



## Preface

Land and development requirements are a source of recurring debate and controversy in most California cities and counties. Meaningful dialogue is often hampered by the complex and unclear statutes under which project applicants and local governments must operate. This book brings together the myriad of constitutional and statutory schemes that directly affect how a decision-making body determines the appropriate mix of development requirements that can or will be imposed on a particular application.

Essentially, a local government wishing to impose a particular type of development fee or dedication, otherwise known as an “exaction,” may do so as long as certain procedures and standards of fairness are followed. The more difficult issues are the ones based on fairness and policy. Proposition 13 enacted in 1978, caused the tax burden reallocation, which, coupled with higher impact fees and special taxes, resulted in the legally justifiable but politically questionable shifting of costs that will doubtless grow over time. The policy issue is of another dimension. Because the housing sector is vital to California’s economy, local officials may need to reconsider the tradeoff between public facilities and economic growth. This re-examination is an important component of the decisions by some local governments to reduce, if not eliminate, certain development fees during the recession beginning in 2008.

Chapter 1 examines the combination of federal, state, and local considerations that have combined to calculate demands on developers to contribute to solving the increasing range of community needs. Chapter 2 explains the distinctions between taxes, fees, assessments, land dedication, land reservation, and other development requirements. Chapters 3 and 4 discuss the constitutional and statutory issues governing the imposition of exactions, and chapter 5 is devoted to compliance with the nexus legislation for impact fees, AB 1600. The characteristics particular to school impact fees are addressed in chapter 6, while chapter 7 addresses legal challenges to various exaction requirements. Chapter 8 looks at specific exaction issues of current interest around the state, including child care, inclusionary housing, transit impact fees, and others. Chapter 9 serves as a transition from exactions to operations—in other words, the choices that are available to fund the operation and maintenance of improvements. The appendices contain relevant code sections as well as sample





agreements, exaction studies, and a flow chart summarizing key legal considerations. The cases and statutes cited are current to June 2011; in selective circumstances, more current case references are included.

Special recognition must be given to my co-authors, all of whom took time from their very busy schedules to update this book. Peter M. Detwiler, chapter 1; Margaret Sohagi, chapters 2 and 7; Thomas Jacobson, chapters 3 and 4; Cori Badgley, chapter 5; and Harriet A. Steiner and Seth Merewitz, chapter 9.

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