

## WILLIAMSON ACT CONTRACT CANCELLATION

The State of California's Attorney General's Office has opined that "If a landowner desires to change the use of his land under contract to uses other than agricultural production and compatible uses, the proper procedure is to give notices of nonrenewal pursuant to section 51245." (54 Ops. Cal Atty. Gen 90, 92 (1971). Additionally, cancellation is impermissible "except upon extremely stringent conditions", (62 Ops. Cal. Atty. Gen. 233, 240, (1979).

Williamson Act contract cancellation provisions were included in Government Code §51280 to deal with emergency situations when the public interest is no longer best served by the contractual restrictions placed on agricultural land. In such cases, landowners may petition a board or council for Williamson Act contract cancellation. A board or council may grant tentative cancellation only if required findings (Government Code §51282(a)) can be made. Specific notification information (GC §51284) must be submitted to the director of the department of Conservation. Upon receipt of the required Notice, the Department will advise the board/council on findings required for the proposed contract cancellation (GC §51282(a)). Before taking action on the proposed cancellation, the board/council will consider the Department's comments (GC §51284.1(b)).

### Notice

Government Code § 51284.1 requires that within 30 days of the **board or council** accepting a petition for tentative cancellation as complete, it must a mail notice to the Director of the Department. The notice must include:

- a copy of the petition
- a copy of the contract
- a general description, in text or by diagram, of the land that is proposed to be cancelled
- the deadline for submitting comments regarding the proposed cancellation

The petition is required to contain a proposal for a specified alternative use of the land (GC §51282(e)). Additionally, any other information considered relevant to the finding required should be included (i.e. a description of proximate land, including whether the land is under contract, vicinity and location maps of the land).

### Findings

Cancellation is in the **public interest** only if the board/council makes **all** of the following findings:

- other public concerns substantially outweigh the objectives of the Williamson Act
- there is no proximate noncontracted land which is both available and suitable for the proposed alternative use, or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

Cancellation is **consistent** with the purposes of the Williamson Act only if the board/council makes **all** of the following findings:

- cancellation is for land on which a notice of nonrenewal has been served pursuant to Section 51245.
- the removal of adjacent lands from agricultural use is not likely
- the proposed alternative use is consistent with the applicable provisions of the city/county general plan
- discontinuous patterns of urban development will not result
- there is no proximate noncontracted land which is both available and suitable for the proposed alternative use or development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land

### **Cancellation Fee**

Government Code §51283 requires that before any action by the board/council approving the tentative cancellation of a contract:

- the county assessor will determine the current fair market value of the land, free from contractual restriction and certify the cancellation valuation to the board/council for determining the cancellation fee
- the board/council will certify to the county auditor a cancellation fee of 12 ½ percent of the cancellation valuation of the land

Cancellation fees that are not paid within one year of the recording of the certificate of tentative cancellation will be recomputed as of the date of notice (GC §51283.4(a) and (b)).

### **Public Hearing**

Government Code §51284 requires that a public hearing must be held by the board or council before action is taken on a proposed cancellation. Notice of the hearing must be published and mailed to every landowner under contract within one mile of the land on which the contract cancellation is proposed. Additionally, the hearing notice must be mailed to the Department at least 10 working days before the hearing.

### **Published Notice of Decision**

Government Code §51284 requires the board or council to publish notice of the decision and to send the Department a copy of the published notice, which includes:

- the date, time and place of the hearing
- a general explanation of the decision
- the findings made pursuant to GC §51282
- a general description of the land under contract

### **Certificate of Tentative Cancellation**

Government Code §51283.4(a) requires the clerk of the board or council to record with the county recorder a certificate of tentative cancellation upon tentative approval of a petition. The certificate will include:

- the name of the landowner requesting cancellation
- the fact that a Certificate of Cancellation of Contract will be recorded upon satisfaction of specified conditions and contingencies
- a legal description of the property
- a description of conditions and contingencies the landowner is to satisfy, including
  - (a) full payment of the cancellation fee
  - (b) a recalculation of the cancellation fee if not paid within one year of the recording of the certificate of tentative cancellation
  - (c) securing all permits necessary to begin the proposed project

### **Certificate of Cancellation of Contract**

Government Code §51283.4(b) requires the landowner to notify the board or council upon satisfaction of the conditions and contingencies specified in the Certificate of Tentative Cancellation. The board or council will execute and record a Certificate of Cancellation of Contract within 30 days of the notification.