

Kenneth B. Bley

PARTNER

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Overview

Ken is a vital resource for his real estate developer clients, counseling them throughout the land use entitlement process and, when necessary, defending them in court. He has advised for over 40 years clients on all aspects of planning, zoning, and environmental review and representing them before planning commissions, city councils, boards of supervisors, and in trial and appellate courts. He also works with landowners and condemners in eminent domain matters.

Sought-After Trial And Appellate Court Experience

Having tried dozens of cases in state and federal trial and appellate courts, Ken has argued four times before the California Supreme Court and more than a dozen of his over 50 appeals have resulted in published opinions. This is in addition to handling more than 50 trial court cases, primarily for California developers. He has submitted amicus curiae briefs to the United States Supreme Court on behalf of the National Association of Home Builders and has sat on moot courts to prepare lawyers arguing on behalf of landowners before that Court.

Ken was a member, and then Chair, of the State Bar Appellate Committee and a member of the committee which wrote the Los Angeles County Superior Court rules on CEQA litigation.

Practice Areas

Land Use

Litigation & Counseling

Real Estate

Land Use Disputes

Industries

Healthcare & Seniors Housing

Real Estate Sectors

Industrial

Residential, Mixed-Use

Development & Homebuilding

Teacher And Lecturer On Land Use And Land Use Litigation

Ken taught remedies and land use at the University of Southern California Law School for 25 years and courses on land use and land use litigation for trial judges in California and other states around the nation. He has also spoken on land use matters at the National Association of Home Builder's annual International Builders Show more than a dozen times.

As a sought after professional in land use law, Ken's published paper on the use of the Civil Rights Act in land use litigation has been cited by courts several times. He has served as an editor on treatises dealing with the California Environmental Quality Act (CEQA) and the California Subdivision Map Act published by the California Continuing Education of the Bar and is a co-author of the chapter on exactions in California Land Use Practice published by the CEB.

Bar & Court Admissions

State Bar of California

U.S. Court of Appeals for the Ninth Circuit

U.S. District Court for the Northern District of California

U.S. District Court for the Southern District of California

United States Supreme Court

Education

J.D., Harvard Law School, 1974, magna cum laude

Ph.D., University of California, Los Angeles, 1969

M.S., University of California, Berkeley, 1963

B.S., University of California, Berkeley, 1961

Experience

Represented the developer of a 40,000,000 sq.ft logistics facility in obtaining the certification of an EIR and project approvals, including overseeing an initiative, and then defending over a dozen lawsuits attacking the project approvals at trial and on appeal.

Appealed on behalf of a national builder denial of petition to compel arbitration against upward of fifty homeowners that had initiated multi-million dollar construction defect lawsuit against builder. Successfully obtained reversal of trial

court decision, such that homeowners were required to submit disputes to arbitration before the American Arbitration Association (AAA).

Obtained a favorable appellate decision for the respondent in an appeal awarding it attorney's fees as the prevailing party.

Represented a base material recycler to prevent the City of Los Angeles from shutting down its facility.

Represented a company that provided landbanking financing in a lawsuit filed by the owner of an adjoining farm who claimed that the development of the project site had substantially harmed his crops and would continue to do so in the future.

Represented a residential property owner in dispute with a neighbor over whether a granny flat interfered with a road access easement. Summary judgment granted in favor of client and affirmed by court of appeal.

Represented the developer of a 5,000 unit master planned community in obtaining a development agreement.

The People ex rel. Department of Transportation v. Southern California Edison Company, 22 Cal. 4th 791 (2000). Represented the Department of Transportation in this matter before the California Supreme Court opposing the claim of Southern California Edison for \$367 million in interest alleged to be owed for an eminent domain action. Ultimately, Southern California Edison received approximately \$6 million, well less than the amount offered in settlement.

Represented a water district before the California Supreme Court in a matter involving the role of judge and jury in eminent domain cases.

Represented a public entity client in month-long trial of eminent domain action for the condemnation of substantial acreage that owner was in process of entitling for residential development; successful defense motions in limine at trial court level on issues relating to highest and best use, severance damages, and stigma damages.

Represented a real party in interest developer in CEQA case involving challenge to city's negative declaration for a housing project.

Acted as an expert witness in several cases involving various land use matters.

Represented the developer of a 7,000 unit master planned community and then settled a lawsuit attacking the project before the lawsuit was filed.

Represented a property owner in an eminent domain action, obtaining an opinion from the Court of Appeal upholding the right of the property owner to present evidence to the jury on more than \$2 million in damages to the property – reversing a ruling by the trial court.

Obtained summary judgment for hospital association in connection with City of Inglewood's grant of special use permit to build psychiatric facility. Court of Appeal affirmed.

Insights

News

Forty-Four Cox, Castle & Nicholson LLP Lawyers Recognized as Best Lawyers® Award Recipients
Press Release, *Best Lawyers*, 8.17.23

Forty-One Cox Castle Lawyers Named to 2023 Best Lawyers® List
Press Release, *Best Lawyers*, 8.18.22

Thirty-Four Attorneys Named 2022 California Super Lawyers
Press Release, *Super Lawyers*, 8.1.22

35 Cox, Castle & Nicholson LLP Lawyers Named to 2022 Best Lawyers® list
Press Release, *Best Lawyers®*, 8.19.21

32 Cox, Castle & Nicholson LLP Lawyers Named to 2021 Best Lawyers® list
Press Release, *Best Lawyers®*, 8.21.20

Twenty-Five Cox Castle & Nicholson Attorneys have been selected to the 2020 Southern California Super Lawyers
Press Release, *Super Lawyers*, 5.1.20

Twenty-Nine Cox, Castle & Nicholson Attorneys Have Been Selected for the 2020 Edition of The Best Lawyers in America®.
Press Release,

The Best Lawyers in America®, 8.16.19

Twenty-Nine Cox, Castle & Nicholson Attorneys Recognized As 2019 Southern California Super Lawyers & Rising Stars
Press Release, *Southern California Super Lawyers*, 7.15.19

Twenty-Six Cox, Castle & Nicholson Attorneys Have Been Selected for the 2019 Edition of The Best Lawyers in America®.
Press Release,

The Best Lawyers in America®, 8.15.18

Thirty-five Cox, Castle & Nicholson Attorneys Recognized As 2018 Southern California Super Lawyers & Rising Stars
Press Release, *Southern California Super Lawyers*, 7.10.18

Twenty-Three Cox, Castle & Nicholson Attorneys Have Been Selected for the 2018 edition of The Best Lawyers in America®.
Press Release, *The Best Lawyers in America®*, 8.15.17

Thirty Six Cox, Castle & Nicholson Attorneys Recognized As 2017 Southern California Super Lawyers & Rising Stars
Press Release, *Southern California Super Lawyers*, 6.7.17

Twenty-One Cox, Castle & Nicholson Attorneys Have Been Selected for the 2017 edition of The Best Lawyers in America®.

Press Release, *The Best Lawyers in America*®, 9.12.16

Twenty-Two Cox, Castle & Nicholson Attorneys Have Been Selected for the 2017 edition of The Best Lawyers in America®.

Press Release, 9.12.16

Thirty Five Cox, Castle & Nicholson Attorneys Recognized As 2016 Southern California Super Lawyers

Press Release, *Southern California Super Lawyers*, 6.6.16

Twenty Two Cox, Castle & Nicholson Attorneys Recognized As 2016 Best Lawyers In America

Press Release, *Best Lawyers in America*, 8.17.15

California Land Use Stories To Watch In 2015

News, *Law360*, 7.16.15

Thirty Cox, Castle & Nicholson Attorneys Recognized As 2015 Southern California Super Lawyers And Six Named As Rising Stars

Press Release, 1.23.15

20 Cox, Castle & Nicholson Attorneys Recognized as 2014 Best Lawyers

Press Release, 7.18.14

41 Cox, Castle & Nicholson Attorneys Recognized As 2014 Super Lawyers

Press Release, 7.17.14

Cox Castle & Nicholson Attorneys Ranked In Chambers USA 2013

Press Release, *Chambers USA 2013*, 6.18.13

Twenty-Four Cox Castle & Nicholson LLP Attorneys Are Selected To Be Published In The 2013 Super Lawyers Business Edition

Press Release, *Super Lawyers Business Edition Magazine*, 1.21.13

Twenty-three Cox Castle & Nicholson LLP Attorneys Are Selected To Be Published In The 2012 Super Lawyers Business Edition

Press Release, 9.4.12

Twenty-Four Cox, Castle & Nicholson, LLP Attorneys Are Selected To Be Included In The Southern California Super Lawyers 2012 List

Press Release, *Law 360*, January 2012

Fourteen Lawyers from Cox, Castle & Nicholson, LLP are Selected to be Included in The Best Lawyers in America 2012.

Press Release, *Best Lawyers in America*, 11.8.11

Twenty-three Cox Castle & Nicholson LLP Attorneys Are Selected To Be Published In The 2011 Super Lawyers Business Edition

Press Release, 9.1.11

Sixteen Cox, Castle & Nicholson LLP Attorneys Are Recognized As 2011 Southern California Super Lawyers

Press Release, 1.20.11

Cox, Castle & Nicholson LLP Again Ranks As Leader In 2010 Chambers USA

Press Release, 6.27.10

Eighteen Cox, Castle & Nicholson LLP Attorneys Are Recognized As 2010 Super Lawyers Corporate Counsel

Press Release, *Super Lawyers*, 5.1.10

Sixteen Cox, Castle & Nicholson LLP Attorneys Are Recognized As 2010 Southern California Super Lawyers

Press Release, *Super Lawyers*, 2.1.10

Twelve Cox, Castle & Nicholson LLP Attorneys Are Recognized By The The Best Lawyers In America® 2010 Edition

Press Release, *Best Lawyers in America*, 8.4.09

Cox, Castle & Nicholson LLP recognized by the Chambers USA Guide

Press Release, *Chambers USA*, 6.16.09

Sixteen Cox, Castle & Nicholson LLP Attorneys Are Recognized As 2009 Southern California Super Lawyers

Press Release, *Southern California Super Lawyers*, 1.31.09

Twelve Cox, Castle & Nicholson LLP Attorneys Are Recognized By The Best Lawyers In America® 2009 Edition

Press Release, *Best Lawyers of America*, 9.30.08

Super Lawyers 2008

News, *Southern California Super Lawyers*, 2.1.08

America's Leading Lawyers for Business

News, 06.15.07

America's Leading Lawyers for Business Client's Guide

News, 08.01.06

Speaking Engagements

Law Seminars International's Transportation and Carbon Reduction in California

Seminar, Wells Fargo Center North Tower, Los Angeles, California, 10.30.19

National Association of Home Builders' International Builders Conference

Conference, Las Vegas Convention Center, Las Vegas, NV, 2/19/19-2/21/19

31st Annual North Valley Family YMCA Booster Club Dinner
Sponsorship, Knollwood Country Club, Granada Hills, CA, 11.15.18

CBIA Winter 2018 Governance Meetings: Policy Summit & Legislative Advocacy Reception
Conference, Sheraton Grand Sacramento Hotel, Sacramento, CA, 3.6.18

Law Seminars International's Local Climate Change Planning
Conference, Homewood Suites by Hilton Sacramento Airport, Sacramento, CA, 11.14.17

CBIA's 53rd Select Conference On Industry Litigation
Conference, Estancia La Jolla Hotel & Spa , La Jolla, CA, 11.11.17

30th Annual North Valley Family YMCA Booster Club Dinner
Sponsorship, Knollwood Country Club, Granada Hills, CA, 11.2.17

National Association of Home Builders' LANDS Housing Law CLE & Roundtable
Conference, Washington, D.C., 10.19.17

State Bar Real Property Section Retreat
Conference, Silverado Resort, Napa, CA, 4.21.17

2016 California Land Use Law & Policy Conference
Conference, DoubleTree Suites, Santa Monica, California, 9.12.16

Law Seminars International - Land Use Planning In California
Seminar, Intercontinental Los Angeles Century City Hotel, Los Angeles, CA, 4.27.16

By-Passing CEQA: New Developments in the Use of Initiatives and Other Devices
4.27.16

LSI - Land Use Planning in California Conference
6.24.15

Law Seminar International - Land Use Planning In California
Seminar, Intercontinental Los Angeles Century City Hotel, Los Angeles, California, 6.24.15

NAHB - LANDS Roundtable & Workshop
Conference, National Housing Center, Washington, D.C., 4.24.15

CBIA's Select Conference on Industry Litigation
The Hyatt Regency Monterey, Monterey, CA, 4.11.15

CBIA's 45th Select Conference On Industry Litigation
Conference, Ojai Valley Inn & Spa , La Quinta, California, 11.16.13

12th Annual Building Industry Law And Policy Conference
Conference, Metropolitan Water District, Los Angeles, CA, 10.2.13

National Association of Home Builders annual LANDS Roundtable and Conference
Conference, George Mason University Law School , Arlington, Virginia, 4.5.13

11th Annual Building Industry Law and Policy Conference
Conference, Los Angeles, California, 10.3.12

California Association of Realtors' annual Government Affairs Directors Institute
Seminar, Bakersfield, California, 8.21.12

Property Rights and Land Development
NAHB International Builders' Show
Conference, Orlando, Florida, 1.12.11

The Use of Code of Civil Procedure Sec. 128.7 as a Method for Developers to Recover Attorneys' Fees from Opponents in
Land Use Litigation
CBIA - 39th Select Conference on Industry Litigation
Conference, Ojai, California, 11.20.10

The Roles of the Judge and the Jury in Eminent Domain Action
Southern California Chapter of the Appraisal Institute
Conference, Los Angeles, California, 11.17.10

New Issues in Federal Court Land Use Litigation
National Association of Home Builders Annual LANDS Conference and Roundtable
Conference, Washington, DC, 4.24.10

Legal Issues Involving Property Rights and Land Development
2010 NAHB-International Builders' Show
Conference, Las Vegas, Nevada, 1.19.10

Due Process – What Does it Take to Shock the Conscience Anyway
2009 LANDS Roundtable & Workshop
Seminar, Portland, Oregon, 5.2.09

Due Process, Substantive and Procedural, and Equal Protection Claims in Land Use Litigation
National Association of Home Builders
Seminar, Las Vegas, Nevada, 1.21.09

Property Rights and Land Development
International Builders Show
Conference, Las Vegas Convention Center, Las Vegas, Nevada, 1.20.09

Takings and Due Process After Lingle

Conference, Stanford Law School, Stanford, California, 11.6.08

Impact Fees: A Practical Approach to Smart Development

CA State Bar's 27th Annual Real Property Retreat

Conference, Hilton La Jolla Torrey Pines, La Jolla, California, 5.4.08

Critical Issue In Construction Defects Litigation

Fourth Annual Judicial Symposium

Conference, Chapman University School of Law, Orange, California, 3.3.08

When Are Permitted Capacities Allowed as the Baseline?

9.28.07

Inverse Condemnation and Related Government Liability

4.12.07

Application of Civil Rights Act Section 1983

4.8.06

Infrastructure Politics and Issues in In-Fill Development – Water, Transportation, Schools and Other Challenges

4.21.05

Publications

Cities Take Note: Development Agreements are to Protect Developers

Article, *The Daily Journal*, 6.11.20

“Mixed-Income Development”: The California Supreme Court Declares that San Jose’s Inclusionary Housing Ordinance is Valid

Client Alert, 6.15.15

The United States Supreme Court Holds That the Denial of a Land Use Permit can be a Violation of Constitutional Law When the Denial is Based on an Invalid Demand for Money

Client Alert, *CCN Client Alert*, 6.25.13

Court of Appeal Creates CEQA Uncertainty

Article, *The Recorder*, 11.20.12

New Court Decision Creates Uncertainty Over How CEQA Applies to Council Actions on Voter-Circulated Initiative Measures

Client Alert, *CCN Client Alert*, 11.9.12

U.S. Supreme Court Rules That a Clean Water Act Compliance Order Can Now Be Challenged in Court

Client Alert, *CCN Client Alert*, 3.22.12

Subdivision Maps Extended for Additional 2 Years

Client Alert, *CCN Client Alert*, 7.15.11

The Supreme Court Opens The Door To CEQA Suits By Corporations But Finds That Some Projects Are Just Too Small To Have Significant Environmental Impacts

Client Alert, *CCN Client Alert*, 7.14.11

2011 First Quarter CEQA Case Law Update

Client Alert, *CCN Quarterly CEQA Case Law Update*, May 2011

Climate Plan Enjoined? Trial Court Issues Proposed Decision Regarding Implementation of AB 32 Scoping Plan

Client Alert, *CCN Client Alert*, 2.1.11

Ninth Circuit Allows Project Applicants to Defend Their Projects Against NEPA Lawsuits

Client Alert, *CCN Client Alert*, 1.14.11

Recent Federal Property Rights Decisions Confirm Viability of Takings Challenges

Client Alert, *CCN Client Alert*, 10.8.09

LIENS CAN BE USED BY DEVELOPERS IN PLACE OF BONDS TO SECURE SUBDIVISION IMPROVEMENT AGREEMENTS

Client Alert, *CCN Client Alert*, 9.21.09

Bay Area Air Quality Management District Proposes Sweeping New CEQA Air Quality Guidelines

Client Alert, *CCN Client Alert*, 9.18.09

San Joaquin Valley Unified Air Pollution Control District to Consider Adoption of Policies and Guidance Regarding Evaluation of Greenhouse Gas Emissions Under CEQA

Client Alert, *CCN Client Alert*, 9.17.09

Court Holds That Affordable Housing In Lieu Fees Must be Reasonably Related To The "Deleterious Impact" Caused By New Market Rate Housing

Client Alert, *CCN Client Alert*, 3.3.09

Air Resources Board Releases Proposed Draft Of CEQA Guidance On Greenhouse Gas Emissions

Client Alert, *CCN Client Alert*, 10.24.08

Office Of Planning And Research Issues Its Technical Advisory On CEQA And Climate Change

Client Alert, *CCN Client Alert*, 6.20.08

Voluntary Waivers of Right To Protest May Be Enforceable

Article, 10.18.06

An Agreement to Waive the Constitutional Right to Protest Can Be Enforceable (PDF)

Client Alert, 09.30.06

Awards & Affiliations

Honors & Recognitions

Best Lawyers, "Lawyer of the Year" Land Use & Zoning and Litigation, 2013, 2019

Best Lawyers, in Land Use & Zoning, Litigation – Land Use & Zoning, and Real Estate Law, 1995-2021

Southern California Super Lawyers, 2004-2021

Land Use and Zoning Lawyer of the Year in Los Angeles, 2012

California's Top Land Use Lawyers, *Chambers USA*

Professional Affiliations

National Association of Home Builders and the California Building Industry Association, Legal Action Committee

National Association of Home Builders Legal Action Network for Development Strategies, Director

California Building Industry Association

Building Industry Legal Defense Foundation of the Building Industry Association of Southern California, Director

State Bar of California