

The background features a dark blue gradient with several circular gauges and arrows. The gauges have numerical scales ranging from 40 to 260. The arrows are white and point in various directions, some following the circular paths of the gauges. The overall aesthetic is technical and modern.

# LAND USE LITIGATION UPDATE, SPRING 2024

JOHN M. LUEBBERKE

OF COUNSEL

HERUM CRABTREE SUNTAG

# SACKETT V. EPA

The Supreme Court narrowed federal jurisdiction over “waters of the United States.” However because state jurisdiction remains broad, it remains to be seen what practical changes (if any) the ruling will have in California.

# DISCOVERY BUILDERS V. CITY OF OAKLAND

Absent a valid Development Agreement, it still may be possible to impose new development impact fees regardless of lesser agreements to the contrary.

.

# SNOWBALL WEST INVESTMENTS V. CITY OF LOS ANGELES

In applying Government Code § 65589.5(j)(4), a city's exercise of discretion in defining what zoning designations are "consistent" with the density expectations presented in the General Plan will be respected, even when the result is development only being permitted at a density far below the maximum provided for in the General Plan.



# YES IN MY BACK YARD V. CITY OF CULVER CITY

The Housing Crisis Act of 2019 [Gov't Code § 66300, et seq.] will be interpreted broadly and in accord with its stated terms such that new regulations that have the effect of reducing a city's "housing capacity" below that which was possible on January 1, 2018 will not be permissible.

# RIDDICK V. CITY OF MALIBU

When a city's interpretation of a provision of its code is contrary to the applicable unambiguous plain language, a court need not defer to the city's interpretation.

# SHEETZ V. COUNTY OF EL DORADO

The California rule that exactions approved legislatively (generally applicable impact fees) are not subject to the rigorous Nollan and Dolan standard has been overturned by the Supreme Court.

The Court left open the question as to whether legislatively adopted impact fees will be subject to the exacting Nollan and Dolan standard or some less onerous standard. This question will be one for the California courts to address in this and subsequent cases.

# PLANNING AND CONSERVATION LEAGUE V. DEPARTMENT OF WATER RESOURCES

The Court of Appeal rejected the petitioners' claims that amendments extending certain State Water Project contracts to 2085 violated the Delta Reform Act or the Public Trust Doctrine.



# CAVE LANDING LLC V. CALIFORNIA COASTAL COMMISSION

The court upheld the authority of the California Coastal Commission to decide “de novo”, appeals of coastal development permits.

# MARTINEZ V. CITY OF CLOVIS

- 1) HCD determinations are generally given deference, but not when the determinations are unexplained and are not supported by evidence in the record.
- 2) Violations of the duty to affirmatively further fair housing are enforceable by ordinary writ of mandate procedures.

QUESTIONS?

