

FOREWORD

Pick up your hometown newspaper on any given day, and you probably will see an article about a land use dispute. The traditional disagreements are still with us in full force, disputes about zoning classifications, variance denials, and the like. In addition to these familiar problems, we face new controversies resulting from increased efforts to protect the environment, preserve our historic landmarks and cultural heritage, and enrich the quality of life in our neighborhoods. Overarching all these disputes is the hot-button issue of urban sprawl.

These land use issues dominate not only the headlines, but also our town squares and kitchen tables. As our remaining open spaces become targets for development, public officials, neighboring property owners, and citizen activists are crafting innovative protections. Urban growth boundaries, transferable development credits, and conservation easements are just some of the tools state and local governments are using to revitalize our central cities, preserve our open spaces, and protect our communities. By and large, our statehouses, county boards, and city councils are working cooperatively with developers and landowners to find solutions to these difficult issues.

All too often, however, a landowner will choose litigation over negotiation, confrontation over compromise. And all too often, the landowner will try to hit a home run by claiming a violation of the Constitution, typically the Takings Clause of the Fifth Amendment. Spurred on by several high-profile takings rulings by the U.S. Supreme Court, some property owners think they have a constitutional right to do anything they want with their land. State and local governments face staggering claims for just compensation and huge requests for attorney fees, not to mention the disruption, time, and expense of complex constitutional litigation. For a small community, a large takings claim could easily overwhelm its budget and threaten its very survival. As a result, the Takings Clause can become the 800-pound gorilla in local land use disputes.

Community Rights Counsel (CRC) and the California Community Land Use Project (CCLUP) have rendered a tremendous service in preparing this *Takings Litigation Handbook*. They have taken the often

Delphic pronouncements of the courts and translated them into plain language, practical tips, and useful tools for litigation. They bring a wealth of experience to the issue, and they know the importance of demystifying this perplexing area of the law.

As a member of CRC's Board of Directors, I have first-hand knowledge of the extraordinary work CRC does. CCLUP also offers invaluable advice to cities and counties in California on these significant issues. This Handbook is their most comprehensive effort to share their knowledge and expertise with government counsel and other state and local officials.

If a takings complaint lands on your desk, or if your client agency faces the threat of a takings lawsuit, read this Handbook. It might well be one of the best investments you ever make.

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