution and/or related activities. We will be informing the AOC of approval of the allocation not sooner than 30 days from the date of this letter.

If you have any questions or need additional information regarding this matter, please call Justyn Howard, Assistant Program Budget Manager, at 916-445-1546.

ANA J. MATOSANTOS

Director

By:



MICHAEL COHEN

Chief Deputy Director

Attachment

cc: Honorable Bill Emmerson, Vice Chair, Senate Budget and Fiscal Review Committee
Honorable Jim Nielsen, Vice Chair, Assembly Budget Committee
Honorable Gloria Negrete McLeod, Chair, Senate Budget and Fiscal Review
Subcommittee No. 4
Honorable William W. Monning, Chair, Assembly Budget Subcommittee No. 4
Mr. Mac Taylor, Legislative Analyst (3)
Ms. Keely Bosler, Staff Director, Senate Budget and Fiscal Review Committee
Mr. Bob Franzoia, Staff Director, Senate Appropriations Committee
Mr. Seren Taylor, Staff Director, Senate Republican Fiscal Office
Mr. Craig Cornett, Senate President pro Tempore's Office (2)
Mr. Christian Griffith, Chief Consultant, Assembly Budget Committee
Mr. Geoff Long, Chief Consultant, Assembly Appropriations Committee
Mr. Eric Swanson, Staff Director, Assembly Republican Fiscal Committee
Ms. Deborah Gonzalez, Policy and Fiscal Director, Assembly Republican Leader's Office
Mr. Christopher W. Woods, Assembly Speaker's Office (2)

icc: CAP-OFFICE, FO, C/F (3), SUSPENSE, FILE, SZALAY, HOWARD, WHITAKER, HILL,
STACEY

**Department of Finance
Local Government Unit**

Chapter 5, Statutes of 2011 (ABX1 26) and Chapter 26, Statutes of 2012 (AB 1484) provides the statutory framework for the dissolution of redevelopment agencies (RDAs). In order to effectively implement the requirements of these two measures, the Department of Finance (Finance) has established a Local Government Unit (LGU) to facilitate the winding down of the state's RDAs. The primary objectives of the LGU include:

- Overseeing the Winding Down of Redevelopment Agencies
- Protecting Core Public Services by Ensuring Proper Collection of Former Redevelopment Agency Tax Increment and Liquidation of Property Assets for Distribution to Local Taxing Entities
- Developing Positive Working Relationships with Counties, Cities, and Other Stakeholders
- Minimizing Litigation

To achieve these objectives three functional areas within the LGU has been established. They include:

- Program, Policy, and Budgets (PPB)
- Audits and Review (AR)
- Dispute Resolution and Asset Liquidation (DRAL)

Program, Policy, and Budgets

PPB staff perform critical budget related activities. They are responsible for compiling, tracking, and disseminating fiscal information sent to Finance from Successor Agencies and other local government entities. Utilizing the information collected, PPB is responsible for developing budget estimates related to K-14 impacts and updating all Finance budget systems throughout the fall and spring budget development process. PPB staff also serves as Finance's primary program contact with local government entities, legislative consultants, and the Legislative Analyst's Office, and represents the Administration during budget and committee hearings. As program experts, PPB staff collects and responds to commonly asked questions, develops and refines program polices, identifies problems with the enabling legislation, and drafts proposed fixes. PPB staff are also responsible for other local government items contained in the state budget.

Audits and Review

AR is the largest operational area within the LGU. AR staff are responsible for developing forms to be used by local government entities when submitting information to Finance. AR staff reviews and approves the information that is provided to Finance. This includes the following mandated reporting requirements:

- Recognized Obligation Payment Schedules (ROPS)
- Housing Assets Forms
- Oversight Board Actions
- Due Diligence Reviews
- True-Up Payments

AR staff develops the criteria for reviewing and approving information provided to Finance and are responsible for providing training to all staff to ensure consistent application of the review process. Workload within AR varies depending on the specific topic. Current workload estimates for the 2012-13 fiscal year is as follows:

- 808 ROPS Reviews
- 404 Housing Asset Reviews
- 808 Due Diligence Reviews
- 27 True-Up Payment Reviews
- 200 to 400 Oversight Board Action Reviews

The iterative review process used by AR staff generates a tremendous amount of documents that must be thoroughly reviewed and retained during each process. Finance is currently developing an Information Technology solution that will allow for the electronic storage of information provided and assist with work product development.

Additionally, due to the high volume of workload associated with reviewing and approving information that is submitted, Finance has initiated an inter-agency agreement with the Department of Health Care Services (DHCS) for additional audit and review assistance during the peak review periods.

Dispute Resolution and Asset Liquidation

DRAL staff have three primary areas of responsibility. Those areas include:

- Meet and Confer
- Finding of Completion
- Long-Range Property Management Plans
- Final EO Determinations

DRAL staff are currently developing processes and procedures that will be used to facilitate meet and confer requests. Finalized procedures will be complete by the end of August. It is expected that staff from all three functional areas will be involved in these meetings. Using estimates of previous outstanding issues with successor agencies, it is anticipated that 500 to 1,000 requests for meet and confer could materialize over the next 4 to 8 months.

DRAL staff is also responsible for developing an approval process for finding of completion requests and long-range property management plans. Finding of completion may be requested after completion of the due diligence reviews. Obtaining a finding of completion and receiving approval of long-range property management plans will allow successor agencies to begin to sell property assets with the proceeds being returned to local taxing entities.

Additionally, it is anticipated that each successor agency will be requesting final determinations for various enforceable obligations throughout the next few years. Once a final determination has been granted, it will no longer be possible to reject the enforceable obligation from being considered on future ROPS, and the only review that would continue in the future is a determination of whether the dollar amount listed is correct.

Budget

The total number of staff in the LGU is 83 (see Figure 1 below for organizational structure). Salary and wages and benefits for the staff are estimated to be \$8.3 million. Operational Expenses and Equipment are estimated to be \$4.6 million. This includes preliminary funding for legal expenses and inter-agency agreements. Currently there are 26 active lawsuits related to RDA dissolution topics and one inter-agency agreement with DHCS. Additional inter-agency agreements may follow as workload projections become more refined. The total appropriation provided will be drawn down over a multi-year period with the full year value of ongoing operations being built into the department's ongoing budget as a baseline augmentation.

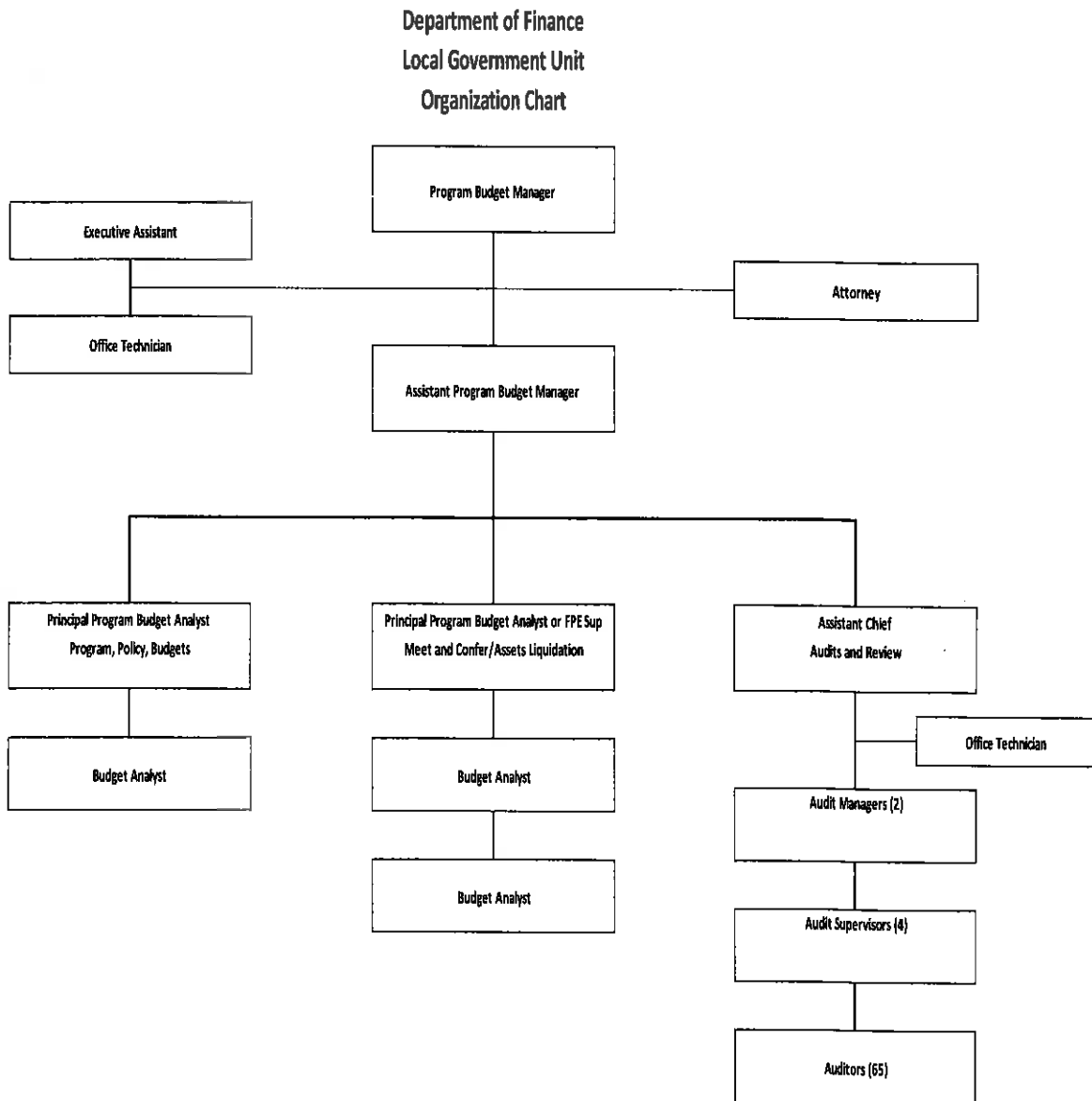


Figure 1: Organization Chart for LGU

Redevelopment Agency Writs - Case Processing Cost - Tier 1 Cases

Section 38 of AB 1484 (Community Redevelopment) authorizes the Superior Court of California, County of Sacramento to receive funding to account for the cost of work associated with Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code. This analysis identifies the tasks, time, and resource costs for that work.

Tier 1 Redevelopment Agency Writ cases are defined as having more than 30 documents filed or more than one hearing held

Task ⁽¹⁾	Resource(s)	Time/Task (hrs)	# of Tasks/ Case	Total Time/ Case (hrs)	Loaded Resource Cost (Hour)	Total Cost for Task
Process Case Filings ⁽²⁾	Deputy Clerk	0.1	42	4.2	\$ 39.32	\$ 165.14
Read & Conduct Research on Case (Includes preparing the draft tentative ruling)	Judge	8	3	24	\$ 101.07	\$ 2,425.71
	Research Attorney	16	3	48	\$ 85.85	\$ 4,120.80
Prepare for Hearing (Includes joint review of case and drafted tentative ruling, and publishing the tentative ruling)	Judge	1.5	2	3	\$ 101.07	\$ 303.21
	Research Attorney	3	2	6	\$ 85.85	\$ 515.10
Conduct Hearings	Judge	3	2	6	\$ 101.07	\$ 606.43
	Courtroom Clerk	3	2	6	\$ 47.25	\$ 283.50
	Court Reporter	3	2	6	\$ 69.51	\$ 417.06
	Court Attendant	3	2	6	\$ 41.14	\$ 246.84
	Research Attorney	3	2	6	\$ 85.85	\$ 515.10
Post-Hearing Processing-Interim Hearing (Includes affirming a tentative ruling; minutes; additional research)	Judge	1	1	1	\$ 101.07	\$ 101.07
	Courtroom Clerk	1	1	1	\$ 47.25	\$ 47.25
	Research Attorney	2	1	2	\$ 85.85	\$ 171.70
Post-Hearing Processing-Final Hearing (Includes affirming a tentative ruling and/or writing and publishing a written decision; minutes; case disposition in CCMS, etc.)	Judge	2	1	2	\$ 101.07	\$ 202.14
	Courtroom Clerk	2	1	2	\$ 47.25	\$ 94.50
	Research Attorney	4	1	4	\$ 85.85	\$ 343.40
General Case Management (Includes scheduling, creating various notices, contacting parties, challenges, Ex-Parte matters, etc.)	Courtroom Clerk	6	1	6	\$ 47.25	\$ 283.50
Court Transcript Costs (2 transcripts ordered/case)					\$ 450.00	
				Total Time	133.2	Total Cost/Case \$ 11,292.46

Case Resource	Total Time/ Case (hrs)	Loaded Resource Cost (Hour)	Total Cost for Resource
Judge ⁽³⁾	36	\$ 101.07	\$ 3,638.56
Research Attorney	66	\$ 85.85	\$ 5,666.10
Deputy Clerk	4.2	\$ 39.32	\$ 165.14
Courtroom Clerk	15	\$ 47.25	\$ 708.75
Court Reporter	6	\$ 69.51	\$ 417.06
Court Attendant	6	\$ 41.14	\$ 246.84
	133.2		\$ 10,842.46

Notes/Source(s):

- 1- The tasks listed in the model as well as their frequencies and durations (with the exception of the filing task) were identified by staff working with a writ judge.
- 2- The average number of filings on Tier 1 redevelopment agency writ cases was determined by reviewing the case histories of all disposed redevelopment writ cases. The average number arrived at for this model was 42 filings/case. The time/task was established through time studies that have been conducted on filing activity in general within CCMS-V3.
- 3- The additional judicial workload brought on by these cases results in other caseload being reallocated to the subordinate judicial officers. This model accounts for the costs associated with the reallocated workload.

Redevelopment Agency Writs - Case Processing Cost - Tier 2 Cases

Tier 2 Redevelopment Agency Writ cases are defined as having no more than 30 documents filed and no more than one hearing held

Task ⁽¹⁾	Resource(s)	Time/Task (hrs)	# of Tasks/ Case	Total Time/ Case (hrs)	Loaded Resource Cost (Hour)	Total Cost for Task
Process Case Filings ⁽²⁾	Deputy Clerk	0.1	13	1.3	\$ 39.32	\$ 51.12
Read & Conduct Research on Case (Includes preparing the draft tentative ruling)	Judge	8	1	8	\$ 101.07	\$ 808.57
	Research Attorney	16	1	16	\$ 85.85	\$ 1,373.60
Prepare for Hearing (Includes joint review of case and drafted tentative ruling, and publishing the tentative ruling)	Judge	1.5	1	1.5	\$ 101.07	\$ 151.61
	Research Attorney	3	1	3	\$ 85.85	\$ 257.55
Conduct Hearings	Judge	3	1	3	\$ 101.07	\$ 303.21
	Courtroom Clerk	3	1	3	\$ 47.25	\$ 141.75
	Court Reporter	3	1	3	\$ 69.51	\$ 208.53
	Court Attendant	3	1	3	\$ 41.14	\$ 123.42
	Research Attorney	3	1	3	\$ 85.85	\$ 257.55
Post-Hearing Processing (Includes affirming a tentative ruling; minutes; additional research)	Judge	1	1	1	\$ 101.07	\$ 101.07
	Courtroom Clerk	1	1	1	\$ 47.25	\$ 47.25
	Research Attorney	2	1	2	\$ 85.85	\$ 171.70
General Case Management (Includes scheduling, creating various notices, contacting parties, challenges, Ex-Parte matters, etc.)	Courtroom Clerk	6	1	6	\$ 47.25	\$ 283.50
Court Transcript Costs (1 transcript ordered/case)						\$ 225.00
				Total Time	54.8	Total Cost/Case \$ 4,505.43

Case Resource	Total Time/ Case (hrs)	Loaded Resource Cost (Hour)	Total Cost for Resource
Judge ⁽³⁾	13.5	\$ 101.07	\$ 1,364.46
Research Attorney	24	\$ 85.85	\$ 2,060.40
Deputy Clerk	1.3	\$ 39.32	\$ 51.12
Courtroom Clerk	10	\$ 47.25	\$ 472.50
Court Reporter	3	\$ 69.51	\$ 208.53
Court Attendant	3	\$ 41.14	\$ 123.42
	54.8		\$ 4,280.43

Notes/Source(s):

- 1- The tasks listed in the model as well as their frequencies and durations (with the exception of the filing task) were identified by staff working with a writ judge.
- 2- The average number of filings on Tier 2 redevelopment agency writ cases was determined by reviewing the case histories of all disposed redevelopment writ cases. The average number arrived at for this model was 13 filings/case. The time/task was established through time studies that have been conducted on filing activity in general within CCMS-V3.
- 3- The additional judicial workload brought on by these cases results in other caseload being reallocated to the subordinate judicial officers. This model accounts for the costs associated with the reallocated workload.

