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Landmark RW&G Litigation

Richards, Watson & Gershon has significantly influenced the development of the law by successfully representing our clients in federal and state appellate court. In commemoration of our 50th Anniversary, we proudly highlight some of the landmark litigation handled by our firm:

Gonsalves v. City of Dairy Valley, 265 Cal.App.2d 400 (1968). The California Court of Appeal upheld the issuance by Dairy Valley (now known as Cerritos) of a use permit for a fertilizer plant. The court ruled that the lawsuit was properly dismissed based on the motion filed by Glenn R. Watson following the plaintiffs' opening statement!

Curtis v. Board of Supervisors, 7 Cal.3d 942 (1972). The California Supreme Court ruled that the principle of "one person, one vote" applies to an incorporation election. Shortly after this decision, the City of Rancho Palos Verdes was formed.

Good Government Group of Seal Beach, Inc. v. Superior Court, 22 Cal.3d 672 (1978). The California Supreme Court determined that the preferred method of resolving libel claims is through a motion for summary judgment, rather than a costly and time-consuming trial.

Carson Mobilehome Park Owners' Assn. v. City of Carson, 35 Cal.3d 184 (1983). The California Supreme Court unanimously upheld Carson's mobilehome rent control ordinance.

Roberts v. City of Palmdale, 5 Cal.4th 363 (1993). The California Supreme Court construed the Brown Act to allow public lawyers to provide confidential memoranda to their clients.

California Rifle & Pistol Assn. v. City of West Hollywood, 66 Cal.App.4th 1302 (1998). The California Court of Appeal rebuffed a well-funded challenge by national gun interests and upheld West Hollywood's ordinance banning the sale of "Saturday Night Special" handguns.

City of Barstow v. Mojave Water Agency, 23 Cal.4th 1224 (2000). The California Supreme Court established a court-regulated management plan to protect the water resources of the Mojave Basin, an area the size of the State of Connecticut, and adjudicated water rights in that area.

Carson Harbor Village, Ltd. v. Unocal Corp., 270 F.3d 863 (9th Cir. 2001). The Ninth Circuit Court of Appeals declared that "passive migration" of contaminants across property does not constitute a "disposal" for purposes of imposing liability under the Comprehensive Environmental Response, Compensation and Liability Act.

In our next fifty years, we will continue our longstanding commitment to help our clients achieve their goals. Indeed, the firm is presently

co-counsel in litigation pending before the United States Supreme Court. The case, **Abrams v. City of Rancho Palos Verdes**, concerns the ability of a private party to obtain civil rights damages and attorney's fees from a public entity found to be in violation of the Telecommunications Act of 1996. Oral argument will take place in January, and a decision is expected no later than June 2005. We are particularly proud of the fact that Jeffrey Lamken will argue the matter on behalf of the city. Mr. Lamken is the son of Mark Lamken, retired RW&G Shareholder and Of Counsel with the firm.

PUBLIC LAW

Court of Appeal Invalidates an Affirmative Action Program

BY ROXANNE M. DIAZ

In *C&C Construction, Inc. v. Sacramento Municipal Utility District*, 122 Cal.App.4th 284 (2004), the California Court of Appeal considered for the first time the federal funds exception of Proposition 209. The court ruled that the Sacramento Municipal Utility District (SMUD) did not provide substantial evidence that it would lose federal funding if it failed to use race-based measures for selecting contractors. Accordingly, SMUD’s affirmative action program was invalidated.

BACKGROUND

After California voters passed Proposition 209 in 1996, SMUD conducted a disparity study to update an earlier study that found a statistically significant race-based disparity among its contractors. The results of the updated study showed that a significant disparity continued to exist among certain subsets of minority contractors. To remedy the disparity, SMUD implemented an affirmative action program to provide a price advantage and evaluation credit to contracting firms owned by minority-owned business enterprises (MBEs). The program also required contractors to engage in broad outreach procedures and to document good faith efforts to meet the affirmative action requirements and minority subcontractor participation goals. Contractors that failed to do so were deemed nonresponsive and their bids were rejected.

C&C Construction, a non-MBE, brought suit against SMUD alleging a violation of Proposition 209. Among other things, Proposition 209 prohibits public entities from granting race-based preferential treatment in

public contracting. SMUD defended its affirmative action program as being permissible under the “federal funds exception” of Proposition 209. This exception allows public entities to grant preferential treatment if necessary to establish or maintain eligibility for a federal program.

THE COURT’S DECISION

The primary issue in the case was whether SMUD’s race-based measures were necessary to maintain its federal funding from three federal agencies. The court held that SMUD was required to demonstrate, by substantial evidence, that the failure to implement a race-based affirmative action program would subject the district to the loss of federal funds. If this was established, SMUD would have to demonstrate that the race-based measures were narrowly tailored to minimize racial discrimination.

The court first analyzed the federal regulations relied upon by SMUD. While several of the regulations did require federal funding recipients to take “affirmative action” to remove or overcome the effects of prior discrimination, none of them expressly required that the measures be race-based.

Second, because no law or regulation required that SMUD establish race-based measures, the court rejected the district’s argument that its current affirmative action program was necessary to maintain federal funding. The court noted that when SMUD conducted its disparity study, it failed to cite to any particular federal regulation requiring race-based remedies. Moreover, the court criticized SMUD for ignoring the Proposition 209 mandate to prefer race-neutral remedies over race-based remedies and for not considering whether race-neutral alternatives were available to remedy the disparities in contracting. “SMUD cannot impose race-based affirmative action unless it

can establish that it cannot remediate past discrimination with race-neutral measures.” 122 Cal.App.4th at 311.

CONCLUSION

This case is the first appellate court decision interpreting the federal funds exception of Proposition 209. The case establishes that a public agency using this exception must demonstrate, by substantial evidence, that federal law requires the agency to engage in a race-based affirmative action program or else be subject to a loss of funds. If race-based measures are required, the public agency must narrowly tailor its remedy to conform to the federal regulation. This means that discrimination beyond that which is necessary to maintain federal funding is prohibited.

FOR ADVICE FROM RW&G CONCERNING PROPOSITION 209 ISSUES, PLEASE CONTACT ROXANNE M. DIAZ OR ANY OF THE LAWYERS IN THE FIRM’S PUBLIC LAW DEPARTMENT.

WATER

California Would Benefit from the Creation of Water Courts

BY JAMES L. MARKMAN

The purpose of this article is to advocate the legislative creation of special courts (water courts) presided over by water judges. Water courts have been established in other states, notably Montana and Colorado.

Colorado’s extensive water court system and its functions have been described as follows: “The district courts of the counties within a water division collectively acting through the water judge have exclusive jurisdiction of water matters within the division, and no judge other

“Water matters are only those matters specified by law to be heard by the water judge of the district courts...”

than the one designated as a water judge may act with respect to water matters in that division. Water matters are only those matters specified by law to be heard by the water judge of the district courts, including determinations of water rights and conditional water rights, determinations that conditional water rights have become water rights by reason of the completion of the appropriations, determinations with respect to changes of water rights and approvals of plans of augmentation, applications for findings of reasonable diligence, approvals of proposed or existing exchanges of water, determinations of rights to nontributary

groundwater outside of designated groundwater basins, and approval to use water outside the state pursuant to [West’s Colorado Revised Statutes Annotated] §§ 37-81-101.

“The Colorado Supreme Court has held that the water judge’s exclusive jurisdiction extends to review of the rules and regulations of the state engineer, and it has stated that nontributary water and abandonment of a water right are included within the term water matters. In addition to exclusive jurisdiction over water matters, the water judge, as a district court judge, has jurisdiction over other matters implied in article VI, § 9(1) of the Colorado Constitution and West’s C.R.S.A., § 37-92-203(1), and has the power to decide issues affecting water matters. As the meaning of water matters is litigated, more items will undoubtedly be included within it. The water judges have no jurisdiction, however, over matters involving designated ground water. These are committed exclusively to the administrative agencies and courts prescribed by the Colorado Ground Water Management Act.” Stricklin, Cathy, *West’s Colorado Practice Series, Methods Of Practice*, A Group of Colorado Practice Experts, Part VI. Real Estate Transactions, Chapter 76. Water Law, Wayne B. Schroeder, Sections 76.3, 76.4 (1998).

The rationale for the creation of specialized water courts to adjudicate groundwater rights and disputes certainly applies in California, a state lacking administrative machinery to resolve or aid in resolving such disputes. California is also a state that depletes its groundwater resources on a continuous basis.

The court system offers the only available mandatory process for adjudicating groundwater disputes. In multiple-party circumstances often involving hundreds of producers and claims to production rights, a party seeking

adjudication is able to compel all producers to participate in the process and thereby achieve long-term resource protection through the establishment of a court-supervised management plan (often referred to as a physical solution). However, court adjudications are often more time-consuming and expensive than should be the case, at least in part due to the fact that judges dealing with these matters often lack any prior exposure to the water rights legal literature, which is replete with cases exceeding fifty pages. In addition, parties are able to move the cases from county to county and from judge to judge using available legal devices, thereby generating delays and costs.

The pending Santa Maria Basin case (*Santa Maria Valley Water Conservation District v. City of Santa Maria, et al.* and related cross-actions, lead case No. CV 770214, Santa Clara County Superior Court) presents an unfortunate example of this phenomenon as reflected in the following chronology:

July 1997: case filed in San Luis Obispo County;

July 1997–November 1997: case pending before Judge Charles A. Piccuta;

November 1997: case transferred to Santa Clara County;

November 1997–February 1999: case heard in Santa Clara County Law and Motion Departments before Judges Richard C. Turone and John F. Herlihy;

August 1998–March 1999: cross complaints seeking water rights declarations and the imposition of a physical solution are filed by major public water purveyors;

June 1999: case assigned for all purposes to Judge Socrates Manoukian;

June 1999: Judge Manoukian is peremptorily challenged and the case is assigned for all purposes to Judge Robert A. Baines;

June 1999–July 1999: over 15 quiet title actions are filed in San Luis Obispo and Santa Barbara County by overlying agricultural water producers seeking a declaration of paramount rights to produce water from the Santa Maria Basin and to control storage space therein;

April 2001: Judge Baines is peremptorily challenged when a new opportunity to do so is created by an order consolidating the above-referenced quiet title actions with the main action in Santa Clara County;

April 2001: the case is assigned to Judge Conrad Rushing for all purposes;

February 2002: Judge Rushing is elevated to the Court of Appeal and the case is assigned to Judge Jack Komar for all purposes.

It is instructive to compare the efficient structure established in Colorado for dealing with water rights issues with the manner in which the Santa Maria Basin case has been moved and delayed by parties making use of California’s civil procedure machinery. It seems clear that if California water courts were established, decisions would be rendered more quickly. If those courts are manned by persons familiar with applicable legal principles and precedents, those decisions would likely be more legally sound and less likely to generate appeals. That rationale is already employed in superior courts that establish California Environmental Quality Act panels, writs and receivers departments, and other specialized court rooms in which experts preside.

FOR ADVICE FROM RW&G CONCERNING WATER RIGHTS ISSUES, PLEASE CONTACT JAMES L. MARKMAN OR ANY OF THE LAWYERS IN THE FIRM’S WATER RIGHTS/WATER LAW PRACTICE GROUP.

ENVIRONMENTAL LAW

Governor Signs Bill Providing Liability Relief to Purchasers of Brownfields Sites

BY JOHN J. HARRIS

Among the biggest obstacles to the development of contaminated properties or “brownfields sites” by redevelopment agencies and developers has been the potential liability under California’s environmental laws that attaches upon acquisition, regardless of whether the purchaser caused the contamination. Assembly Bill 389, titled the “California Land Reuse and Revitalization Act of 2004” (the “Act”), authored by Assembly Member Cindy Montañez and Senators Gilbert Cedillo and Byron Sher, and signed by the Governor on September 23, provides liability relief both to purchasers of contaminated properties and owners of properties adjoining contaminated sites.

BACKGROUND

The Act began its life in the Legislature as Senator Cedillo’s Senate Bill 493. It was primarily intended to extend the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) liability protections under the 2002 federal “Small Business Liability Relief and Brownfields Revitalization Act” to purchasers of California brownfields sites. It also seeks to provide broader immunities under California environmental laws if the purchaser actually cleans up the site under the supervision of a California regulatory agency.

Under CERCLA and similar California laws, the current owner of a property or a buyer can potentially be held financially responsible for the remediation of contamination found on the property, even if that owner or buyer did not dispose of any hazardous substances on the property. The liability protections under the 2002

federal amendments to CERCLA, however, did not modify a property owner’s potential liability under similar California environmental laws, such as under the California Hazardous Substances Account Act, the Porter-Cologne Water Quality Control Act, or common law nuisance and trespass claims. The Act is intended to close that liability gap.

The terms of the Act are quite complex and require careful study. In summary, the Act

...the current owner of a property or a buyer can potentially be held financially responsible for the remediation of contamination found on the property...

amends the Health and Safety Code to provide that (1) an “innocent landowner,” (2) a “bona fide purchaser,” or (3) a “contiguous property owner” will not be liable for response costs or damage claims under specified state laws for contamination on, under, or adjacent to that property, if that person performs certain environmental assessment and remedial actions under regulatory supervision. The Act also prevents a regulatory agency from later requiring additional remedial actions by an innocent landowner, a bona fide purchaser, or a contiguous property owner who has already taken the necessary steps to qualify for the statute’s immunities.

QUALIFYING FOR THE IMMUNITIES

The liability relief under AB 389 is not a “free pass.” To qualify for the immunities, a purchaser or other person seeking the immunities must first

appropriately investigate the environmental condition of the property prior to the purchase. If contamination is found, that person must then take appropriate steps to remediate the contamination, as directed by one of California’s environmental regulatory agencies.

The first thing a purchaser (or other person seeking to qualify for the immunities) must do is enter into an oversight agreement with a regulatory agency and submit a proposed site assessment plan. Upon approval of the plan,

If contamination is found, that person must then take appropriate steps to remediate the contamination...

a Phase I Environmental Assessment must be conducted in conformance with American Society for Testing and Materials (ASTM) Standard E1527-00. Once the U.S. Environmental Protection Agency’s recently finalized “All Appropriate Inquiries” regulations (40 C.F.R. Part 312) become effective, those standards will supersede the ASTM standard for site assessments. For residential properties, all that is necessary is a site inspection and title search. A report of the site assessment is then submitted to the supervising agency. The agency then determines, based on the report, whether a response action is necessary, taking into account the intended use of the property.

If contamination is discovered as a result of an environmental site assessment, the innocent landowner, bona fide purchaser, or contiguous property owner must exercise “appropriate care.” In defining “appropriate care,” the Act

includes the performance of a response action that meets all of the following conditions: (1) the response action must be determined by an agency to be necessary to prevent an “unreasonable risk” to human health or the environment; (2) the response action must be performed in accordance with a written plan approved by the agency; and (3) the approved plan must include a provision for oversight and verification of the response action by the agency.

The owner acquiring the property must also give all legally-required notices if contamination is discovered at the site, must cooperate with regulatory agencies, and must comply with any land use controls established with respect to the site, such as restrictions on the use of the property or maintenance of remedial facilities.

A property owner who completes all of these steps will be entitled to immunities from claims under specified “Applicable Law,” such as nuisance claims, actions under the Fish and Game Code, the Water Code, the Underground Storage Tank and Aboveground Storage Tank provisions of the Health and Safety Code, the Hazardous Substances Account Act, and Health and Safety Code Section 25401 *et seq.* With certain exceptions, the immunities will also apply to lawsuits by state and local agencies as well as third parties, either directly or by way of contribution actions. These immunities attach upon approval of a remedial action plan by the supervising agency and remain in effect unless the property owner receives a written notice of non-compliance from the agency. The Act also bars a regulatory agency from requiring the property owner to conduct additional remedial action, unless the agency is unable to compel other potentially responsible parties to take the action and the conditions on the property endanger human health or the environment. One notable provision allows a property owner who has established immunity to recover its

attorney’s fees in a contribution or cost recovery action in connection with the contamination. AB 389 also provides for a regulatory agency lien on other property or other assurance of payment for unrecovered response costs.

At the insistence of the California Redevelopment Association (CRA), the Act includes important exceptions to the scope of the proposed immunities from the standpoint of redevelopment agencies. The Act does not provide immunity from actions by redevelopment agencies under the Polanco Redevelopment Act. Furthermore, an agency acquiring a property or taking it by eminent domain can consider the impact on the value of the property resulting from contamination at the site. Also, the bill does not modify or limit the existing authority of a state or local agency to impose a condition on the issuance of a discretionary permit relating to the development, use or occupancy of any site. In other words, a city would not be restricted from imposing clean up requirements as a condition for developing a property.

MISCELLANEOUS PROVISIONS

The Act requires the Department of Toxic Substances Control, the State Water Resources Control Board, and the Regional Water Quality Control Board to establish form agreements to implement its provisions.

Another important element of the Act is the requirement that the agencies expand their websites to allow access to information about brownfields and other cleanup sites through a single website.

A.B. 389 will remain in effect for only five years, until January 1, 2010, unless the Legislature further extends it prior to that date. However, the immunities obtained under the Act will continue after January 2010.

CONCLUSION

In passing A.B. 389, the Legislature has attempted to remove a serious impediment to redevelopment of abandoned and neglected urban areas by trying to close the liability gap between California and the federal law. However, the Act is not perfect, and the CRA will be involved in future efforts to address any unresolved issues raised by the Act and to implement its terms. The CRA expects to continue participating in the diverse efforts to reclaim brownfields and to strengthen the tools available to local agencies.

FOR ADVICE FROM RW&G CONCERNING ENVIRONMENTAL LAW ISSUES, PLEASE CONTACT JOHN J. HARRIS OR ANY OF THE LAWYERS IN THE FIRM’S ENVIRONMENTAL LAW, OIL AND GAS DEPARTMENT.

REAL ESTATE TRANSACTIONS

Owen P. Gross successfully represented the San Diego National Bank in drafting and negotiating the loan commitment and documents for a \$154,975,000 acquisition and development loan. The acquired property will be developed into approximately 1,250 single-family residences in Azusa, California.

LITIGATION VICTORIES

Rochelle Browne, Carol Lynch and T. Peter Pierce, along with co-counsel, successfully petitioned the United States Supreme Court to review the case *Abrams v. City of Rancho Palos Verdes*, 354 F.3d 1094 (9th Cir. 2004). The Supreme Court is expected to hear oral argument in January 2005, and a decision is expected no later than June 2005. The case raises the question whether violations of the Telecommunications Act of 1996 may be redressed through an action for civil rights damages and attorney’s fees.

Robert C. Ceccon and Matthew B. Finnigan obtained summary judgment in *Moarn v. City of Brea*. Plaintiffs filed a wrongful death action alleging that a roadway constituted a dangerous condition of public property. The city contended that the roadway was owned and controlled by the State of California. Plaintiffs alleged that the city controlled the roadway because it provided adjacent lighting and because its police officers patrolled the roadway. The court found that the conduct of the city did not constitute “control” under the Government Code.

Roy A. Clarke obtained dismissal of an unfair labor practice charge before the Public Employment Relations Board (“PERB” or “Board”) on behalf of a city client. A union representing miscellaneous employees appealed to the full Board the city’s designation of confidential employees and the resulting exclusion of those employees from the bargaining group represented by the union. Among other issues, PERB determined that there was no legal basis for the union’s argument that the limitations period should run from the date the union took over as exclusive representative of the unit from a prior union. Instead, the limitations period for the charge began to run on the earlier date that the city made the designation

of confidential status—some 20 years before the charge was filed.

Roy A. Clarke helped a city and its police department uphold a performance improvement plan (“PIP”) through an administrative appeal process required under the Public Safety Officers Procedural Bill of Rights Act (“Act”). While not discipline, the PIP constituted “punitive action” under Section 3303 of the Act and *Otto v. Los Angeles Unified School Dist.*, 89 Cal.App.4th 985 (2001), triggering the administrative appeal right under Section 3304(b). Following a hearing, the PIP was upheld in full.

Juliet E. Cox obtained summary judgment in favor of the City of Fairfield against a wrecking yard that was illegally operating in a planned residential development.

Michael P. Coyne obtained summary judgment in favor of the City of Buena Park in a case in which the plaintiff claimed that police unlawfully arrested him and unlawfully held him in jail more than a year. Michael also obtained summary judgment for Buena Park in a case in which the plaintiff claimed that police unlawfully arrested him and unlawfully towed his vehicle.

CALPELRA CONFERENCE

RW&G was again a corporate sponsor at the annual training conference of the California Public Employers Labor Relations Association (CALPELRA) in Monterey on November 10–12, 2004. The following firm lawyers made presentations for the conference:

Roy A. Clarke presented a paper entitled “AB 205: An Employer’s Overview of the California Domestic Partner Rights and Responsibilities Act of 2003.” A copy of the paper is available by request to rclarke@rwglaw.com.

Amy Greyson presented a paper entitled “Fitness for Duty: A Practical and Legal Approach.” A copy of the paper is available by request to agreyson@rwglaw.com.

PRESENTATIONS AND APPOINTMENTS

Terence Boga has completed a two-year term as Editor of the Public Law Journal published by the Public Law Section of the State Bar of California. Terence is now the Chair-Elect of the Section’s Executive Committee.

Lisa Bond made a presentation entitled “Contamination! They Want To Test. What Do You Do?” at the 2004 California Cleaners Association’s Annual Conference on August 27, 2004 in Long Beach. Lisa also served as moderator for the panel: “Down and Dirty with Brownfields” at the 2004 Environmental Law Conference on October 23 in Yosemite. Lisa, as Chair of the Programs Committee for the Los Angeles County Bar Association Environmental Law Section, organized the 2004 Fall Super Symposium held on November 12, 2004 in Santa Monica.

William P. Curley III has been appointed a member of the CLE/Events Committee for the Riverside County Bar Association.

Regina N. Danner made a presentation entitled “What Does the Future Hold for Redevelopment Agencies in Light of the Pending Supreme Court Cases?” to the Bay Area City Attorney’s Association on November 19, 2004 in Pleasanton.

Roxanne M. Diaz made a presentation entitled “The Brown Act and the Public Records Act” at the City Clerks Association of California Nuts & Bolts Education Seminar on July 30, 2004 in Manteca.

Kevin G. Ennis published an article entitled “Top 10 Things You Should Know About Contracting and the Law” in the October 2004 issue of *Western City Magazine*. This article focused on public policy principles and ethical issues

involved in local agency contracting, and was prepared in coordination with the League of California Cities’ Institute for Local Self Government. Kevin also presented a paper entitled “Trends in California Land Use Law: Selected Legislation and Court Decisions from 2001 to the Present” at the Annual Convention of the California State Bar on October 7, 2004 in Monterey. A copy of the materials is available by request to kennis@rwglaw.com.

Ginetta L. Giovinco and **T. Peter Pierce** presented a paper entitled “Current Issues in Elections Law: Challenging the Validity of an Initiative Ballot Measure” at the Fall 2004 League of California Cities Annual Conference in Long Beach. A copy of the paper is available by request to ggiovinco@rwglaw.com or ppierce@rwglaw.com.

Amy Greyson presented a paper entitled “Public Sector Labor and Employment Issues” at the State Bar Annual Conference on October 7, 2004. Amy also co-presented “What You Need to Know About Public Records and Open Meetings in California” at the Lorman Education Services Workshop on September 21, 2004. A copy of the materials is available by request to agreyson@rwglaw.com.

John J. Harris published an article entitled “Governor Signs Bill Providing Relief to Purchasers of Brownfields Sites: AB 389” in the November 2004 issue of the California Redevelopment Association’s *Redevelopment Journal*. An abridged version of the paper appears in this issue. John also made a presentation entitled “The Role of Redevelopment Agencies in Brownfields Development” at the Professional Environmental Marketing Association (PEMA) Seminar on October 21, 2004 in Los Angeles. John also made a presentation entitled “2004 Legislative and Regulatory Changes Affecting the Environ-

mental Assessment and Remediation of Contaminated Properties” at the International Right of Way Association (IRWA) Conference on October 26, 2004 in Montebello. John also made a presentation entitled “The Impact on Oil Producers of 2004 Legislative and Regulatory Changes Relating to the Environmental Assessment and Remediation of Contaminated Properties” at the 22nd Annual West Coast Landmen’s Institute on October 14, 2004 at Shell Beach. A copy of the materials is available by request to jharris@rwglaw.com.

Robin D. Harris participated in a panel presentation on “Financing Redevelopment” at the California Redevelopment Association’s Introduction to Redevelopment Fall 2004 Conference on September 29.

James L. Markman presented a paper entitled “California Would Benefit from the Creation of Water Courts” at the Continuing Legal Education California Water and Law Policy Conference on October 29, 2004 in San Diego. An abridged version of the paper appears in this issue. A copy of the unabridged paper is available by request to jmarkman@rwglaw.com.

T. Peter Pierce made a presentation entitled “The Impact of the Telecommunications Act of 1996 on Local Zoning Control Over Cellular Telephone Towers and Antennas” to the Orange County City Attorneys Association on October 21, 2004 in Fountain Valley. A copy of the paper is available by request to ppierce@rwglaw.com.

T. Peter Pierce and **David M. Snow** participated in a panel presentation on “Telecommunications Issues” at the American Planning Association—California Chapter on October 18, 2004 in Palm Springs. A copy of the materials is available by request to ppierce@rwglaw.com or dsnow@rwglaw.com.

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