



→ Alexander L. Merritt

Partner

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Alex Merritt is a partner in the Real Estate, Energy, Land Use & Environmental Practice Group in the firm's San Francisco office.

Areas of Practice

Alex's practice focuses on land use and land use litigation. He represents property owners and developers through all phases of the development process, including due diligence, entitlements, CEQA compliance, land use litigation and project implementation.

Entitlements & CEQA Compliance – Advises on CEQA compliance and obtaining entitlements and approvals for controversial development projects, with a focus on retail, commercial and industrial projects.

Public Lands – Advises on compliance with public land laws; represents landowners before the Interior Board of Land Appeals (IBLA); and litigates public lands cases in district court.

Land Use Litigation – Represents developers in cases brought under CEQA, planning and zoning laws, housing laws and the Subdivision Map Act.

Real Estate Litigation – Litigates real estate matters, including actions involving quiet title, partition, eminent domain, easements and HOA disputes.

Experience

Alex's recent and representative matters include:

Entitlements & CEQA Compliance:

- Represented developer in obtaining land use entitlements and CEQA compliance for industrial cannabis project in Santa Rosa.
- Successfully obtained entitlements and CEQA approval for data center project in Santa Clara.
- Successfully obtained entitlements and CEQA approvals for major retailer on projects throughout Northern California.
- Successfully obtained entitlements for a new preschool in San Francisco.
- Successfully obtained entitlements and approvals for retail project in Union Square, San Francisco.

Public Lands

- Representing energy company in obtaining conveyance of federally-reserved mineral rights in property in Imperial County, California.
- Defended telecommunications company in multiple cases before the Interior Board of Land Appeals (IBLA) concerning alleged trespasses on public lands throughout the western U.S.
- Represented telecommunications company in litigation in D.C. District Court challenging application of Bureau of Land Management (BLM) trespass regulations.
- Represented homebuilder in mineral trespass proceedings brought by BLM in connection with large residential development in Las Vegas, Nevada.

Land Use Litigation

- Successfully defended developer at trial and on appeal in CEQA challenge to a 3.5 million square foot office and retail project in downtown San Jose. *Preservation Action Council v. City of San Jose* (2023) 91 Cal.App.5th 517.
- Representing developer in multiple CEQA cases challenging hotel projects in Los Angeles.
- Representing developer in Endangered Species Act litigation, challenging the Fish & Wildlife Service's adoption of a habitat conservation plan.
- Successfully defended CEQA challenge to retail project in Chico at trial and on appeal. *Chico Advocates for a Responsible Economy v. City of Chico* (2019) 40 Cal.App.5th 839.
- Prevailed on appeal in litigation challenging development moratorium on new charter schools. *California Charter Schools Association v. City of Huntington Park* (2019) 35 Cal.App.5th 362.
- Defended major retailer in CEQA and land use cases on projects throughout northern and southern California.
- Represented developer in CEQA litigation and appeal for mixed-use project in Fremont.
- Successfully defended challenge to residential project in *Milpitas. May v. City of Milpitas* (2013) 217 Cal. App.4th 1307.

Real Estate Litigation

- Representing property owner in partition action.
- Successfully represented retailer in quiet title action brought under the McEnerney Act in San Francisco.
- Represented retailer in eminent domain proceeding in Fresno relating to California's high speed rail project.
- Represented homeowners in litigation against their HOA seeking to quiet title to disputed parking areas and roof decks; obtained favorable settlement confirming title to the disputed areas.

Articles

- "Confession of Error by Administrative Agencies," *Washington and Lee Law Review*, (2010).

Real Estate, Land Use and Environmental Law Blog Posts

- "Supreme Court Weighs Whether to Clarify Camping Bans and Homelessness Policies," November 16, 2023
- "Momentum for Streamlining and Subsidizing Office-to-Residential Conversion Projects Builds in Sacramento and San Francisco," March 10, 2023

- "Biden Revisions to the NEPA Regulations Now in Effect," May 23, 2022
- "Association of Bay Area Governments Formally Denies Nearly All Regional Housing Needs Allocation Appeals," November 17, 2021
- "New Bay Area COVID-19 Orders Ease Restrictions on Construction and Impose New Safety Protocols," May 5, 2020
- "State-Level Rent Relief Due to COVID-19 Impacts: California Governor Newsom's Executive Order Explained," April 8, 2020
- "New Shelter-in-Place Orders Dramatically Restrict Bay Area Construction, Including Residential Projects," April 2, 2020
- "San Francisco Temporarily Bans Evicting Residential and Commercial Tenants Impacted by COVID-19 Epidemic," April 2, 2020
- "District Court Provides Guidance On Climate Change Analysis Under NEPA," April 15, 2019
- "Five Years in the Making: California is One Step Closer to a Comprehensive Update to the CEQA Guidelines," January 7, 2019
- "California Supreme Court Announces New Test for CEQA "Unusual Circumstances" Exception," March 6, 2015
- "Corps Issues New Compensatory Mitigation Guidelines for California," January 21, 2019
- "District Court Strikes Down Regulation of Purely Intrastate Species on Private Land," November 11, 2014
- "Utility Pole Not A Point Source Under The Clean Water Act," April 16, 2013
- "River Segment Must Be Navigable In Fact For Commercial Purposes At Statehood For State To Obtain Title To Riverbed Under The Equal Footing Doctrine," March 5, 2012
- "New And Revised Nationwide Permits For Dredge And Fill Activities," February 22, 2012
- "OPR Releases Proposed Guidelines for Streamlining CEQA Review of Infill Projects," February 7, 2012
- "Superior Court Strikes Down Numeric Effluent Limits in California's Construction General Permit," January 5, 2012

Media Mentions

New lawsuit challenges funding for Delta water tunnel
Daily Journal, 01.23.2024

Speaking Engagements

Select Conference on Industry Litigation, Nov. 23, 2019, panelist on CEQA updates.

An Update on Retail Legal Trends Webinar, Sep. 17, 2019, presenting on "Trends in Retail Mixed Use Projects."

ACC-SFBA & Sheppard Mullin Real Estate Series, Jun. 26, 2013, presenting on "The Art of the Deal."

Events

The Art of the Deal
ACC-SFBA & Sheppard Mullin Real Estate Series
06.26.2013

Memberships

NAIOP SF Bay Area, Government Affairs Committee

Practices

Real Estate, Energy, Land Use & Environmental
Land Use Litigation
CEQA Documentation and Defense
Public-Private Partnerships
Wetlands and Endangered Species

Education

J.D., Washington and Lee University School of Law, 2011, *magna cum laude*, *Order of the Coif*, *Washington and Lee Law Review*
B.S., University of Virginia, 2006

Admissions

California
U.S. District Court, Northern District of California