

Allen Matkins



Redevelopment Briefing:

What does the *Matosantos* decision mean to you?

March 16, 2012
Walnut Creek, California

www.allenmatkins.com

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AB x1 26 Timeline as modified by *California Redevelopment Association v. Matosantos**

By January 13	If city does not want to serve as the “successor agency” to its redevelopment agency, then it must submit a resolution to that effect to the County Auditor-Controller by this date. If a city wishes to serve as the “successor agency,” no action is required.
February 1	Redevelopment agencies are dissolved.
On or after February 1	Successor agency must create Redevelopment Obligation Retirement Fund.
By February 1	The City must decide whether to retain affordable housing function of the redevelopment agency. If successor agency does not elect to retain this function, it is transferred to the housing authority or, if no housing authority exists, to the State Housing and Community Development Agency.
By February 1	Successor agency must review the enforceable obligation payment schedule (EOPS) adopted by the redevelopment agency last fall, modify it if necessary, and readopt. The EOPS is subject to review and approval by the Oversight Board once that board has been formed. The successor agency may only make payments for those obligations identified in the EOPS until a Recognized Obligation Payment Schedule (ROPS) is approved.
By March 1	Successor agency must adopt a Recognized Obligation Payment Schedule (ROPS). This is a permanent schedule of obligations that replaces the interim EOPS once the ROPS has been approved. The County Auditor-Controller will allocate property tax increment to successor agencies to pay debts listed on ROPS.
By April 1	Successor agency reports to the County Auditor-Controller whether the total amount of property tax available to the agency will be sufficient to fund its ROPS obligations over the next six-month fiscal period.
By April 15	Successor agency must send the adopted ROPS to the State Controller and the State Department of Finance for approval. The ROPS is also subject to approval by the Oversight Board.
By May 1	Oversight Boards begin operations, files report of membership with State Department of Finance.
Starting May 1	Successor agency may only pay those obligations listed in the approved ROPS. The approved ROPS replaces the EOPS.
By May 16 and continuing thereafter as specified	The County Auditor-Controller transfers property tax to the successor agency in an amount equal to the cost of the obligations specified in the ROPS. This amount is transferred into the successor agency’s Redevelopment Obligation Retirement Fund, and payments from this fund are used to satisfy the obligations identified in the ROPS.

* This timeline does not represent a complete list of deadlines imposed by AB x1 26 as modified, but rather, it is list of the most relevant and time-sensitive deadlines and milestones for cities that will be opting to become the successor agency to their redevelopment agency. Please consult with your city attorney or your redevelopment agency counsel for more information.



TO THE HONORABLE MAYOR AND COUNCIL:

DATE: February 14, 2012

SUBJECT: ADOPTING RESOLUTION 12-9 AS SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF CONCORD, APPROVING THE PREPARATION OF THE DRAFT FIRST RECOGNIZED OBLIGATION PAYMENT SCHEDULE

Report in Brief

One of the first actions the City is required to undertake as the Successor Agency to the Redevelopment Agency of the City of Concord is to prepare a draft of the first Recognized Obligation Payment Schedule, or ROPS (Attachment 1). The ROPS memorializes the payments needed to meet the former Redevelopment Agency's obligations under its agreements and make required payments for loans, bonds, and other enforceable obligations. The City's draft of the first ROPS will be submitted to the County Auditor-Controller for certification and the Oversight Board for approval.

On a semi-annual basis the City will prepare and submit a new ROPS covering the succeeding six-month period for County-Auditor certification and Oversight Board approval prior to submission to the Department of Finance. Because this will be a recurring task and to streamline the process, the proposed resolution authorizes the City Manager to take such actions as may be required to obtain Oversight Board approval and County-Auditor certification of the first draft ROPS and any future draft ROPS.

Staff recommends adopting Resolution 12-9 (Attachment 2) as Successor Agency to the Redevelopment Agency of the City of Concord, approving the preparation of the Draft First Recognized Obligation Payment Schedule Pursuant to Section 34177 of the California Health and Safety Code and Future ROPS.

Background

On December 29, 2011, the California Supreme Court issued its decision in *CRA v. Matosantos*, upholding AB 1X 26, which dissolves all redevelopment agencies in California, and overturning AB 1X 27, the "voluntary alternative redevelopment program." With the voluntary redevelopment program provided for in AB 1X 27 having been ruled unconstitutional by the Court, all California redevelopment agencies were dissolved on February 1, 2012.

On January 24, 2012, the City Council adopted City Council Resolution 12-5 determining to serve as the Successor Agency to the Redevelopment Agency of the City of Concord and electing to retain the Agency's housing assets and functions previously held and performed by the Agency. The Redevelopment Agency Board of the City of Concord adopted Resolution 12-772 amending the

**ADOPTING CITY RESOLUTION 12-9 AS SUCCESSOR AGENCY TO THE
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Enforceable Obligation Payment Scheduled required under AB 1X 26. The Agency also prepared a draft ROPS and submitted it to the City Council.

As of February 1, 2012, redevelopment agencies throughout the State ceased to exist. Successor Agencies are now charged with winding down the affairs of their respective now-dissolved redevelopment agencies.

Discussion

As Successor Agency to the Redevelopment Agency of the City of Concord, the City is responsible for all of the assets, properties, contracts, leases, and records of the former Redevelopment Agency. In order for the City to continue paying obligations of the former Redevelopment Agency, AB 1X 26 requires the City to prepare a draft of the first ROPS setting forth the Successor Agency's payment obligations on a semi-annual basis and to then forward the draft ROPS to the Contra Costa County Auditor-Controller for certification and to the Oversight Board for approval. The Oversight Board is to approve a certified ROPS by April 15, 2012. The California Department of Finance also will review the ROPS. Once the certified ROPS has been approved by the Oversight Board and submitted to the Department of Finance, it shall replace the previously-approved Enforceable Obligation Payment Schedule as the basis for the City as Successor Agency to meet the former Redevelopment Agency's ongoing obligations during the period covered by the ROPS.

Staff prepared a draft of the first ROPS for City Council review and approval. The ROPS is the same document which was presented to the City Council and Redevelopment Agency Board at their joint January 24, 2012, meeting except for the deletion of the planning costs associated with the Concord Community Reuse project in the amount of \$500,000 because these funds were not encumbered by agreements. The ROPS includes bonds, loans, payments required by the federal government, contracts, and costs associated with Disposition and Development Agreements, and other similar type of obligations to third parties. The draft ROPS does not include the amended and restated reimbursement/cooperation agreement entered into by the City and Agency as of March 8, 2011, as AB 1X 26 purports to invalidate this type of agreement.

The City will need to prepare additional ROPSs for each successive six-month period to obtain funds to pay the former Redevelopment Agency's obligations. To streamline this process and to allow for such additional modifications to the first draft of the ROPS as may be necessary to secure certification by the Auditor-Controller and approval by the Oversight Board, staff recommends that the City Manager be authorized to take any actions that may be necessary to obtain Oversight Board approval and County-Auditor certification of the draft initial ROPS and each future draft ROPS. This recommendation is included in the proposed Resolution 12-9.

There is currently much uncertainty and ambiguity as to the process by which a certified ROPS will be approved by the Oversight Board. For one thing, it is not known when the Oversight Board will be formed. AB 1X 26, as modified by the Supreme Court, requires that the Oversight Board approve the ROPS by April 15, 2012; however, the deadline for formation of the Oversight Board is not until May 1,

**ADOPTING CITY RESOLUTION 12-9 AS SUCCESSOR AGENCY TO THE
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2012, leaving a potential gap in time. City staff will be in conversation with the County to discuss how and when the Oversight Board will be formed, with the goal of a timely creation to the Oversight Board so that it can meet to review and approve the City's ROPS as soon as possible.

However, even if the Oversight Board is established and able to review the City's draft ROPS prior to April 15th, it is not known how quickly the County Auditor-Controller will be able to review the draft ROPS. It is possible that both the Auditor-Controller and the Oversight Board may have questions about the ROPS or require changes to it prior to certification and approval, leaving significant uncertainty as to both the process and the timeline for certification and approval of the initial ROPS.

Fiscal Impact

There is no impact to the City's General Fund with approving the initial ROPS.

Public Contact

The Agenda Item has been posted.

Recommendation for Action

Adopt City Resolution 12-9 as Successor Agency to the Redevelopment Agency of the City of Concord, Approving the Preparation of the Draft First Recognized Obligation Payment Schedule Pursuant to Section 34177 of the California Health and Safety Code and Future Schedules

Prepared by: John Montag
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Interim City Manager
Valerie.Barone@ci.concord.ca.us

Reviewed by: Victoria Walker
Community and Economic Development
Director
Victoria.Walker@ci.concord.ca.us

Attachment 1: Recognized Obligation Payment Schedule
Attachment 2: Resolution 12-9

**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution as Successor Agency to the
Redevelopment Agency of the City of Concord,
Approving the Preparation of the Draft First
Recognized Obligation Payment Schedule
Pursuant to Section 34177 of the California
Health and Safety Code and Future Schedules**

Resolution No. 12-9

WHEREAS, in accordance with Section 34171(j) of the California Community Redevelopment Law (Health & Safety Code § 33000 *et seq.*) (“**CRL**”), the City Council of the City of Concord (“**City**” or “**City Council**,” as applicable) is the successor agency to the former Redevelopment Agency of the City of Concord (“**Agency**”), and is responsible for, among other things, winding down the dissolved Agency’s affairs, continuing to meet the Agency’s enforceable obligations, overseeing completion of redevelopment projects and disposing of the assets and properties of the Agency, all as directed by the oversight board to be created pursuant to Section 34179 of the CRL (“**Oversight Board**”); and

WHEREAS, in conformance with Section 34169(g) of the CRL, the Agency adopted an Amended Enforceable Obligation Payment Schedule by Resolution No. 12-772 on January 24, 2012, which included the minimum payment amounts and due dates of payments set forth in the Amended EOPS for the period October 1, 2011 through December 31, 2012 (“**Amended EOPS**”); and

WHEREAS, in conformance with Section 34169(h) of the CRL, the Agency prepared a Preliminary Recognized Obligation Payment Schedule; and

WHEREAS, pursuant to Section 34177 of the CRL, a draft of the first recognized obligation payment schedule (“**ROPS**”) for the period May 1 through June 30, 2012 has been prepared for purposes of submission to the Contra Costa County Auditor-Controller for preparation of an audit of the draft ROPS and certification of its accuracy in accordance with Section 34177(1)(2)(A) of the CRL and for submission of the draft ROPS to the Oversight Board for approval in accordance with Section 34177(1)(2)(B) of the CRL.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES
RESOLVE AS FOLLOWS:**

Section 1. The City Council hereby approves the draft First Recognized Obligation Payment Schedule, attached hereto as Exhibit A.

1 **Section 2.** The City Manager is hereby directed to submit the draft ROPS to the Contra Costa County
2 Auditor-Controller for its audit and certification and to the Oversight Board for approval, and to take any other
3 actions that may be required in order to obtain Oversight Board approval and County-Auditor certification of
4 the draft ROPS and any future ROPS.

5 **Section 3.** This resolution shall become effective immediately upon its passage and adoption.

6 **PASSED AND ADOPTED** by the City Council of the City of Concord on February 14, 2012,
7 by the following vote:

8 **AYES:** Councilmembers -

9 **NOES:** Councilmembers -

10 **ABSTAIN:** Councilmembers -

11 **ABSENT:** Councilmembers -

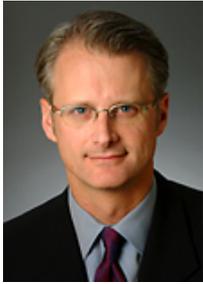
12 **I HEREBY CERTIFY** that the foregoing Resolution No. 12-9 was duly and regularly
13 adopted at a regular meeting of the City Council of the City of Concord on February 14, 2012.

14
15 _____
Mary Rae Lehman
City Clerk

16 **APPROVED AS TO FORM:**

17
18 _____
19 Mark S. Coon
Acting City Attorney

David H. Blackwell | Biography



David H. Blackwell

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Focus

Land Use

Litigation

Real Estate

Environmental & Natural
Resources

David H. Blackwell is a partner in the firm's Walnut Creek office where he practices real estate law with an emphasis on land use entitlements and litigation. David's experience includes representing landowners, developers, businesses, and governmental entities before administrative agencies and state and federal courts.

David's practice involves all areas of land use law, including state and local planning and zoning law, the California Environmental Quality Act, the Subdivision Map Act, initiatives and referenda, development agreements, affordable housing, and density bonus law, traditional and sustainable energy projects, wetlands regulation, eminent domain and inverse condemnation, and the Williamson Act. He advises purchasers, developers, investors, and lenders regarding existing entitlements on real property, identifying potential land use issues, and developing a strategy for obtaining entitlements if existing entitlements are insufficient. David also litigates these issues in state and federal courts, both at the trial court and appellate court levels.

David is co-author of *Ballot Box Navigator: A Practical and Tactical Guide to Land Use Initiatives and Referenda in California* (Solano Press Books, 2003).

REPRESENTATIVE MATTERS

Litigation

Entitlement Changes

- ***Lake Luciana, LLC v. County of Napa*** (Napa Superior). Represented developer in litigation regarding denial of conditional use permit. Following briefing and argument, secured writ of mandate in first phase of action to set aside Board of Supervisors' action and successfully opposed the County's appellate writ.
- ***Fogarty v. City of Chico*** (Butte Superior). Represented City in lawsuit brought by property owner. Argued demurrer in trial court regarding application of appropriate statute of limitations under the Subdivision Map Act and Mitigation Fee Act, which property owner unsuccessfully appealed in published opinion (148 Cal.App.4th 537).
- ***Blair v. City of Novato*** (Marin Superior). Represented developer in two separate mandate proceedings filed by neighborhood group challenging city approvals of residential development project. Argued at both trial court writ proceedings, and drafted the successful appellate briefs.

David H. Blackwell | Biography

David H. Blackwell – *continued*

Initiatives and Referenda

- ***Dimmick et al. v. City of Walnut Creek*** (Contra Costa Superior). Represented citizens in writ petition against City regarding City's handling of competing ballot measures for controversial retail project downtown.
- ***Citizens Protecting the Rights of Property Owners, Inc. v. Jeffries*** (San Bernardino Superior). Represented vacation rental group in petition for writ of mandate alleging a procedural defect to qualified initiative.
- ***Lindelli v. Town of San Anselmo*** (Marin Superior). Represented real party in interest sanitation company in writ of mandate proceedings brought by competitor involving franchise agreement, referendum and related elections law issues.

Transactional

Due Diligence/Acquisitions

- **Retailer.** Represented a big box retailer in due diligence review and land use oversight for siting of several new stores in the Northern California.
- **Lender.** Represented Chicago-based mezzanine lender regarding potential purchase of industrial property in southern Napa County, California.
- **Developer.** Represented developer in due diligence review and conducted negotiations with seller for large residential project in downtown San Francisco, California.
- **Bank.** Represented bank in due diligence analysis for lender on several major development projects.
- **Developer.** Represented developer in due diligence for complicated purchase of interest in a large Lake Tahoe, California, resort.
- **Developer.** Represented developer with due diligence review and negotiations with sellers and local agencies regarding entitlements for two large Northern California residential projects.

Multifamily/Affordable Housing

- **Developer.** Represented multi-family developer in negotiations with the City regarding scope of affordable housing unit project.
- **Nonprofit.** Represented nonprofit in securing entitlements for affordable housing project in Marin County, California, and resolved easement and access issues relating to adjoining landowners.
- **Developer.** Represented developer with securing approvals for large mixed-use affordable housing project in downtown Berkeley, California.
- **Developer.** Represented developer during due diligence period of large multi-family project in Concord, California.
- **Developer.** Represented multi-family developer regarding affordable housing issues in various jurisdictions.

David H. Blackwell | Biography

David H. Blackwell – *continued*

Entitlements

- **Developer.** Represented developer with securing key entitlements for development of mixed use area of Pacific Commons development.
- **Developer.** Represented Chicago-based developer with securing entitlements for 200+ unit luxury high-rise in downtown San Jose, California.
- **Data Center Company.** Represented client with securing entitlements for data centers.
- **Capital Partner.** Represented capital partner with securing conditional use authorization and parking agreement for medical office use in San Ramon, California.
- **Owner.** Represented owner in securing conditional use authorization from City and County of San Francisco, California, for re-establishment of historical brewery.
- **Developer.** Represented developer regarding proposed residential development in Palo Alto.
- **Developer.** Represented developer of highly controversial development project in securing legislative entitlements by preparing and qualifying initiative.

Miscellaneous

- **Energy Company.** Represented subsidiary of multinational corporation in securing permit from CEC for operation of 200 MW electrical power plant. Representation included negotiations with Alameda County and the Department of Conservation regarding Williamson Act compatibility.
- **Retail Company.** Represented international retail client with drafting and securing City approval of successful ballot measure regarding the development of a store in East Palo Alto, California.

ACCOLADES

- Selected for inclusion in Northern California *Super Lawyers* (2005, 2010, 2011)
- Martindale-Hubbell A-V rating

EDUCATION

David received his LL.M. in European Law, with merit, from London School of Economics and Political Science in 1991. He received his J.D. from University of Utah S. J. Quinney College of Law in 1990. He received his B.A. in English, with honors, from the University of California at Santa Barbara in 1986.

Michael P. Durkee | Biography



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Focus

Land Use

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Michael Patrick Durkee is Co-Chair of the firm's California Land Use Practice. He is resident in our Walnut Creek office, where he practices land use, elections, and local government law in both administrative and judicial proceedings. Mike represents developers, builders, property owners, cities, counties, special districts, and interest groups in all aspects of California local government, elections, and land use entitlement, review, and approval processes. He has transactional and litigation expertise in the laws and processes regarding the California Environmental Quality Act (CEQA), local governance, general plans, specific plans, planning, zoning and development, vested rights (common law, development agreements, vesting maps), exactions (fees/dedications), the Subdivision Map Act, Williamson Act, and local elections (initiative, referendum, recall). Mike also serves as an expert on these topics, and has been involved in several law-changing CEQA litigation matters.

Mike has been instrumental in the creation, coordination, and implementation of overall entitlement strategy (including defense tactics) for some of California's most controversial development projects, including the San Jose Giants Ballpark Proposal, the Buck Center for Aging and Research, Black Point, Buck Mountain Ranch, and the North Livermore Initiative. He is widely recognized for his expertise in effective negotiation and resolution. Mike has extensive expertise regarding "value-enhancing" entitlements and is considered one of the state's top creative land-use minds. He regularly handles the coordination with city/county staff regarding the planning of the project, the negotiation and drafting of all agency documents for legal compliance and tactical advantage, the coordination of all environmental, planning, and engineering consultants and their reports, and the transition into litigation when necessary.

Mike's Land Use litigation practice includes representing landowners, developers, builders, businesses and governmental agencies in state and federal courts.

Mike runs the site, www.landusenavigators.com, a preeminent online resource about California land use issues. In late 2010 he launched the blog www.sustainablecommunitieslaw.com.

Mike frequently teaches land use seminars throughout California for builders' groups, cities and counties, the University of California Extension, and the State Bar of California. He is a co-author of *Ballot Box Navigator* (Solano Press 2003), and *Land-Use Initiatives and Referenda in California* (Solano Press 1990, 1991), and the principal author of *Map Act Navigator* (1999-2011). Mike writes the "Ask the Map Act Expert" column for the trade journal *California Surveyor*. He is a former member of the Advisory Board of *The California Land Use Law and Policy Reporter*, and the State Assembly Local Government Committee's "Subdivision Map Act Advisory Group."

Michael P. Durkee | Biography

Michael P. Durkee – *continued*

REPRESENTATIVE MATTERS

CEQA

- **Integral Communities, LLC (Newark, CA).** Represent residential developer who is part of larger owner coalition seeking approval of large Dumbarton Transit Oriented Development Specific Plan in City of Newark. Project gained certification of EIR and approval of General Plan Amendments, Specific Plan.
- **Ellis Specific Plan and Development Agreement (Tracy, CA).** Represented developer (The Surland Companies) in the drafting and processing of CEQA compliance documents (EIR), General Plan Amendment and Ellis Specific Plan approvals, and the drafting and negotiation of a Development Agreement (and other related agreements) with the City of Tracy.
- **Opus Logistics Center (Stockton, CA).** EIR for an approximately 10,000,000 square-foot light industrial project, complicated in that part of the property is located in the City of Stockton and part is outside needing annexation. Project also involves complicated Subdivision mapping issues.
- **East Dublin Property Owners (Dublin, CA).** Program EIR for mixed-use project on 4,300 acres. Process involved annexation to City of Dublin, CEQA compliance, Williamson Act, LAFCO, a slow-growth initiative, school district issues, two CEQA lawsuits, one LAFCO lawsuit; and the negotiation and drafting of Development Agreements.
- **Lake Luciana, LLC (Napa, CA).** Assisted in the successful processing of a very controversial lot line adjustment application for several large parcels comprising part of a prized property in northern Napa County. The application was aggressively opposed by the Sierra Club, and getting the approval required significant negotiations with the County to persuade them of our strategy and the structure of the approval. Ultimately, the approval successfully addressed both Subdivision Map Act and CEQA legal issues.
- **Contra Costa Community College District (Brentwood, CA).** This project involved a complicated collaboration with Blackhawk/Nunn, a major East Bay developer, that includes a land swap between the College District and Blackhawk/Nunn. Other challenges included CEQA review, subdivision mapping, and planning and zoning approvals. The development of the Community College campus is part of a larger and groundbreaking mixed-use new community development now owned by Shea Home's active adult division ("Trilogy"). The greater development project includes over 1000 residential units; a village center with commercial, retail, and residential uses; vineyards and a winery; outdoor recreation; and soon the new Community College campus.
- **American Canyon Incorporation (American Canyon, CA).** Legal counsel to the Incorporating Committee of the City of American Canyon in Napa County on all aspects of the incorporation process (LAFCO, CEQA, fiscal, etc.). Point person for entire legal and political process.

General Plans, Specific Plans and Zoning

- **Braddock & Logan (Vallejo, CA).** Represent residential developer in the "re-tooling" of original approval to reflect market changes.
- **Sierra Point, LLC (Brisbane, CA).** Represent office developer (formerly Opus West) in City of Brisbane. Secured original approvals and extensions and now drafting Development Agreement.

Michael P. Durkee | Biography

Michael P. Durkee – *continued*

- **Ellis Planned Community (Tracy, CA).** Crafted General Plan Amendment that created a new city-wide "Traditional Residential" land use designation with unique "density-flex" approach. Project also involved a Specific Plan and Pre-Zoning that incorporated traditional neighborhood design principles.
- **Livermore Trails (Livermore, CA).** Drafted complicated General Plan Amendment and Specific Plan for 2,500-unit planned community; the GPA was part of a pro-project Initiative and touched all elements of the General Plan.
- **Buck Center For Research in Aging (Novato, CA).** Represented Buck Center as special land use legal counsel on their research center (Alzheimer's, Parkinson's, etc.) in Novato (Marin County). This controversial project was in the planning stages for more than five years. Project involved issues of general plan consistency, zoning, vested rights, and OPR extensions.
- **City of Milpitas.** Successfully represented City in its enforcement of use permit violations by developer and operator of private golf course.
- **City of Lathrop.** Represented the City of Lathrop in the drafting and negotiation of the West Lathrop Specific Plan and Development Agreements relating to West Lathrop planning area. Projects include resorts, commercial, residential and recreational uses.
- **San Francisco Giants' San Jose Ballpark Proposal (San Jose, CA).** Headed up the Land Use team in charge of structuring and documenting the necessary entitlements for the San Jose Giants Ballpark Proposal, including a special general plan designation, zoning and vested rights approvals. The failure of the proposed San Jose utility tax at the polls (to help fund the Ballpark) killed this project.

Subdivision Map Act

- **Woodview Estates (Novato, CA).** Successfully persuaded city that an extension of the project's Vesting Tentative Map was deemed approved by operation of law pursuant to little-known automatic approval provisions in the Map Act.
- **Riechers, Spence & Associates (County of Yolo).** Successfully negotiated settlement of dispute over whether a 1911 Subdivision Map created legal parcels.
- **Opus Logistics Center (Stockton, CA).** Devised Vesting Tentative Map strategy for complicated parcelization of industrial property; developer needed maximum flexibility over time for different users and uses.
- **IKEA of North America (Emeryville and Oakland, CA).** Employed Vesting Tentative Maps with multiple Final Maps to secure long-term vested right for expanding store.
- **Map Act Navigator 2011.** Our treatise on subdivision maps and the Subdivision Map Act is now in its eleventh year of publication and is widely used throughout the state.
- **Map Act Advisory Group.** Served on a special committee to the California State Assembly, proposing new Map Act legislation, and providing recommendations on pending Map Act legislation.

Michael P. Durkee | Biography

Michael P. Durkee – *continued*

Development Agreements

- **Integral Communities (Newark, CA).** Drafting and negotiating development agreement for cutting-edge transit-oriented development project providing 2,500 residential units on 200 acres.
- **Ellis Planned Community and Regional Swim Center (Tracy, CA).** Drafted and negotiated complicated Development Agreement that authorized the development of a 2,200-unit planned community and the possible development of a 16-acre regional swim center, in exchange for the issuance of growth allotments pursuant to the Agreement.
- **City of Stockton.** Represented the City in the negotiation and drafting of Development Agreements for four of the largest residential projects the City has ever approved, a total of over 30,000 residential units.
- **Braddock & Logan (Ripon, CA)** Drafted and negotiated complex two-phase residential development agreement with complicated public services reimbursement provisions.
- **EOP (Milpitas, CA).** Negotiated and drafted complex Development Agreement Amendment where we were able to successfully limit the new property owner's apportioned responsibilities under the Agreement.
- **Santa Margarita Ranch (San Luis Obispo County).** Represented Texas-based property owner in securing first Development Agreement ever entered into by and between San Luis Obispo County. Development Agreement challenged in court and upheld by the Court of Appeal.
- **City of Manteca (Manteca, CA).** Represented City as Special Counsel on Land Use issues. Drafted their growth management, Development Agreement and sewer allotment programs, and served as their negotiator and draftsman on several Development Agreements.

Initiatives and Referenda

- **Pardee Homes (Livermore, CA).** Represented developer in drafting very extensive and complicated local ballot measure for approval of a 2,400-home new community in North Livermore.
- **Surland Communities (Tracy, CA).** Drafted ballot measure for large downtown infill residential development with new public transit hub.
- **Ghisletta Land and Development Company (Napa, CA).** Successfully persuaded city that an anti-development ballot measure submitted to city to prevent client's development plans was legally flawed and could not be placed on ballot.
- **IKEA of North America (Emeryville, CA).** Secured approval of the first Northern California IKEA store in the cities of Emeryville and Oakland (old Barbary Coast Steel site). Likewise secured Land Use entitlements for proposed store in Dublin, and drafted successful ballot measure (pro-store initiative) for new store in East Palo Alto.

Michael P. Durkee | Biography

Michael P. Durkee – *continued*

- **Black Point Golf Links (Novato, CA).** Represented Speiker Properties partnership (Black Point Partnership) in their “re-approval” efforts regarding this very controversial project in Marin County, near City of Novato. Provided legal counsel and strategic advice regarding the project’s very controversial CEQA, general plan, zoning, mapping, electoral (initiative and referendum), and railroad issues. Drafted the successful pro-project ballot measure adopted by Novato voters.
- **Buck Center For Research in Aging (Novato, CA).** Represented Buck Center as special Land Use legal counsel on their research center (Alzheimer's; Parkinson's; etc) in Marin County. This remarkably controversial project (it involves animal testing) was in the planning stages for more than five years, the CEQA process for more than four years and the electoral/litigation processes for more than two years. Project involved issues of general plan consistency, zoning, vested rights, OPR extensions, and was the subject of a successful anti-project referendum in the County and a successful pro-project initiative in the City of Novato.

Land Use Due Diligence

- **Opus West (Stockton, CA).** Performed land use due diligence for purchase of large industrial property with numerous entitlement, agricultural fringe issues.
- **Despa Deutsche Sparkassen-Immobilien-Anlage-Gesellschaft mbH (San Francisco, CA).** Represented German investment fund regarding Land Use Due Diligence aspects of recent acquisitions of 600 California Street, One Stockton Street and One Union Square properties in San Francisco.
- **DivcoWest (San Jose, CA).** Provided Land Use Due Diligence work to this institutional property owner/developer/manager regarding its purchase of over 1,400 acres in San Jose’s North Coyote Valley. Also assisted with Land Use Due Diligence on several Downtown San Jose projects.
- **KSL Claremont Resort (Berkeley, CA).** Provided Land Use Due Diligence relating to KSL’s purchase of the historic Claremont Hotel in the Berkeley Hills.

Land Use Litigation

- ***Vendrilla v. County of Napa*** (Case No. 26-48920; 11/20/10). Submitted an amicus curiae brief on behalf of the California Land Surveyors Association (CLSA) in a highly publicized Subdivision Map Act case that will have statewide ramifications. The court ruled that California counties and cities are authorized to allow multiple (sequential) lot line adjustment applications concerning the same property over time, and can characterize lot line adjustment approvals as “ministerial” under CEQA.
- ***Fogarty v. City of Chico***, 148 Cal.App.4th 537 (2008). Represented City of Chico at trial and in court of appeal in case of first impression in California as to what is an “exaction” under the Mitigation Fee Act, and therefore **which challenge period (Map Act or Mitigation Fee Act) applies.**
- ***County of Humboldt v. McKee***, 165 Cal.App.4th 1476 (2008). Represented seller of lots to 35+ buyer co-defendants within 13,400-acre ranch in Humboldt County in very controversial, precedent-setting lawsuit brought by County alleging Subdivision Map Act and Williamson Act violations. State Department of Conservation involved because of statewide implications of lawsuit. Won at trial, lost on appeal. Currently remanded back to trial court.

Michael P. Durkee | Biography

Michael P. Durkee – *continued*

- ***Oly Chadmar Sandpiper v. City of Goleta***, 40 Cal. 4th 270 (2006). Represented California Building Industry Association and California Land Surveyors Association as amicus curiae in important Subdivision Map Act case before the California Supreme Court. The question presented was whether a newly formed city could deny approval of a final Subdivision map where the county had approved of the tentative map before the city was incorporated.
- ***Blair v. City of Novato/Woodview Estates, LLC*** (unpublished decision). Represented developer in separate mandate proceedings filed by neighborhood group challenging city approvals of residential development project.
- ***Panoramic Interests/City of Berkeley*** (unpublished decision). Represented developer in two lawsuits brought by growth opponents involving CEQA, Planning and Zoning Law, and Historic Preservation issues.
- ***Santa Margarita Area Residents Together v. San Luis Obispo County***, 84 Cal.App.4th 221 (2000). Represented Texas-based property owner in securing first Development Agreement ever entered into by and between San Luis Obispo County. Development Agreement challenged in court and upheld by the Court of Appeal.
- ***Davidon Homes v. City of San Jose***, 54 Cal.App.4th 106 (1997). Co-counsel in successful CEQA lawsuit brought by developer client against City regarding need for substantial evidence in record.
- ***Citizens of Goleta Valley v. Santa Barbara County***, 52 Cal.3d. 553 (1990). Amicus curiae counsel to League of California cities on now-famous CEQA case regarding "alternative sites" analysis in EIRs.

ACCOLADES

- Selected for inclusion in Northern California Super Lawyers (2004, 2005, 2006, 2009, 2010, 2011)
- Listed in The Best Lawyers in America (2001)
- "Outstanding Instructor" award, UC Davis Extension (1992)

EDUCATION

Mr. Durkee received his Bachelors of Science degree from the University of California, Davis in 1981 and was graduated with Distinction from McGeorge School of Law, University of the Pacific, in 1984.

Sonia J. Ransom | Biography



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Focus

Land Use

Real Estate

Environmental & Natural
Resources

Telecommunications

Sonia J. Ransom, a land use partner in our San Francisco office, is highly regarded for her extensive experience in land use and redevelopment. She has co-chaired the firm's renowned Land Use Group, and served as Allen Matkins' marketing partner, as well as on the firm's compensation committee.

Sonia's work in land use matters includes: developing entitlement strategies and obtaining entitlements for commercial, industrial, and residential projects in numerous Northern and Southern California jurisdictions, including general plan amendments, zone changes, conditional use permits, variances, subdivisions, planned development permits, and changes in jurisdiction; leading and coordinating development teams, including architects, engineers, environmental, financial, public relations, and community relations consultants; advising clients on and developing strategy for compliance with the California Environmental Quality Act; advising clients on strategic and compliance issues related to the Subdivision Map Act; and drafting and negotiating development agreements. Sonia handles a wide variety of redevelopment and public finance matters for her clients, including drafting and negotiating disposition and development agreements, owner participation agreements, and exclusive negotiation agreements between developers (or other property owners) and redevelopment agencies; developing strategies for obtaining public financing for a variety of public/private partnerships; and military base redevelopment. Sonia also advises purchasers, developers, investors, and lenders regarding existing entitlements on real property, identifying potential land use issues, and developing a strategy for obtaining entitlements if existing entitlements are insufficient.

Sonia is known for her expeditious efforts. For example, complex entitlements, which included detachment of a 40-acre site from El Segundo and its annexation into Hawthorne, took approximately one year, and the entitlement of a 330,000 square-foot store in Covina took less than four months.

A sought-after speaker, Sonia co-instructed the University of Southern California Gould School of Law's "Land Use Controls" course, and has spoken at the Pacific Coast Builders Conference, as well as RealShare Apartments 2005 and 2007. She has also written a number of articles on real estate and land use issues, including "9 Tips on Managing the Entitlement Process," published in the *California Real Estate Journal*.

Sonia served as President of CREW-LA in 2002 and 2001. She is a member of the California State Bar Association, the Bar Association of San Francisco, the Los Angeles County Bar Association, and Women Lawyers of Los Angeles.

Sonia J. Ransom | Biography

Sonia J. Ransom – *continued*

REPRESENTATIVE MATTERS

Office

- **Bay Area-based Technology Company.**
 - **Office/R&D Campus (Northern California).** Represent company in the entitlement of 1.2 million square foot facility on 40 acres of leased unimproved land. Provided advice re: and developed strategy for compliance with environmental laws.
 - **Office/R&D Campus (Northern California).** Represent company in the entitlement of 600,000 square foot facility on 18 acres of unimproved land. Provided advice re: and developed strategy for compliance with environmental laws.
 - **Office/R&D Campus (Southern California).** Represented company in development of campus project through leases with multiple property owners. Assisted client and project team in development of the entitlement and political strategies and with compliance with environmental laws.
- **Industrial Realty Group/Pacific Coast Capital Partner/Manarino Realty (Tierra Luna Marketplace; Downey, California).** Represent property owners and their development partner on the redevelopment of the former Boeing/NASA site in Downey into a mixed use project in excess of 1.5 million square feet. Uses will include retail, entertainment, office and hotel components.
- **Essex Property Trust (Throughout California).** Representing Essex, a REIT specializing in the multifamily sector who has been aggressively acquiring properties in recent months. Assist with land use issues encountered during due diligence or during the entitlement process
- **Symantec Anti-Virus Headquarters (Culver City, California).** Represented Symantec in entitling 550,000 square-foot office project on nine acre site. An EIR was prepared for this project.
- **Bank of Montreal (Culver City, California).** Represented financial institution in connection with the clarification of entitlements for a 12-story office tower on former redevelopment agency property and negotiation of amendment to disposition and development agreement clarifying obligations of financial institution after foreclosure.
- **Cingular, Headquarters Project (Cerritos, California).** Represented L.A. Cellular (now AT&T) in connection with an Owner Participation Agreement with the Community Redevelopment Agency of the City of Cerritos for development of a 500,000 square foot, two phase office development, providing for approximately \$25 million of combined public assistance.

Residential

- **Westgate Pasadena (Pasadena, California).** Represented the Sares Regis Group and Equity Residential in the entitlement of approximately 1 million square feet of condominiums and apartments in Old Pasadena. An EIR was prepared for this project.
- **Chadmar (Mammoth Lakes, California).** Represented developer in connection with the development and entitlement of the Snowcreek Resort, which represents 25% of the remaining developable property in the Town of Mammoth Lakes. The Snowcreek Resort includes approximately 1,300 condominiums as well as a five star hotel, 18 hole golf course and other amenities.

Sonia J. Ransom | Biography

Sonia J. Ransom – *continued*

- **Chadmar (Marina, California).** Represented developer in connection with entitlement of 1,050 homes on approximately 248 acres of former Fort Ord after 20 public hearings and 60 other community meetings. An EIR and two development agreements were prepared in connection with the entitlement of this project.
- **MS Kearny Real Estate/Catellus (Los Angeles, California).** Represented developer of Los Angeles Air Force Base modernization, entitlement of residential projects, at former Air Force Property including detachment of former base from El Segundo and its annexation into Hawthorne. An EIR and two development agreements were prepared for this project.
- **Hillwood Development Company (Simi Valley, California).** Represented developer in entitlement of 364 luxury residences, in part on an existing public golfcourse. An EIR was prepared for this project.

Mixed Use/Retail/Industrial

- **Zelman Retail Partners (Burbank, California).** Represented developer in entitlement of 100-acre mixed-use project on site of former aerospace facility, including CEQA compliance, drafted and negotiated development agreement and conditions of approval with the City of Burbank. Also drafted and negotiated "allocation" agreements with buyers of portions of the site, allocating rights and responsibilities under the development agreement and conditions of approval.
- **Hollywood & Highland (Hollywood, California).** Represented Trizec Properties, Inc. in connection with the disposition and development agreement for a 1.2 million square foot entertainment/retail/hotel/transit development, providing for approximately \$100 million of public assistance, financed with parking revenue bonds, certificates of participation, and an Urban Development Action Grant.
- **IKEA of North America (Covina, California).** Represented IKEA in entitlement of 330,000 square-foot store in three and a half months. Although a mitigated negative declaration was prepared for this project, the CEQA compliance was extremely complex.
- **Aeroterm (Ontario, California).** Represented developer of cargo facilities in entitlement of approximately 1 million square foot cargo facility at Ontario Airport. An EIR was prepared for this project.
- **Existing Santa Monica Hotel (Santa Monica, California).** Represented owners of an existing Santa Monica hotel for the last two and a half years repositioning their asset for sale by perfecting and clarifying existing entitlements, undergoing wildly controversial Development Agreement compliance review (during election season; preparing briefing materials for prospective buyers, numerous phone calls with prospective buyers and prospective buyers' counsel and facilitating meetings and calls between City officials and prospective buyers and their counsel. This process took place during the final years of Santa Monica's General Plan Update Process.
- **New Santa Monica Hotel.** Represented developer of a new mid-priced hotel in Santa Monica.

Sonia J. Ransom | Biography

Sonia J. Ransom – *continued*

JURISDICTIONS

Sonia has experience with the following jurisdictions:

City of Alhambra	City of Hawthorne	City of San Jose
City of Anaheim	City of Hercules	City of Santa Monica
City of Buena Park	City of Huntington Beach	City of Seaside
City of Burbank	City of Irvine	City of Simi Valley
City of Carson	City of Lancaster	City of Stockton
City of Cerritos	City of Los Angeles	County of Kern
City of Chino Hills	City of Marina	County of Los Angeles
City of Clovis	City of Monterey Park	County of Monterey
City of Corona	City of Moorpark	County of Orange
City of Costa Mesa	City of Moreno Valley	County of Riverside
City of Covina	City of Mountain View	County of Sacramento
City of Culver City	City of Oakland	County of San Bernardino
City of Downey	City of Ontario	County of San Mateo
City of El Segundo	City of Palm Desert	County of Santa Barbara
City of Folsom	City of Palm Springs	County of Ventura
City of Fullerton	City of Pasadena	Town of Los Altos Hills
City of Glendora	City of Redwood City	Town of Mammoth Lakes

ACCOLADES

- Selected as a Northern California Real Estate Woman of Influence Honoree (2011)
- Recognized by the *Daily Journal* as one of the Top 25 Land Use attorneys in California (2011)
- Recognized by *Real Estate Forum* as a 2011 Real Estate Woman of Influence nationally (2011)
- Named one of *Real Estate Southern California's* "Most Influential Women in Commercial Real Estate" (2003-2008)
- Inducted by *Real Estate Southern California* into its Women of Influence Hall of Fame (one of the first three women in California to be honored and the sole attorney), November 2008
- Honored by Commercial Real Estate Women - Los Angeles (CREW-LA) as a woman in real estate who has transformed the real estate landscape of Los Angeles

EDUCATION

Sonia received a J.D. from Loyola Law School (1992) and a B.A. from the University of California at Los Angeles (1988).