

Chapters at a Glance

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For 27 years, Dan Curtin authored this book as a desk reference for those interested in California land use and planning law. Cecily joined Dan as a co-author in 2000 and worked with him to continually update the book based on their own and their partners' decades of experience representing both public agencies and private developers. Following Dan's passing in November 2006, Matt joined Cecily—first as Managing Editor and later as co-author—in preserving and expanding upon the legacy Dan started with this book. Like all editions published since his passing, this book is again dedicated to Dan.

This 36th edition summarizes two years of published decisions, statutory revisions and other agency policies and guidance, including:

- Analysis of the multiple legislative changes designed to promote housing development and further constrain local agency authority to disapprove housing projects that are consistent with the General Plan and zoning (chapter 15)
- Discussion of changes to the Elections Code removing the ability of initiative proponents to compel consideration of a measure at a special election (chapter 13)
- Discussion of numerous cases decided under CEQA addressing when the requirement to comply with CEQA is triggered, the types of impacts required to be evaluated under CEQA, application of exemptions and exceptions thereto, evaluation of climate change and energy impacts, and the scope of alternatives to be identified (chapter 6)
- Analysis of the continued uncertainty over the definition of the “waters of the United States” for determining federal jurisdiction under the Clean Water Act and the ongoing regulatory efforts to formulate a new definition (chapter 7)
- Analysis of new case law on the listing and delisting of species under the federal and California Endangered Species Acts, and new federal policies and regulations on the protection of critical habitat (chapter 8)
- Analysis of toughened statewide goals for reductions in greenhouse gas emissions and indications from the California Supreme Court that more stringent regulations and evolving science will affect the analysis of climate change impacts under CEQA (chapter 16)
- Discussion of case law upholding use of Mello-Roos tax imposed as a condition of approval of new residential development to finance a range of governmental services and facilities (chapter 12)
- Analysis of case law confirming there is no “discovery rule” that delays CEQA statutory deadlines until the plaintiff knows of the existence of a claim (chapter 19)
- Discussion of the *Pfeiffer-McDougal* rule and the circumstances when proceeding with development authorized with a permit results in waiver of objections to permit conditions (chapter 19)

This 2018 edition has benefited from the contributions made by attorneys in Perkins Coie's California Land Use and Development Practice.

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This book is not a substitute for the guidance and advice of an attorney, especially in complex matters in which refinements and interpretations of the law are essential before final conclusions are drawn about planning and development processes, property rights, due process, and procedural matters.

In addition, although legal reference points are essential, in matters pertaining to local public planning and the development process, there is no substitute for an

understanding of how the planning process works at the city and county levels. Much of the process is delineated by California law and indeed most of the process is mandated. The law does not say a great deal, however, about what local planning policies should be or how a city or county should organize its land uses. That is a local task. But the law does require cities and counties to prepare, adopt, and update general plans before making land use and land use-related decisions, and it requires that certain procedures be followed to carry out public policies, protect private rights, and ensure due process prior to making decisions. We hope you find this book a helpful guide to better understanding how those mandates and procedures may be applied at the local level. For regular insights into legal issues relating to development and use of land and federal, state, and local permitting and approval processes, subscribe to Perkins Coie's California Land Use and Development Law Report at www.californialandusedevelopmentlaw.com.

Cecily Talbert Barclay
Matthew S. Gray
January 2018

CONVENTIONS IN THIS BOOK

For brevity and readability, this text uses the following conventions:

- When the word “city” is used, it also means “county”; “city council” also means “county board of supervisors.” The text will note instances where there is a substantive distinction between how land use and planning law affects cities and counties.
- All references to the Legislature are to the California State Legislature, unless otherwise indicated.

Code references are to the California Code, unless otherwise indicated.