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PRACTICE BRIEF · REAL PROPERTY

Recent Developments in California Real Property Law: 2024-2025

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California real property law underwent significant shifts during the 2024-2025 period. From the first contested applications of SB 9 lot-splitting authority to a landmark Supreme Court decision reshaping homelessness enforcement, from wildfire insurance disputes to post-pandemic commercial lease litigation, property owners, developers, and tenants confronted a rapidly evolving legal landscape. This article surveys five of the most consequential developments and their practical implications for California property stakeholders.

I. SB 9 Lot Split and CEQA Challenge Outcomes

The California Housing Opportunity and More Efficiency (HOME) Act, codified at Government Code sections 65852.21 and 66411.7, became operative on January 1, 2022, establishing a statewide right to ministerially approve both duplexes and urban lot splits on parcels zoned for single-family residential use. By 2024, the first meaningful wave of legal challenges to SB 9 implementation had materialized, and the results have begun to define the statute's practical boundaries.

The statutory mechanics of SB 9 (Gov. Code, §§ 65852.21, 66411.7) are set out in the 2023–2024 review. This section addresses how challenges to SB 9 approvals resolved during the 2024–2025 period.

Critically, both approvals are ministerial, not discretionary. This distinction carries legal significance: ministerial approvals are categorically exempt from CEQA review under Public Resources Code section 21080(b)(1). Several cities tested this boundary by imposing what they character-

ized as "objective standards" that functioned as discretionary review. The Attorney General's office issued enforcement letters to multiple noncompliant jurisdictions, including cities that required conditional use permits, design review board approval, or traffic impact studies for SB 9 applications — all of which reimpose the discretionary review that the Legislature eliminated.

The practical constraints of SB 9 have also come into sharper focus. The statute requires minimum lot sizes of 1,200 square feet for each resulting parcel after a split, imposes a three-year owner-occupancy requirement for lot splits (though not for duplex construction alone), and mandates a deed restriction prohibiting the sale of split lots for short-term rental use. Several early applicants discovered additional barriers: existing easements that preclude the required access to resulting parcels, utility infrastructure inadequate to serve increased density, and — in coastal zones — potential conflicts with the Coastal Act, which the Legislature expressly preserved.

> *"SB 9 created a statewide entitlement, but it did not preempt every local land-use authority. The question in most disputes is whether a particular local requirement functions as a genuinely objective development standard or as a pretext for discretionary denial."*

II. Tenant Protection Expansion Under AB 1482 and SB 567

The Tenant Protection Act of 2019 (AB 1482), codified at Civil Code sections 1946.2 and 1947.12, established statewide rent caps and just-cause eviction protections but contained significant exemptions — most notably for single-family homes and condominiums owned by natural persons (provided the landlord delivered a statutory notice of exemption). Legislative activity during 2024-2025 targeted these exemptions and strengthened enforcement mechanisms.

SB 567, which took effect on April 1, 2024, amended the Ellis Act (Government Code section 7060 et seq.) and the just-cause eviction framework to combat what the Legislature identified as fraudulent use of no-fault eviction grounds. Under prior law, landlords could invoke owner move-in, substantial remodel, or Ellis Act withdrawal as grounds for no-fault eviction, then re-rent the unit at market rate. SB 567 imposed new evidentiary requirements: landlords invoking owner move-in must demonstrate, before filing an unlawful detainer action, that the owner or qualifying family member genuinely intends to occupy the unit for at least 36 months. Substantial-remodel evictions now require the landlord to obtain all necessary permits before serving the notice to quit and to demonstrate that the scope of work necessitates the tenant's vacancy for at least 30 days.

The statute also created new remedies. Tenants displaced by fraudulent no-fault evictions may recover actual damages, punitive damages, and attorneys' fees. Municipalities may impose civil penalties of up to $10,000 per violation. For Ellis Act withdrawals, SB 567 strengthened the notice requirements and extended the period during which a withdrawn unit must be offered to the displaced tenant before re-rental.

Parallel legislative efforts sought to narrow AB 1482's exemptions. Although proposals to eliminate the single-family home exemption did not pass during the 2024 session, they signaled the Legislature's direction. The preemption landscape also grew more complex: cities with stronger

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local rent stabilization ordinances — including Los Angeles, San Francisco, Oakland, Berkeley, and West Hollywood — maintain protections that exceed AB 1482's statewide floor, and the interaction between state and local enforcement regimes has generated litigation over which body has primary jurisdiction and whether state remedies supplement or displace local ones.

III. Wildfire Rebuild and Insurance Disputes

California's wildfire seasons have generated a distinct body of property law involving insurance coverage, inverse condemnation, and the right to rebuild under changed regulatory conditions. The 2024-2025 period saw these issues intensify as earlier fire losses moved through the claims and litigation process.

Insurance coverage disputes have centered on several recurring issues. The distinction between dwelling replacement cost and land value has proved contentious where structures were destroyed but the land itself — scarred, eroded, or reclassified into a higher fire severity zone — suffered diminished value that standard homeowner policies do not cover. Extended replacement cost provisions, which typically provide 125 to 150 percent of the policy's dwelling limit, have been litigated where actual rebuild costs in fire-affected areas exceeded even extended limits due to contractor scarcity, material shortages, and code-upgrade requirements.

AB 2367 (2024) extended the period for filing underinsured claims related to wildfire losses, recognizing that many homeowners did not discover the full extent of their underinsurance until they obtained rebuild estimates months or years after the fire. The statute extended the limitations period and required insurers to provide more detailed information about the gap between policy limits and estimated replacement costs.

Inverse condemnation claims against utilities continued to develop under the framework established by cases applying the substantial factor test to utility-caused fires. The central question — whether a public utility's equipment was a substantial factor in causing the fire — has been litigated across multiple wildfire events. Utilities have defended on grounds that third-party conduct (arson, equipment theft, vegetation management by adjacent landowners) was the superseding cause, with mixed results.

The right to rebuild under Government Code section 65852.25 provides that nonconforming structures destroyed by disaster may be rebuilt to their pre-disaster condition, notwithstanding subsequent changes to zoning or building codes. However, this right exists in tension with updated fire-hardening requirements: rebuilt structures in very high fire hazard severity zones must comply with current Chapter 7A of the California Building Code, which mandates ignition-resistant materials, defensible space, and upgraded ventilation systems. For many homeowners, this means the "right to rebuild" requires a substantially more expensive structure than what was lost.

IV. Homelessness Litigation and Its Impact on Property Rights

The U.S. Supreme Court's decision in *City of Grants Pass v. Johnson*, 603 U.S. ___ (2024), fundamentally altered the legal framework governing enforcement of anti-camping ordinances and, in doing so, significantly affected the property rights of both public and private landowners.

For nearly a decade, the Ninth Circuit's decision in *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019), had established that the Eighth Amendment's Cruel and Unusual Punishments Clause prohibited cities from enforcing anti-camping ordinances against homeless individuals when insufficient shelter beds were available. The *Martin* framework effectively required municipalities to demonstrate shelter capacity before clearing encampments, creating a practical obstacle that many California cities described as preventing enforcement of public health and safety ordinances.

Grants Pass reversed this framework. The Court held 6-3 that the Eighth Amendment does not constrain a municipality's authority to enforce generally applicable laws regulating camping on public property, regardless of shelter availability. The majority reasoned that anti-camping ordinances regulate conduct, not status, and that the Cruel and Unusual Punishments Clause does not impose affirmative obligations on governments to provide alternatives before enforcing facially neutral public-conduct regulations.

For California property owners, the decision has several practical implications. Private landowners adjacent to public-land encampments — who had pursued nuisance and trespass claims with limited success when municipalities declined or were unable to enforce anti-camping ordinances — now have a more favorable enforcement environment. Municipal enforcement of trespass and nuisance ordinances reduces the migration of encampments onto private property that occurred when public-land enforcement was constrained.

California's own statutory framework has also evolved. The CARE Act (Community Assistance, Recovery, and Empowerment) establishes a civil court process for individuals with certain severe mental health conditions, authorizing court-ordered treatment plans. Governor Newsom's executive orders directing state agencies to begin clearing encampments on state property accelerated after *Grants Pass*, and multiple California cities updated their encampment-resolution protocols to take advantage of the new federal framework. Property owners asserting nuisance claims based on proximity to encampments — including claims for property value diminution, interference with ingress and egress, and public health hazards — now operate in a legal environment where municipal inaction is less likely to be defended as constitutionally compelled.

V. Commercial Lease Force Majeure After COVID-19

The body of California appellate law addressing commercial tenants' COVID-era defenses has now matured sufficiently to identify reliable patterns. The central question — whether government-ordered business closures and capacity restrictions excused commercial tenants from rent obligations — has been addressed through the doctrines of force majeure, frustration of purpose, impossibility of performance, and impracticability.

In *Huttenbauer v. Kaplan* (2023) 97 Cal.App.5th 1, the Court of Appeal held that a commercial tenant could not invoke frustration of purpose to avoid rent obligations where the tenant's use of the premises was restricted but not entirely prevented by COVID-related government orders. The

court emphasized the distinction between total frustration — which may excuse performance — and partial frustration, which does not. The tenant's ability to continue some operations, even at reduced capacity, defeated the defense.

Similarly, in *SVAP III Poway Crossings, LLC v. Fitness International, LLC* (2023) 87 Cal.App.5th 882, the Court of Appeal addressed a fitness facility's claim that government-ordered closures excused its rent obligations. The court held that the tenant's force majeure clause — which referenced "governmental action" as a qualifying event — could excuse performance during the period of actual closure, but did not excuse rent obligations during subsequent periods when the tenant was permitted to reopen with capacity restrictions. The court drew a sharp line between inability to use the premises (which may trigger force majeure) and reduced profitability of use (which does not).

These decisions establish several principles that will govern commercial lease disputes going forward. First, California courts will enforce the specific language of force majeure clauses and will not imply broader protections than the clause provides. Second, the distinction between rent abatement (temporary suspension during the force majeure period) and lease termination (permanent discharge of obligations) is outcome-determinative: most force majeure clauses provide only for temporary suspension, and tenants who ceased paying rent entirely have exposure for the balance. Third, governmental orders operate as a supervening cause only when they make performance objectively impossible, not merely less profitable.

> *"The post-COVID commercial lease decisions have clarified that force majeure is a narrow defense in California. Landlords and tenants drafting new leases should specify with precision which governmental actions trigger the clause, whether rent is abated or merely deferred, and what notice and mitigation obligations apply during the force majeure period."*

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PRACTICAL RECOMMENDATIONS FOR PROPERTY OWNERS

- **SB 9 applications:** Before pursuing a lot split, confirm that the parcel meets the 1,200-square-foot minimum for each resulting lot, that existing easements and utility infrastructure can accommodate the split, and that the city's objective standards are genuinely ministerial rather than disguised discretionary review
- **Tenant protections:** Landlords invoking no-fault eviction grounds under SB 567 must complete all predicate steps — permits obtained, owner-occupancy intent documented, relocation assistance calculated — before serving the notice to quit; procedural errors now carry punitive damages exposure
- **Wildfire rebuild:** Review insurance policies for the gap between dwelling limits (including extended replacement cost) and current rebuild estimates; file supplemental claims within the extended limitations period under AB 2367; anticipate Chapter 7A fire-hardening costs in rebuild budgets
- **Encampment-related claims:** Following *Grants Pass*, property owners with nuisance or trespass claims related to adjacent encampments should engage with municipal enforcement processes and document property value impacts, as municipalities now have broader enforcement authority
- **Commercial lease drafting:** Force majeure provisions should enumerate specific triggering events, state whether rent is abated or deferred, impose notice and mitigation requirements, define the threshold for excused performance (total impossibility vs. substantial impairment), and set a termination trigger if the force majeure event exceeds a defined duration

Practice	Real Property
Topics	SB 9 · CEQA · Landlord-Tenant · AB 1482
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