



ENSBERG LAW GROUP

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Real Estate Litigation Information Sheet

At the **Ensberg Law Group**, our team of highly experienced lawyers have been successfully representing clients since 1981 in a broad range of Real Estate matters. Devoted to providing the highest quality legal representation, our attorneys are skilled, result-oriented litigators.

Whether you are in need of intelligent legal counsel to negotiate a real estate transaction or have become involved in a real estate dispute and are seeking the services of a highly effective litigator, the Ensberg Law Group is here to help.

Real Estate Contracts

Misunderstandings between parties to real estate contracts are a frequent cause of disputes. When entering into either a commercial or residential lease or buy/sell agreement, it is imperative that all parties to the contract possess a clear and concise understanding of their duties and obligations.

For the contract to be valid, all parties entering into the contract must have the same underlying intentions and common understanding of what they are doing. This concept is called a “meeting of the minds.” Differing intentions and understandings typically result in a finding that no contract was actually formed.

Real estate contract cases include but are not limited to disputes usually involving a breach of contract/lease, failure to perform by contractors, fraud, or misrepresentation.

While many cases may be settled out of court, at times it is virtually impossible to help the parties reach mutually beneficial settlement terms. At this point, litigation becomes unavoidable. Fighting a case in court is highly complex. Therefore, it is crucial that you retain a qualified, experienced real estate lawyer who will fight to preserve and protect your best interests, from the discovery phase all the way through to a verdict.

Real Estate Construction Disputes

Whether you are a property owner, a contractor or a sub-contractor, construction disputes are common. Disputes may arise as a result of numerous issues, such as work not being completed in a timely manner pursuant to the terms of the contract, substandard quality, or failure to ensure compliance with local building codes, land use regulations and zoning laws. These disputes may result in costly, time-consuming litigation between the parties.

Before entering into a construction contract, it is important to ensure the agreement includes the following information:

- A breakdown of costs for materials and labor
- A schedule for when construction will begin, as well as a completion date
- Complete warranty information
- Comprehensive list of all construction work that is to be completed
- How much the project will cost in its totality
- Identities of the parties, including general contractors and sub-contractors
- Liquidated damages clause
- The types of materials to be used for constructing or remodeling a structure
- When and how payments will be remitted

Based on how the industry operates, there may be numerous parties involved in construction disputes. Due to the sheer number of litigants who can become involved in a single case, these matters may become extremely complicated very quickly. Contact a seasoned real estate litigation attorney as soon as you fear that a breach of contract is imminent. Taking quick action will safeguard your interests and may help ensure your dispute is resolved more rapidly and favorably than if you are forced into litigation.

Easements

An easement allows individuals access to utilize or be present on another's property for a specific purpose. There are several types of easements that are recognized under California law. These include:

1. **Express Easements** – This easement is created when the owner of the encumbered property expressly grants permission to another to be on their land. Express easements must be in writing.
2. **Easement by Necessity** – These easements are created when one property owner must cross another's to access their land, home or business and there aren't any public access roads in place.
3. **Implied Easements** – If a property is landlocked with no reasonable means of accessing it without crossing another's land, the easement is implied.
4. **Easement by Prescription** – These easements are created when one party has been utilizing that of another for at least five years. Several other conditions must be met for this easement to be created.

In addition to the four easements listed above, public and private utility companies also have the right to access property to make necessary repairs, install new equipment, or to conduct regular maintenance.

Eminent Domain

Eminent Domain (also called "condemnation") is a legal process provided for in the U.S. Constitution under the Fifth Amendment that allows a governmental agency to take private property for public use in return for just compensation. The power to exercise the right of eminent domain exists at all levels of government – local, state and federal. Additionally, governmental agencies such as the Fish & Wildlife Service, the U.S. Forest Service, and local public works departments possess the right to exercise eminent domain.

When attempting to take private property, the government must show that it's necessary for public use. This may be broadly defined, and incorporates any number of uses to include:

- **Airport expansion or construction**
- **Building public roads**
- **Constructing schools**
- **Constructing, replacing or repairing bridges**
- **Creating community parks**
- **Enhancing public utilities for wider usage**
- **Expansion of public roads**
- **Installation of transmission lines**
- **Public transportation projects**
- **Putting new pipelines in place**
- **Redevelopment beautification projects**

One of the primary causes of real estate litigation with respect to eminent domain is the issue of just compensation. While "just compensation" is broadly understood to mean fair market value, this is often a major source of contention between the agency exercising the right of eminent domain and the property owner.

As soon as you receive notification that your property has been marked for condemnation via eminent domain, you'll need a seasoned litigator to fight zealously to preserve and protect your interests.

Zoning and Land Use

Zoning and land use laws may have a drastic impact on your intended use of any commercial, industrial or residential property which you purchase. These matters typically tend to come up with regards to new construction.

The best way to ensure compliance is to understand the local zoning and land use ordinances in your area prior to starting any new construction projects. Failure to do so may result in an inability to utilize your property in the manner which you intended. Additionally, local municipalities may make changes to their zoning and land use ordinances that have rendered an already existing property or business unusable. This may not only result in a loss of income if your business is impacted, it may seriously hinder your ability to use your property in any meaningful way.

Either situation can lead to expensive, time consuming litigation that is exacerbated by the fact that successfully bringing legal action against a government entity is highly difficult. A very specific set of actions must take place before you'll be able to file suit if necessary. At the Ensberg Law Group, we have more than 35 years' experience successfully helping clients obtain favorable outcomes in zoning and land use cases.

Contact Los Angeles Real Estate Litigation Attorneys Today

If you are presently involved in a real estate dispute, please contact L.A. County Real Estate Litigation Lawyers at the Ensberg Law Group by calling (626) 813-3744. We will schedule an appointment for you to meet with one of our professional, experienced attorneys for an in-depth consultation.