



# Recent Eminent Domain & Valuation-Related Cases

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**By Bernadette Duran-Brown**  
**Nossaman LLP**

[nossaman.com](http://nossaman.com)

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# Recap of 2016

- *Property Reserve v. Superior Court*
  - July 2016 (California Supreme Court)
- *SANDAG v. Vanta*
  - July 2016 (unpublished)
- *City of Perris v. Stamper*
  - August 2016 (California Supreme Court)

# Utility Takeovers

- South San Joaquin Irrigation District takeover of PG&E facilities
- City of Missoula v. Mountain Water
- City of Claremont v. Golden State Water



# People ex re. Dept. of Transp. v. Presido Performing Arts Foundation

(Nov. 2016) (5 Cal.App.5th 190)

- Do we need a 'before' and 'after' analysis?
- Remanded back to trial court; still going to this day



MAKING IT HAPPEN.

# *Property Reserve Aftermath*

- Upon remand: Court ruled discovery is available in Right of Entry cases
- *Young's Market Co. v. Superior Court*
- How to negotiate a right of entry now?
- Are there any limits to what the government can do, pre-condemnation, on a property?

# Legislative Actions

- Attempt to side-step USPAP – AB 624
  - Failed
- SB 1 – Funding transportation
  - Passed
  - Increase gas tax and license fees
  - Expected to generate \$52 Billion over 10 years
  - Efforts underway to repeal it

# Temporary Takings

- Reoforce v. United States
  - Temporary taking due to government regulation of mining
  - Court must consider:
    - Economic impact of regulation
    - Extent to which regulation interfered with investment-backed expectations
    - Character of the governmental action
- In general, very hot topic right now

# Valuation that is Just and Equitable

- Central Valley Gas Storage v. Southam
  - Agency condemning underground gas storage rights in 80 acres of land
  - Owner argued:
    - No relevant market data
    - Can use any valuation method that is just and equitable
  - Agency argued:
    - Owner ignored relevant evidence
    - A market for natural gas leases had developed
    - Must use available data



# Lease Termination: Not a Taking

- CA Cartage Co. v. City of LA
  - City was the Landlord
  - Tenant had massive operation generating \$65 million annually
  - When City sent 30-day notice, tenant argued it was a taking
  - Court said: Simply having the power to condemn does not mean any gov't action is a taking

# Murr v. Wisconsin

U.S. Supreme Court, June 2017

- Regulatory taking case considering larger parcel theory
- New multi-factor test to determine larger parcel
- More discretion for courts in determining whether regulatory taking occurred?

# Surfrider Foundation v. Martins Beach 1

- Millionaire owner blocked public access to beachfront property
- Court:
  - Blocking access was a “development” without a Coastal Dev. Permit
  - Requiring a permit is not a taking
  - Temporary injunction on preventing access was not a taking

# What is a public improvement?

- Mercury Casualty v. Pasadena
  - Storm caused tree on public property to damage private property
  - No evidence of who planted the tree
  - A public project or improvement is a “use which concerns the whole community or promotes the general interest of its relation to any legitimate object of government”

# Unpublished Case Roundup

- City of Oroville v. Superior Court
- Sac. Area Flood Control Agency v. Souza
- Dryden Oaks v. San Diego County Regional Airport Authority

# Contact Information



**Bernadette M. Duran-Brown**  
***Nossaman LLP***

**[bduran-brown@nossaman.com](mailto:bduran-brown@nossaman.com)**

**949.477.7637**