



ALAN FENSTERMACHER

Partner

Land Use and Entitlement

Orange County

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Alan Fenstermacher specializes in land use and regulatory issues, including general municipal law, handling both litigation and transactional matters for public and private clients.

Alan regularly assists private parties secure entitlements and other project approvals for residential, commercial, mixed use and industrial projects in jurisdictions all over California, where he analyzes land use, zoning and other regulatory issues before his clients acquire property, and then guides his clients through the entire entitlement process until ultimate project approval. Alan particularly specializes in ensuring compliance with the California Environmental Quality Act (CEQA), including oversight of CEQA document preparation.

Alan also has a significant amount of experience advising public agencies on the wide variety of issues they face, both as general counsel and special counsel, and currently serves as the City Attorney for the City of Poway.

Alan has extensive litigation experience in state and federal court, handling cases involving CEQA, eminent domain, election issues, public contracting/procurement, easement disputes, fair housing laws, and a wide variety of other real estate, land use and environmental issues, including Clean Water Act and other litigation involving environmental contamination. His litigation experience is critical to informing his transactional advice, as he is well aware of the potential pitfalls his clients may face.

Alan also specializes in election law, including matters involving initiatives and referenda, the Political Reform Act, the California Voting Rights Act, and the Public Records Act.

Representative Matters/Cases

- San Diego Gas & Electric Co. v. Schmidt (2014) 228 Cal. App. 4th 1280. Eminent domain jury trial resulting in a \$8 million verdict for property owner

Related Services

- Land Use and Entitlement
- Government and Regulatory
- Affordable Housing and Economic Development
- Condemnation and Property Valuation
- Environmental
- Government Relations and Political
- Land Use and Natural Resources
- Infrastructure, Public-Private Partnerships (P3)
- Municipal Law General and Special
- COVID-19 Resources

Related Industries

- Builders and Land Developers
 - Environmental and Natural Resources
 - Public Entities and Municipalities
-

client; successful defense of the verdict on appeal and secured approximately \$1 million attorney fee award

- Successful defense of development projects from CEQA and other land use challenges (e.g., Responsible Development for Water Tank Hill v. County of San Mateo et al. , First District California Court of Appeal, 2018 WL 2276345 (unpublished); Coalition for Responsible Solar, et al v. City of Adelanto, et. al., San Bernardino Superior Court, CIVDS S1409364; Citizens About Responsible Planning v. City of Long Beach, et. al., Los Angeles Superior Court, BS15964; Whittier Conservancy v. City of Whittier, et. al., Los Angeles Superior Court, BS157078)
- Assisted developers secure desired entitlements and project approvals for residential, commercial, mixed use and industrial projects located throughout California, from pre-acquisition due diligence through final approval, including oversight of CEQA document preparation
- Advised many cities facing potential and actual California Voting Rights Act litigation, and assisted with the successful resolution of those claims, including conversion to district elections
- Defended water district from a lawsuit arising out of an easement dispute, where plaintiff claimed over \$1 million in damages; case dismissed via successful motion for summary judgment
- Defeated challenges to ballot measures and ballot pamphlets brought against the City of Newport Beach, County of Marin and City of Buena Park during 2014 election cycle
- Defended City against federal Fair Housing Act and Equal Protection claims in high profile litigation brought by the ACLU, resulting in favorable settlement
- Successful pre-trial resolution of a number of eminent domain actions
- Assisted multiple private entities successfully secure licenses, certifications or other desired designations (e.g., DBE certifications) from public entities

RECENT PRESENTATIONS

- California Housing Legislation Update (Senate Bill 330), January 2020
- Regulatory Takings in California, October 2019, City Attorneys Association of San Diego
- “Fall 2017 Affordable Housing Review: Statutes and Cases,” Affordable Housing/Economic Development Practice Group, November 2017
- “CEQA and Land Use Case Law Update”, Land Use and Natural Resources Practice Group, 2017, 2016, 2015, 2013, 2012
- “Paying the Piper – Attorneys’ Fees in Eminent Domain,” International Right of Way Association (IRWA) Chapter 67, November 2014

Awards & Honors

- Southern California Super Lawyers, Rising Stars Edition (2018, 2020)

Memberships & Associations

- City Attorney Association of San Diego County
- Orange County Bar Association

Bar & Court Admissions

- State Bar of California
- U.S. District Court for the Central and Southern Districts of California

Education

- University of Southern California (B.A., 2008)
- Washington University in St. Louis (J.D., 2011) Cum laude

- State Bar of California
- IRWA Chapter 67

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