

AFFORDABLE HOUSING AND ECONOMIC DEVELOPMENT

Rutan's Affordable Housing and Economic Development Practice Group combines the firm's long-standing and universally respected areas of expertise on matters related to the financing and development of housing and public infrastructure, including real property acquisition and disposition, public financing and private debt and equity, land use and entitlement, construction and prevailing wage compliance, environmental review, and other applicable federal, state, and municipal agency laws. Our firm represents public and private clients in all aspects of using and combining these areas of expertise to promote the financing, construction, and provision of affordable housing and commercial, industrial, and mixed-use projects that spur economic activity in local jurisdictions. Our clients benefit from the collective experience of our diverse team of lawyers.

We represent clients in negotiating and implementing the transactions that are common to these projects, such as Purchase and Sale Agreements, Development Agreements, Complex Ground Lease and Multi-Tenant Leases, Design-Build Contracts, Construction Manager/Contractor Agreements, Joint Exercise of Powers Agreements and Joint Use Agreements, and virtually every type of agreement relating to land acquisition, disposition, construction, use and maintenance. We likewise represent clients on project financing agreements that involve the use of private or public funds, or both, such as multifamily housing revenue bonds, Community Facilities District (CFD), Enhanced Infrastructure Financing District (E-IFD), other benefit assessment/improvement districts, Section 42 tax credits, post-redevelopment Redevelopment Property Tax Trust Funds, Low and Moderate Income Housing Asset Funds, and other funding sources.

Our expertise in land use compliance – such as advising on zoning and subdivision entitlements and using applicable exemptions in the California Environmental Quality Act (CEQA) – enables our clients to approve and build, efficiently and economically, in-fill/urban renewal projects and multi-family residential projects. We have advised and successfully represented clients in triggering the economic productivity of former military bases, contaminated “brown-field” sites, and former redevelopment agency project areas. The practice group not only advises clients on established law (such as the Mello-Roos Act) and newly enacted law (such as E-IFD law), but our attorneys are frequently instrumental in drafting and providing legislation that is considered by the California Legislature to promote and regulate affordable housing and economic development projects.

In the wake of the dissolution of redevelopment agencies, the practice group has worked with public agencies and private clients in using effective, and some new, economic development tools, such as “public-private partnerships” or “P3” arrangements, nonprofit public benefit corporations for taxable and tax-exempt bond deals, and “housing successor agency” and state housing authority powers. At the same time, members of our practice group serve as general and special counsel to successor agencies to redevelopment agencies throughout California, advising on the requirements of relevant statutes, regulations, and cases, and representing our public agency clients in dealings with third party developers and property owners.

We have a significant affordable housing practice and represent clients in connecting with a wide range of affordable housing matters, including the development of rental and ownership housing projects, density bonus issues, inclusionary housing, low income tax credit financing, compliance with state and federal housing requirements, and state and federal grant and loan programs such as CDBG, HOME, BEGIN, CHFA, CalHome, post-redevelopment housing funds, and in-lieu development fees.

Rutan's expertise also encompasses all the facets of administrative practice and litigation related to affordable housing and economic development matters. The areas of law in which we have served and continue to serve our clients include eminent domain, inverse condemnation, the California Environmental Quality Act, and other federal and state environmental and land use laws. We advise our clients on current developments in the law affecting post-redevelopment and affordable housing, such as California prevailing wage requirements and exemptions from paying such wages.

Areas of Specialization

- Purchase and Sale Agreements, Development Agreements, Complex Ground Lease and Multi-Tenant Leases
- Public-Private Partnerships or "P3" arrangements
- Post-Redevelopment implementation, including land disposition, use of affordable housing assets, and compliance with "enforceable obligations"
- Inclusionary housing, density bonuses, and other regulatory requirements related to affordable housing
- State and federal prevailing wage laws
- State and federal housing programs, including HOME, CDBG, BEGIN, CHFA, CalHome, and redevelopment
- Adoption and amendment of redevelopment plans
- Replacement housing
- Relocation assistance and benefits
- Public agency property acquisition, including eminent domain
- Grant and loan agreements for housing projects
- Tax credit financing, including 4% and 9% transactions
- Public financing
- Mobile home transactions including regulatory compliance
- Legislation and legislative process
- California Environmental Quality Act (CEQA)
- Former Military Base Reuse
- Enhanced Infrastructure Financing Districts (E-IFDs)
- Litigation pertaining to the foregoing