FEBRUARY 2025

UT LAW CLE

TEXAS Law
The University of Texas at Austin
School of Law

CALIFORNIA SPOTLIGHT: REAL ESTATE PLANNING, DILIGENCE, AND EXECUTION

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PREVIEW

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Goals for Program and Learning Outcomes

- Discuss common real estate topics in California renewable energy development.
- Review how California renewable energy site control documents differ from standard real estate transactional contracts.
- Navigate the California diligence process, both pre- and post-contract execution.
- Evaluation of various “curative” actions commonly used in California.

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CA Site Control Documents

- **Site Control Agreements.**
  - Purchase Agreements/Deeds.
  - Lease Agreements.
  - Easement Agreements.
  - License Agreements.
  - Franchise Agreements / Encroachment Permits.
  - BLM Right-of-Way Grants.

PREVIEW

CA Site Control Documents – Cnt'd

- Purchase Agreements.
  - Default in CA is a grant deed. Warranty and special warranty deeds are rarely used.
  - CA. Civ. Code 1542 – standard release of seller for known/unknown claims. Most sophisticated Seller's will require.
  - CA subdivision map act – transaction must comply with the SMA or can be held invalid.
  - CA is a title company/escrow state.
  - Recorder's can be very persnickety. Follow the rules regarding form of deed and disclosures.

CA Site Control Documents – Cnt'd

RECORDING REQUESTED BY and
WHEN RECORDED RETURN IT
AND ALL TAX STATEMENTS TO:

_____
_____
_____
_____
_____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: _____

THE UNDERSIGNED GRANTOR(s) DECLARE(s)
DOCUMENTARY TRANSFER TAX is $ _____ CITY TAX $ _____
__ computed on full value of property conveyed; or
__ computed on full value less value of liens or encumbrances remaining at time of sale.
__ Unincorporated area: __ City of _____, and

PREVIEW

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CA Site Control Documents – Cnt'd

- LEASE AGREEMENTS.
  - SOLAR LEASES ARE EXEMPT FROM SMA.
    - IF SUBJECT TO AGENCY DISCRETIONARY ACTION (I.E., CUP, CEQA).
  - MEMO OF LEASE SHOULD BE RECORDED ASAP.
  - CA 35-YEAR RULE FOR LEASE TERM.
    - GENERALLY CONSIDERED TO COMMENCE WITH EXCLUSIVE USE OF THE PREMISES (I.E., DEV TERM).
    - LEASE TERMS OF 34 YEARS AND 11 MONTHS.
    - **DO NOT BREAK THIS RULE WITHOUT UNDERSTANDING THE CONSEQUENCES**.
  - SOLAR LEASE IMPROVEMENTS CURRENTLY EXEMPT FROM PROP 13 TAX TREATMENT.
    - THIS IS SUNSETTING ON JANUARY 1, 2027 WITH POTENTIALLY SIGNIFICANT IMPACT.
  - COMMON FOR SOLAR LESSEES TO BE RESPONSIBLE FOR ANY INCREASE IN BASE PROPERTY TAX UNDER PROP 13.

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