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Allen Matkins

Land Use & Government Relations



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#### About Allen Matkins

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Mallory & Natsis LLP is a  
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## New Subdivision Map Act Extension Bill Signed

Information in this alert directly affects all owners of property with a current tentative or vesting tentative map or other entitlements with applicable expiration dates.

July 18, 2011

On Friday (July 15), Governor Brown signed into law AB 208 (Fuentes), which extends for two years the life of those tentative and vesting tentative maps that were still alive on July 15, 2011 (the date the new law took effect) and that would have otherwise expired before January 1, 2014.

AB 208 builds upon two earlier legislative extensions given during this prolonged economic downturn: (1) the 24-month extension granted by AB 333 (Fuentes) in 2009; and (ii) the 12-month extension granted by SB 1185 (Lowenthal) in 2008. With nearly 2,500 approved tentative maps representing nearly 330,000 housing units in California, this measure is significant.

AB 208 creates new Government Code section 66452.23, which recognizes that this extension is available *in addition* to all of the other extensions (or "stays") already recognized by the Subdivision Map Act (*i.e.*, Sections 66452.6, 66452.11, 66452.13, 66452.21, 66452.22, and 66463.5). So, for example, even if a tentative map qualifies for the new 24-month extension granted by AB 208, this would not preclude the subdivider from employing the phased final map extensions provided under Government Code section 66452.6(a)(1) and any applicable litigation stays pursuant to Government Code section 66452.6(c).

When calculating whether a tentative map would otherwise expire before January 1, 2014 and thereby be eligible for AB 208's two-year extension, one must include any discretionary extension granted by a city or county pursuant to Government Code sections 66452.6(e) or 66463.5(c) on or before July 15, 2011, and any extensions effectuated through the filing of one or more multiple final maps pursuant to Government Code section 66452.6(a) on or before July 15, 2011. One is not required to count any time that the map's life is stayed by litigation or a development moratorium pursuant to Government Code sections 66452.6 or 66463.5.

Like AB 333, AB 208 includes provisions that change the "one bite of the apple" rules set forth in Government Code section 65961 in two ways. First, it shortens from five to three years the period of time after the recordation of the final map during which new conditions cannot be imposed on a project.

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Second, AB 208 provides that for any tentative or parcel map subject to AB 208's two-year extension, Section 65961 does not prohibit a local agency "from levying a fee or imposing a condition that requires the payment of a fee ... upon the issuance of a building permit, including, but not limited to, a fee defined in Section 66000" [the Mitigation Fee Act]. (Gov. Code § 65961(f).) Thus, a local agency may attempt to impose fees or fee-based conditions during building permit issuance. The "legality" of such local agency efforts would depend on the facts of each case.

If you own property with a current tentative or vesting tentative map or other entitlements, please contact us to discuss whether your maps are subject to AB 208 and how this important new legislation affects the expiration dates of your entitlements. We are also available to discuss any related issues, such as AB 208's impact on vested rights and how to document the application of AB 208 to your existing maps.

For a list of our upcoming Subdivision Map Act Seminars, please click [here](#).

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