



September 21, 2009



## California Quick Hits & Hot Topics

[Bryan C. LeRoy](#)

**The following news summary is part of our ongoing effort to keep you updated on new regulations, court decisions and other relevant events throughout California that impact the real estate and land development industries. If you'd like further information about how these events might affect you or your business, please contact one of the real estate or land use attorneys at Manatt.**

**Tentative Maps:** On July 15, 2009, the Governor signed Assembly Bill (AB) 333 (Fuentes), which extends the life of any tentative or vesting tentative subdivision map or parcel map by an additional 24 months, as long as the map has not already expired but would otherwise expire before January 1, 2012. This extension is in addition to the 12-month extension provided by Senate Bill (SB) 1185 (Lowenthal) last year. For a full copy of AB 333, click [here](#). Please note that neither of these bills automatically extend the life of related local entitlements, such as zoning approvals, conditional use permits, or plan approvals. In many cases, the extension of a subdivision map by itself may be of little benefit. Consequently, many local agencies have adopted ordinances to also extend the development approvals related to a map. Some state approvals are extended by AB 333.

**CEQA Guidelines/GHG:** The public comment period has closed on the proposed amendments to the CEQA Guidelines to address greenhouse gas emissions (GHGs); however more than 75 comment letters are available online, as well as hearing transcripts. On July 3, 2009, the California Natural Resources Agency commenced the formal rulemaking process for certifying and adopting the proposed amendments, which were prepared by the Governor's Office of Planning and Research and sent to the Resources Agency in April. The proposed Guidelines Amendments, an Initial Statement of Reasons, the hearing transcripts and the comment letters are all available on the Resources Agency [website](#). The Resources Agency may now adopt the proposed regulations substantially as described in the original



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notice of rulemaking or, if the Resources Agency makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Resources Agency adopts the regulations as revised. If the Resources Agency modifies the originally proposed text, the Resources Agency will accept written comments on the modified regulations for 15 days after the date on which the modifications are made available.

**Prevailing Wage:** On August 19, 2009, the California Supreme Court granted review and depublished the opinion in *State Building and Construction Trades Council of California, AFL-CIO v. City of Vista* (173 Cal. App. 4th 567). In April, the 4th District Appellate Court had ruled that the state prevailing wage law does not apply to a charter city with respect to contracts financed from city revenues. As a result of the Supreme Court having granted the review, the 4th District Court of Appeal decision is no longer law.

**Redevelopment Agencies:** The California Redevelopment Association (CRA) is preparing to file a lawsuit on behalf of its member agencies to challenge the constitutionality of SB 26 4x, the recent bill that takes \$2.05 billion from redevelopment agencies in a massive funding shift to close some of the state deficit. In April 2009, the Sacramento Superior Court invalidated a 2008 budget bill that would have taken \$350 million in redevelopment funds, finding that it “violates the intent of section 16 [of the state constitution], to allocate the tax increment to the financing of redevelopment projects.” Instead of taking the redevelopment funds directly, SB 26 4x uses the redevelopment funds to offset school appropriations that otherwise would come from the state budget. Nevertheless, the CRA believes SB 26 4x is similarly unconstitutional, and is actively recruiting plaintiff agencies.

**Water Wars:** A comprehensive package of water bills failed to pass before the September 11th end of the 2009 legislative session, although Governor Schwarzenegger is considering a call for special session to continue negotiations. The package aims to resolve problems in the Sacramento-San Joaquin Delta and represents the most ambitious attempt to reform California’s water management in decades. Five policy bills in the Delta legislative package have been combined into a single bill with a separate bill that proposes a \$12 billion bond to help pay for it. The bills will move forward plans to build a controversial peripheral canal to carry water around the Delta; but the program would also attempt to protect the Delta ecosystem by creating a new governing council to oversee the Delta, ensuring that an adequate flow of water remains in the Delta, requiring improvements in water efficiency, and setting standards for habitat and species recovery. The package also includes \$3 billion for new water storage facilities. Water supplies to southern California have been

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drastically cut back following a series of court cases, including a high-profile federal court decision in 2007 that ordered a reduction in pumping during dry years in order to protect the Delta smelt. Reportedly, funding remains the major obstacle in the water debate, along with Sierra Club and other environmentalist opposition to the set aside for water storage projects that could include new dams and reservoirs.

#### **Did You Know?**

Due to state-mandated furloughs, the Office of Planning and Research will close the **State Clearinghouse** during the first, second and third Fridays of each month. The State Clearinghouse will not receive, post, or process any environmental documents on those Fridays.

The United States Green Building Council has released the **"Green Office Guide: Integrating LEED Into Your Leasing Process."** This publication is designed to help tenants and landlords collaborate on green decision-making throughout the leasing process, "encompassing team selection, site selection, negotiations, lease language, build-out and the tenant's ongoing operations within the leased space." This information may be useful for landlords and developers interested in preparing for negotiations with an understanding of the needs of tenants focused on obtaining LEED certification for their build-out. For more information, click [here](#). Manatt attorneys [Lauren Spiegel](#) and [Camas Steinmetz](#) are LEED Accredited Professionals. They are available to provide advice to clients seeking to achieve LEED certification.

**USEPA Brownfield Program Grants** are available for \$79.4 million in cleanup, assessment and revolving loan funds. Applications are due October 16, 2009.

Click [here](#) for guidelines.

#### **Manatt in the News:**

Partner [Lisa Specht](#) was selected a "Woman of Influence" by *Real Estate Southern California* magazine in its September/October issue.

Eight Manatt attorneys in real estate and land use were recognized in The Best Lawyers in America, 2010, including [Keith Allen-Niesen](#), [Michael Berger](#), [Ed Burg](#), [Robert Eller](#), [Timi Hallem](#), [Susan Hori](#), [George Soneff](#) and [Lisa Specht](#). In all, Manatt had 57 lawyers listed.

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**For additional information on this issue, contact:**

**Bryan C. LeRoy** Mr. LeRoy's practice focuses on representing private and public entities in planning, land use, and other property development matters. Mr. LeRoy advises clients regarding entitlement strategy and the processing of land use permits, securing approvals for zoning and general plan amendments, and managing environmental concerns and other project impacts.

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