



## DAVID LANFERMAN

### Partner

Land Use and Entitlement

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San Francisco

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Dave Lanferman is a land use lawyer, whose practice emphasizes real estate development, land use approvals, and a wide range of real estate-related litigation. His land use expertise includes zoning and subdivision approvals, California Environmental Quality Act (CEQA) and regulatory compliance, environmental mitigation, development impact fees, and appropriate conditions of approval. He is an editorial advisor and update author for CEB's authoritative treatise on California Land Use Practice, and has served as Vice Chair of the State Bar's Real Property Law Section. Dave's clients include developers, property owners, home builders, public agencies, public interest groups, and industry associations.

### Areas of Practice

**Land Use:** Mr. Lanferman's practice includes virtually all facets of land use planning, zoning, subdivision and development permitting and extensive experience under CEQA, entitlements analysis, and other conditions of development approval. Mr. Lanferman is one of the preeminent attorneys in California practicing in the areas of the Mitigation Fee Act, environmental mitigation impact fees, development fees, dedications, and exactions.

**Litigation:** Mr. Lanferman has extensive experience in all aspects of land use and real estate litigation in both state and federal courts and a wide range of land use writs and appeals. Recent litigation matters include CEQA, development fees, subdivision map issues, air quality regulation, prescriptive rights and eminent domain. He has an extensive appellate practice, including appearances before the California Supreme Court. Many of his cases have involved significant issues of land use and environmental law, including appellate decisions involving CEQA, the Mitigation Fee Act, the Subdivision Map Act, vested rights, and the validity of mitigation fees or conditions of approval imposed on new development.

Mr. Lanferman has also been lead counsel in several of the most significant cases involving land use and real estate development such as impact fees and

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### Related Services

- Land Use and Entitlement
- Government and Regulatory
- Affordable Housing and Economic Development
- Condemnation and Property Valuation
- Environmental
- Land Use and Natural Resources
- Municipal Law General and Special
- Real Property Litigation

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### Related Industries

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

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### Bar & Court Admissions

- State Bar of California
- California State Courts

exactions, affordable housing, vested rights, CEQA review, Clean Air Act and air emission mitigation, and local initiatives and referenda.

Entitlements: Mr. Lanferman has assisted public agencies and developers in planning, CEQA and environmental review, and in obtaining entitlements from local governments, and regional, state, and federal regulatory agencies for major residential, commercial, and institutional projects.

Mr. Lanferman's practice includes development, permitting and real estate transactional planning, negotiation and documentation; due diligence analysis, development agreements, annexation and LAFCO compliance; infrastructure finance; environmental review, mitigation and compliance; water supply analysis; mitigation of air emissions; wetlands and natural resources permitting; subdivision map processing; Williamson Act contracts; and CEQA compliance.

Administrative agencies: Mr. Lanferman's practice also features extensive local government and administrative agency experience on land use issues, including specialized environmental and regulatory practices such as air quality, water resources, flood control, historic resources, endangered species, Local Agency Formation Commissions (LAFCO), and the Coastal Act. Mr. Lanferman frequently appears before local, regional and state administrative and regulatory agencies. His practice includes city and county boards and administrative agency hearings (e.g., California Coastal Commission; Regional Water Quality Control Boards; Regional Air Pollution Control Districts; Commission on State Mandates; LAFCO).

## Publications

- Advisory Board and Update Editor, *California Land Use Practice* (CEB)
- Advisory Board, *Practice Under the California Environmental Quality Act* (CEB)
- Contributing Editor, *California Real Estate Reporter* (Lexis-Nexis Publishing)
- "California Supreme Court Clarifies BMR Housing Law," *The Registry*, November 2013
- "Inclusionary Zoning: Legal Questions and Issues," *Real Property Law Journal*, 2011
- "New Law Automatically Extends Subdivision Map Approvals (Again)," *Real Property Law Section e-Bulletin*, September 2011
- "Assessments: California Supreme Court Raises the Bar in Silicon Valley Taxpayers Case," *The Real Estate Finance Journal*, September 1, 2008
- "Recent Court Challenges Question Impact Fees," *Land Development* (National Association of Home Builders, Summer 2007)
- "Streamlining CEQA Review for Housing Developments," *Builder Digest*, Feb/Mar 2003
- "Clear as Mud: New Water Supply Laws Cloud The Development Process" *California Real Estate Journal*, February 2002
- *Impact of New Water Laws on Development in California*, January 29, 2002
- "Water Supplies and Land Use Planning," *Associated General Contractors' Journal*, December 2001
- Editorial Consultant, "Rights and Responsibilities of Adjoining Landowners,"

- U.S. Court of Appeals for the Ninth Circuit
- U.S. District Court for the Central, Eastern and Northern Districts of California
- U.S. Supreme Court

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## Education

- University of California, Hastings College of the Law (J.D., 1976)
- University of California, Davis (B.A., 1973), high honors, Phi Beta Kappa

California Pleading and Practice (Matthew Bender Publ.)

- Editorial Consultant, "Good Faith Improver of Real Property," California Forms of Pleading and Practice (Matthew Bender Publ.)

## Real Estate, Land Use & Environmental Law Blog Articles

- "Real Estate 101: Land Use Practice" for the State Bar of CA (January 2014)
- "Affordable Housing in California" (Building Industry Super Conference (November 2013)
- "Inclusionary Zoning: Superior Court Strikes Down City of San Jose's "Inclusionary Housing" Ordinance," July 20, 2012
- "Inclusionary Zoning In California: Legal Questions And Issues," October 6, 2011
- "New Law Automatically Extends Subdivision Map Approvals (Again)," July 25, 2011
- "'Pay Under Protest' Procedure for "Other Exactions" Is Not Applicable to All Development Exactions," April 11, 2011
- "Supreme Court Refuses to Hear Palmer Case - Are Inclusionary Zoning Practices Due for Change?," October 29, 2009
- "Regulatory Takings Law: Ninth Circuit Panel Holds A Mobile Home Rent Control Ordinance Is Subject To A "Facial Challenge" And Awards Compensation To Property Owners", October 1, 2009
- "Administrative Fee for Tax Collection is an Unconstitutional Hidden Tax", August 28, 2009
- "New Law Automatically Extends Existing Tentative Maps For Two Years, But Also Creates New Pitfalls, And Reduces Some Protections For Recorded Maps", July 18, 2009
- "Appellate Court Decision Invalidating Unjustified "Affordable Housing In Lieu Fees" Is Now Final", June 19, 2009
- "Decision Overturning City's "Affordable Housing in Lieu Fee" Ordered Published by Court of Appeal", March 10, 2009
- "Affordable Housing In Lieu Fees Must Be Shown To Be Reasonably Related, And Limited, To "Deleterious Impacts Of New Development" Like Other Development Fees", February 9, 2009
- "Supreme Court Raises The Bar: Holds Prop. 218 Requires Court To Exercise Independent Judgment Regarding Validity Of Assessments And Places Burden Of Proof On Assessing Agency", July 18, 2008
- "New Law Automatically Extends Existing Vesting Tentative Maps, But Don't Celebrate Too Soon: There Are Pitfalls For The Unwary", July 16, 2008
- "California Supreme Court Upholds Use of 'Common Sense' Exemption, Says that CEQA May Require Consideration of the Effects of 'Displaced Development'", June 26, 2007
- "New State Fees for Water Rights Permits and Licenses Unconstitutional Due to Failure to Demonstrate Reasonable 'Proportionality' to Fee Payors", January 29, 2007

## Presentations

- “Current Issues in Development Impact Fees”, Lorman Education Services, August 2020
- Adventures in Inclusionary Housing”, Presented at the APA California 2014 Conference, Anaheim, CA, September 13-16, 2014
- “Takings” Law Viewed Against Local Inclusionary Housing Mandates in California, Presentation for the 12th Annual Building Industry Law and Policy Conference, October 2, 2013
- “CEQA Compliance” (October 2013)
- “Legally Defensible Environmental Review Under CEQA,” (February 2012)
- “Inclusionary Zoning in California,” Sacramento County Bar Association (September 2011)
- “Affordable Housing Programs After the Crash: What Next?” State Bar, Real Property Section Retreat (May 2011)
- “Subdivision Map Act Practice,” State Bar of California Annual Conference (September 2008)
- Impact Fees Update – California Building Industry Association’s Major Builders’ Conference (August 6, 2008)
- “Impact Fees: A Practical Approach to Smart Growth,” State Bar of California, Real Estate Section Retreat (May 2-4, 2008)
- Mitigation Fees on New Housing Development as “Indirect Sources” of Air Emissions — California Building Industry Association Select Committee on Industry Litigation (May 3, 2008)
- “Development Impact Fees – Dirty Sexy Money,” State Bar of California, Real Estate Section (April 2008)
- “How Much Is Too Much? Analysis of Impact Fees,” State Bar of California, Real Estate Section (March 2007)
- “Land Use Regulation and Development,” California Continuing Education of the Bar (November 2006)
- “Development Impact Fees – Recent Litigation and Legislation,” Building Industry Legal Defense Foundation Super Conference (October 2006)
- “Air Quality Mitigation Fees on New Development,” Building Industry Association (April 2006)
- “Special Taxes, Fees, and Connection Charges,” California Building Industry Association/University of Southern California CEB (October 2004)
- “Recent Developments in Development Fees & Exactions,” California Building Industry Association (October 2003)
- “Smart Growth vs. Land Use Initiatives and Referenda” Hastings College of the Law, West-Northwest Environmental Law Journal, Symposium on Land Use (April, 2001)
- “Establishing and Litigating Development Impact Fees,” Bay Area City Attorneys’ Association (March 2000)
- “CEQA for Public Agency Attorneys,” County Counsels’ Association (September 1999)
- Associate Professor, Environmental Law, California State University Extension

## Awards & Honors

- The American Lawyer, Top Rated Lawyer in Real Estate Law, 2019

- Northern California Super Lawyers – Land Use & Zoning, 2019-2020
- AV® Preeminent™ rating with LexisNexis/Martindale Hubbell
- Home Builders Association, Associate of the Year, 2009
- Best Lawyers in America, 2022



## Memberships & Associations

- Member, Executive Committee, State Bar Real Property Section
- Vice-Chair, Land Use & Zoning Subsection, State Bar, Real Property Law Section
- Editorial Advisory Board, California Land Use Practice (Cal. CEB)
- Former Chair, Real Estate Section, Alameda County Bar Association
- Board of Directors, Alameda County Bar Association
- President, Southern Alameda County Bar Association
- Chair, Governmental Relations Committee, Fremont Chamber of Commerce
- Chair, City of Fremont Library Advisory Commission
- Commissioner, City of Fremont City Charter Commission
- Commissioner, Alameda County Library Commission
- Board of Trustees, Alameda County Library Foundation
- Board of Trustees, Fremont Chamber of Commerce Scholarship Foundation
- Board of Trustees, Voluntary Legal Services Program, Alameda County Bar Association