

# THE LISTINGS

THE WEEK'S SALES, LEASES, LOANS, NOTICES OF DEFAULT AND UPCOMING INDUSTRY EVENTS

## daily deals

Financings, sales and leases from  
[www.CARealEstateJournal.com](http://www.CARealEstateJournal.com).  
Send deals to [RealEstate@DailyJournal.com](mailto:RealEstate@DailyJournal.com)  
Compiled by Carla Pineda. Deals are listed in order of  
dollar amount, then square footage.

### RETAIL

**RIVERSIDE** — BH Properties LLC obtained a loan for a 57,198-square-foot retail property, representing about 8 percent of a \$59 million financing for a 12-property portfolio. **Wells Fargo's** real estate banking group provided the financing.

**NOVATO** — A \$13.6 million refinancing was secured for the 133,860-square-foot Novato Fair Shopping Center on behalf of Kimco Realty Corp. Bruce Ganong and Zane Sweet of **Holliday Fenoglio Fowler LP** arranged the three-year, adjustable-rate loan.

**DINUBA** — A nine-tenant, 16,096-square-foot retail center at the southeast corner of West El Monte Way and Monte Vista Drive sold for \$4.6 million. Michael Maffia of **NAI BT Commercial** represented the seller.

**ARTESIA** — Gridley Plaza, a 30,678-square-foot retail property at 18300 Gridley Road, sold for \$3.75 million. Christopher Maling and David Maling of **Marcus & Millichap Real Estate Investment Services** represented the seller, while Ron Duong, also from Marcus & Millichap, represented the buyer.

**NORWALK** — A 3.7-acre auto service center at 11301 Firestone Blvd. sold for \$3.3 million. Benjamin Easton, Alex Kozakov and Patrick Wade of **Marcus & Millichap Real Estate Investment Services** represented both parties.

**LAKEWOOD** — A Taco Bell-anchored strip center at the intersection of Bellflower Boulevard and Del Amo Boulevard sold for \$1.5 million. Jeremy S. McChesney and Kevin T. Fryman of **Hanley Investment Group** negotiated the deal.

**MORGAN HILL** — The 7,946-square-foot retail building at 15745 Monterey St. sold for \$950,000. Andy Bogardus, Douglas Longyear and Chris Sheldon of **NAI BT Commercial** represented the seller.

**SAN DIEGO** — Andre Phillips, doing business as Furniture Outlet, signed a five-year, \$565,000 lease for 9,541 square feet of retail space in the Miramar Commercial Center at 8990 Miramar Road from Miramar Commerce Center LTD. David Hagglund of **CB Richard Ellis** represented the lessor, while Chris Walton of **Cushman & Wakefield** represented the lessee.

**POWAY** — A 4,000-square-foot retail space in the Carriage Center at 12845 Poway Road was leased for five years for \$304,000 from Carriage Center. Marc Dudzik of **Lee & Associates-North San Diego County** represented the lessor, while **IGA Law** represented the lessee.

**SANTA ROSA** — Furniture 101 leased 20,460 square feet of retail space at 3575 Cleaveland Ave. from Frankel Stores Partners. Tom Laguero of **Keegan & Coppin Co. Inc.** represented the lessor.

**SANTA BARBARA** — Russ Waldrop of Pacific Timber Product purchased two retail parcels totaling 13,503 square feet at 614-618 E. Haley St. Bob Tuler and Mike Chenoweth of **Radius Group**  
[www.CAREALESTATEJOURNAL.COM](http://www.CAREALESTATEJOURNAL.COM)

represented the seller, while Steve Brown and Austin Herlihy, also of Radius, represented the buyer.

**DUBLIN** — KHS Enterprises, doing business as Pretty in Pink, leased 9,000 square feet of retail space in the Dublin Crossroads Center at 7100-7129 Dublin Blvd. from Ready Family Partnership LP. Patrick McGaughey and Todd Oliver of **Terranomics Retail Services** represented the landlord.

**CARMEL** — Wells Fargo Bank NA signed a 15-year lease renewal for 7,816 square feet of retail space at the intersection of San Carlos Street and Ocean Avenue from MJ Murphy Inc. Michael Schoeder of **Terranomics Retail Services** represented the tenant.

**EMERYVILLE** — Fresh Choice LLC signed a 15-year lease for 5,200 square feet of restaurant space at 5750 Christie Ave. from Emeryville Hotel Development Venture II LP. Mike Costa and Matt Kircher of **Terranomics Retail Services** represented the lessor.

**KENTFIELD** — Woodlands Store leased an additional 3,612 square feet of retail space at 799 College Ave. from Bacciocco Enterprises LLC. Matt Storms of **Keegan & Coppin Co. Inc.** represented both parties.

**CARLSBAD** — Gateway Dental signed a 10-year lease for 2,975 square feet of retail space in Bressi Village at the intersection of El Fuerte and Gateway from LNR Property Corp. Stewart Keith and Bill Thaxton of **Flocke & Avoyer Commercial Real Estate** represented the lessor, while Kevin Cassidy of **Epstein & Associates** represented the lessee.

**CUPERTINO** — Massage Envy leased 2,850 square feet of retail space in the Cupertino Crossroads shopping center at the southwest corner of Stevens Creek and De Anza boulevards from Byer Properties. James Chung and Matt Taylor of **Terranomics Retail Services** represented the lessee.

**SAN JOSE** — Blockbuster leased 2,800 square feet of retail space at 1007 E. Capitol Expressway from HKN IV LLC. Todd Oliver and Matt Taylor of **Terranomics Retail Services** represented the landlord.

**CARLSBAD** — Happiness Nails signed a 10-year lease for 1,159 square feet of retail space in Bressi Village at the intersection of El Fuerte and Gateway from LNR Property Corp. Stewart Keith and Bill Thaxton of **Flocke & Avoyer Commercial Real Estate** represented the lessor, while the lessee represented itself.

**CARLSBAD** — Carlsbad Optometry Nails signed a 10-year lease for 1,143 square feet of retail space in Bressi Village at the intersection of El Fuerte and Gateway from LNR Property Corp. Stewart Keith and Bill Thaxton of **Flocke & Avoyer Commercial Real Estate** represented the lessor, while Dottie Surdi and Barbara Kreis of **Sperry Van Ness** represented the lessee.

**SAN JOSE** — Toppings Frozen Yogurt leased 1,120 square feet of retail space at the Golden Nugget Plaza from TEMK Investments Capitol LLC. Jon Stansbury and James Gaglione of **Terranomics Retail Services** represented the landlord, while Julie Tran of **Cushman & Wakefield** represented the tenant.

**CARLSBAD** — Xtreme Frozen Yogurt signed a five-year lease for 994 square feet of retail space in Bressi Village at the intersection of El Fuerte and Gateway from LNR Property Corp. Stewart

Keith and Bill Thaxton of **Flocke & Avoyer Commercial Real Estate** represented the lessor, while Karly Kevane, also of Flocke & Avoyer, represented the lessee.

### MULTIFAMILY

**RANCHO CUCAMONGA** — A \$23.3 million refinancing was secured for the 260-unit Ironwood Apartments at 11100 4th St. Whit Wilcox of **Holliday Fenoglio Fowler LP** arranged the seven-year, adjustable-rate loan.

**MISSION HILLS** — A 23-unit apartment property at 9939 Sepulveda Blvd. traded hands for \$2.35 million. Michael Hanassab and Elliot Hassan of **Marcus & Millichap Real Estate Investment Services** represented both parties.

**SAN DIEGO** — The Forster Family Trust purchased a 10-unit apartment complex at 4055 Utah St. for \$1.1 million from Robert E. Cota. Chad Bramwell of **Hendricks & Partners** represented the buyer.

**CONCORD** — A 16-unit apartment building at 2006 Sierra Road exchanged hands, with Patrick Szeto and Tenny Tsai of **NAI BT Commercial** negotiating the transaction.

### INDUSTRIAL



9885 Carroll Canyon Road, San Diego

**SAN DIEGO** — Stronghold Canyon Development LLC purchased a 24,319-square-foot industrial/flex building in Scripps Ranch at 9885 Carroll Canyon Road for \$3.8 million from S.D. Canyon Road LLC. Bill Dolan and Chris Pascale of **CB Richard Ellis** represented the seller, while Jonathan Ferrini of **Lee & Associates** represented the buyer.

**HOLLISTER** — The Yeakey Family Trust purchased a 76,000-square-foot manufacturing building at 1802 Shelton Drive for \$3.4 million from Milgard Family LP. Gary Root and Jeff Rohn of **Grubb & Ellis** represented the seller, while Ric Russell of **NAI BT Commercial** represented the buyer.

**COMPTON** — Forming Specialties Inc. purchased a 40,041-square-foot industrial building at 1309 W. Walnut Parkway for \$3.4 million from Edison LLC. Warren Noack, Kimberly Noack and Craig Summers of **NAI Capital** represented both parties.

**ORANGE** — Pink House Imports signed a five-year, \$610,000 lease for 10,700 square feet of industrial space at 205 Blueridge from Data Electric. David Williams of **Lee & Associates - Orange Inc.** represented the lessor, while George Thomson and Marshal Vogt, also of Lee & Associates, represented the lessee.

**EL CAJON** — B.U.M.S. Properties LLC signed a five-year, \$542,000 lease for 12,607 square feet of industrial space at 400 N. Johnson Ave. from American Scissor Lift Inc. Tim Clepper of **Lee & Associates-North San Diego County** represented the lessor, while **NAI San Diego** represented the lessee.

**CARLSBAD** — Impedance Cardiology Systems signed a two-year, \$311,000 lease for 7,708 square feet of industrial space at 1950 Camino Vida Roble from Pacific Office Properties. Dennis Visser and Joe Anderson of **Grubb & Ellis | BRE Commercial** represented both parties.

**SAN DIEGO** — Malibu Windows and Doors Inc. signed a five-year, \$230,000 lease for 6,250 square feet of industrial space at 663 33rd St. from B-K Gateway Centre LLC. Tim Mills and Travis Ahern of **Cushman & Wakefield** represented both parties.

**SAN LEANDRO** — Portfolio Productions leased 154,313 square feet of warehouse space at 2050 Williams St. from 2050 San Leandro Partners LLC. Paul Beckwith of **Cornish & Carey Commercial** represented the landlord.

**VISTA** — RTM Lighting & Electronics signed a three-year, \$133,000 lease for 4,675 square feet of industrial space at 1236 Keystone Way from Utah Prime Properties. Jay Alexander of **Colliers International** represented the lessor, while Dennis Visser, Aric Starck and Steven Field of **Grubb & Ellis | BRE Commercial** represented the lessee.

**CARLSBAD** — Shoreline Graftx Inc. signed a 38-month, \$46,000 lease for 1,310 square feet of industrial space at 5631 Palmer Way from H.G. Fenton Co. Steven Field of **Grubb & Ellis | BRE Commercial** represented both parties, with Aric Starck, also of Grubb & Ellis, helping on the lessor side.

**ESCONDIDO** — Allan-Magnus Electric signed a three-year, \$37,000 lease for 1,189 square feet of industrial space in the Simpson Business Park at 1309 Simpson Way from Escondido Simpson Investors LLC. Isaac Little, Tim Clepper and Randy Dalby of **Lee & Associates-North San Diego County** represented both parties.

**SAN DIEGO** — Doug Boegli, doing business as Swissmeca, signed a two-year, \$23,000 lease for 1,255 square feet of industrial space at 300 Enterprise St. from Enterprise Heights Industrial Centre Associates. Tucker Hohenstein of **Cushman & Wakefield** and Mike Erwin of **Grubb & Ellis | BRE Commercial** represented the lessor, while Monique Medley, also of Grubb & Ellis, represented the lessee.

**VALLEJO** — Alstom Transportation leased building 599, a 112,000-square-foot industrial building at Mare Island in Vallejo. Todd Severson of **Colliers International** in Oakland represented the tenant.

**SAN JOSE** — 2Wire Inc. signed a long-term lease for 74,584 square feet of research-and-development space at 1764 Automation Parkway from Mission West Properties. Gary Nichols of **Colliers International** represented the tenant.

**LIVERMORE** — GSE Construction signed a 10-year lease for 57,988 square feet of industrial space at 6950 Preston Ave. from Cranbrook Group Inc. Ned Wood and Mike Copeland of **Colliers International** represented the lessor, while Mark Triska, also of Colliers, represented the lessee.

**UNION CITY** — Coinmach leased 28,600 square feet of research-and-development space at 32910 Alvarado Niles Road from Harsch Investment Properties. Alex Alcaraz of **Cornish & Carey Commercial** represented the lessee.

**SAN JOSE** — Altigen Communications leased 27,576 square feet of research-and-development space at 410 E. Plumeria Drive from Franklin Street Properties. Armand Tiano and Jay Phillips

See **DEALS**, page 20

## DEALS

Continued from page 19

of **Cornish & Carey Commercial** represented the lessee.

**GOLETA** — A 25,900-square-foot industrial property at 99 Aero Camino was leased recently. Paul Gambardella of **Radius Group** represented the lessor, while Steven Brown and Austin Herlihy, also of **Radius**, represented the lessee.

**FREMONT** — Kontron Electronics leased 18,756 square feet of research-and-development space at 6505 Dumbarton Circle from Peery Arrillaga. Tracey Solari and Jeff Hoffman of **Cornish & Carey Commercial** represented the lessee.

**SANTA CLARA** — Scientific Metal Finishing Inc. renewed its lease on 16,700 square feet of industrial space at 3180 Molinaro St. from Ben Elster. Mark Zamudio of **Colliers International** represented the tenant.

**PLEASANTON** — QuantaLife Inc. leased 9,802 square feet of research-and-development lab/office space at 7068 Koll Center Parkway from 7-L North Creek LLC. Mike Carrigg of **Colliers International** represented the lessor, while Mark Triska, also of **Colliers**, represented the lessee.

**FRESNO** — A & S Distributing purchased a 5,000-square-foot office/warehouse space at 3464 W. Ashcroft Ave. from Joe and Margaret Gonzalez. Ron Stoltenberg and Ethan Smith of **Grubb & Ellis | Pearson Commercial** represented both parties.

**SANTA ROSA** — En-Garcie Fencing leased 3,963 square feet of industrial space at 917 Piner Road from DVK Realty Ventures. Romus Reece and Kevin Doran of **Keegan & Coppin Co. Inc.** represented the lessor, while David White, also of **Keegan & Coppin**, represented the lessee.

### INSTITUTIONAL

**HAYWARD** — Mariner Health Care purchased the Hayward Hills Health Care Center, a 74,000-square-foot, 72-bed skilled nursing facility at 1768 B St., for \$3.5 million. Hagglund of **NAI BT Commercial** represented the seller, while David Stolte of **NAI Capital** represented the buyer.

### LAND

**BUENA PARK** — The city of Buena Park purchased a 1.14-acre parcel at 8850 La Palma Ave. for \$3.5 million from Oak JKK LLC. Erik Thompson of **Daum Commercial Real Estate Services** represented the seller, while the buyer represented itself.

### HOSPITALITY

**SAN FRANCISCO** — The 16-room Charlie's Hotel at 1030 Geary St. sold for \$2.4 million. Eric Gundersen of **NAI BT Commercial** represented the seller.

**SANTA BARBARA** — P & P Santa Barbara Hospitality Inv. LP purchased the 68-room El Prado Inn on State Street from **Jones Lang LaSalle Hotels**.

### MIXED USE

**ESCONDIDO** — Scott Nunes Sr. signed a five-year, \$334,000 lease for a 9,620-square-foot retail/commercial building at 333 E. Grand Ave. from Settle LTD Partnership. Steve Bruce, Matt Weaver, Patrick Miller and Trevor Jensen with **Lee & Associates-North San Diego County** represented both parties.

**SAN DIEGO** — Westcoast Wellness signed a three-year, \$122,000 lease for a 2,100-square-foot retail/office building at 2215 Kettner Blvd. from

Baldo V. Rick Marcus of **Lee & Associates-North San Diego County** represented both parties.

### OFFICE

**SAN DIEGO** — BETA Engineering California LP signed a three-year, \$181,000 lease for 2,858 square feet of office space at 9990 Mesa Rim Road from Shea Homes LP. Eric A. Northbrook and Christopher P. High of **Cushman & Wakefield** represented the lessor, while Jon Hamby of **Volt Real Estate Services** represented the lessee.

**SAN DIEGO** — Cloud 9 Super Shuttle Inc. expanded its existing lease at the Campus at Fashion Valley at 123 Camino de la Reina to 3,481 square feet of office space for \$158,000 from Mission Grove Offices LLC. Doug Ceresia, Josh Buchholz and Kari Fick of **NAI San Diego** represented the lessor, while the lessee represented itself.

**DEL MAR** — Watkins Landmark Construction signed a 25-month, \$86,000 lease for 1,415 square feet of office space at 2195 San Dieguito Drive from Pacific Entertainment Group. Zach Millrood of **Irving Hughes** represented the lessor, while Greg Pieratt of **Lee & Associates-North San Diego County** represented the lessee.

**SAN DIEGO** — General Mortgage signed a 45-month, \$77,000 lease for 1,215 square feet of office space at 3160 Camino Del Rio South from City Group. Eric Vann and Derek Applebaum with **Cushman & Wakefield** represented the lessor, while Greg Pieratt with **Lee & Associates-North San Diego County** represented the lessee.

**SAN DIEGO** — BWY Development signed a three-year, \$71,000 lease for 1,173 square feet of office space at 2727 Camino Del Rio from Redwood Hendee Associates. The lessor represented itself, while Derek Applbaum of **Cushman & Wakefield** represented the lessee.

**FOLSOM** — Numonyx leased 96,000 square feet of office space at 2235 Iron Point Road from The Evergreen Co. Craig Brintzer, Sean Fulp, Breanna Hegseth, Jay Belquist and Jeff Hoffman of **Cornish & Carey Commercial** represented the lessee.

**WALNUT CREEK** — Childrens Hospital & Research Center purchased a 72,590-square-foot office building at 2401 Shadelands Drive from Hall Equities Group. Mike Zylstra, Breck Lutz, Sean Cooley, Patrick Reilly and Forrest Gherlone of **Cornish & Carey Commercial** represented the seller.

**RANCHO CORDOVA** — National Career Education leased 31,360 square feet of office space at 11080 White Rock Road from Landmark Asset Management Group. Kirk Lange, Todd Eschelman and Kristoffer Kalmbach of **Cornish & Carey Commercial** represented the lessor.

**CONCORD** — Paradigm Management Services leased 28,396 square feet of office space at 1001 Galaxy Way from Transwestern Galaxy Concord LLC. Breck Lutz of **Cornish & Carey Commercial** represented the lessee.

**CARLSBAD** — Pacific Business Centers signed an 11-year lease for 18,691 square feet of office space in Ventana Real at 2173 Salk Ave. from Newport National Corp. Mark Avilla of **Grubb & Ellis | BRE Commercial** represented the landlord.

**SAN FRANCISCO** — MyNewPlace leased 14,781 square feet of office space at 343 Sansome St. from West Coast Life Insurance Co. Donnette Clarens and John Cashin of **Cornish & Carey Commercial** represented the lessee.

**SAN FRANCISCO** — Turner Construction leased 7,735 square feet of office space at 343 Sansome St. from Interland-343 Sansome Street. Marc Trovato and Randy Gabrielson of **Cornish & Carey Commercial** represented the lessee.

## REAL ESTATE in the courts

### Environmental Law

■ **Court defers to U.S. Forest Service's interpretation of mining-related directive, which requires plan of operations when significant disturbance is likely.**

*Siskiyou Regional Education Project v. United States Forest Service, US Court of Appeals - Ninth Circuit, No. 06-35332, May 7, 2009*

Since the 1800s, waterways in the Siskiyou National Forest have been subject to mining operations. Under 36 C.F.R. Section 228.4(a), a plan of operations is required when a district ranger finds that mining operations are likely to disturb resources significantly. If the standards and guidelines adopted by the United States Forest Service contravene existing laws, they are invalid. While Section 228.4(a) was in effect, the Forest Service adopted Mineral Management Standard and Guideline MM-1 (MM-1), which required a plan of operations for all mining operations, without mentioning district rangers. In 2002, the Forest Service addressed the tension between MM-1 and Section 228.4(a), stating that a plan of operations was required only when a significant disturbance was likely. The Siskiyou Regional Education Project sued the Forest Service for violating the Administrative Procedure Act (APA). The district court granted the defendant summary judgment.

The decision was affirmed in part. Agencies are entitled to deference with respect to the interpretation of their regulations. Courts must defer to the Forest Service's interpretation of plan directives that are susceptible to more than one meaning. However, if that interpretation is plainly erroneous, deference is not required. This court found that MM-1 could refer to operations that would not cause significant disturbances or to every operation. Thus, MM-1 was susceptible to two meanings. Further, the Forest Service's directive to narrow the meaning of MM-1 was reasonable because it was contrary to existing law. Hence, this court deferred to the Forest Service's interpretation.

*Opinion by Judge Richard A. Paez.*  
— Seena Nikravan

### Real Property

■ **Future residents do not have standing to sue homeowners' association where property owners assigned interest in causes of action.**

*Martin v. Bridgeport Community Association Inc., California Courts of Appeal - 2nd District, No. B206686, May 6, 2009*

Richard and Rachel Peterson bought a parcel of land in a planned community named Bridgeport. The Bridgeport Community Association (BCA) enforced the Master Declaration of Covenants, Conditions, and Restrictions (CC&Rs). The Petersons agreed that James and RaeAnn Martin would live in the home to be built on the lot and pay costs. During construction, the Petersons and the Martins noticed that the lot was smaller than represented and required lot line adjustments. The BCA agreed to perform the adjustments. When the BCA failed to perform the second adjustment, the Martins sued for breach of and specific performance of the contract, as well as breach of the CC&Rs. The Petersons assigned all of their interests in the claims to the Martins. The trial court sustained the BCA's demurrer to the complaint.

The decision was affirmed. Under Civil Code Section 954, an owner of a "thing of action" may

assign his or her interest in an action where the action arose out of the violation of a property right. A "thing of action" is "a right to recover money or other personal property by a judicial proceeding." This definition does not include a right to "real property." Here, the Martins argued that they had standing under Section 954 based on the Petersons' assignment. However, this court found that the claims based on the contract involved a right to recover ownership in real property. The claim that the CC&Rs had been breached involved restrictions on real property. Because the claims did not involve money or personal property, the Petersons could not assign their interests in these claims. Thus, the Martins did not have standing to sue the BCA.

*Opinion by Judge Jackson.*  
— Seena Nikravan

### Real Property

■ **The Noerr-Pennington 'sham exception' applies where law firm made intentional misrepresentations to court.**

*Kearney v. Foley & Lardner LLP, US Court of Appeals - Ninth Circuit, No. 07-55566, May 12, 2009*

In 2000, the Ramona Unified School District (RUSD) initiated condemnation of Joan Kearney's property. RUSD needed to perform percolation testing (PT) to determine the property value. RUSD, represented by Foley & Lardner, LLP (F&L), agreed to provide Kearney with a copy of the PT report. However, no formal report was generated. No results from the PT were provided during discovery either and F&L denied the existence of this information. At the valuation trial, Kearney was awarded \$953,000 in just compensation. Only after trial did Kearney discover that PT results were available. The results supported a significantly higher property value. After Kearney filed suit against F&L, the district court dismissed her federal claims under the Noerr-Pennington (NP) doctrine as F&L's conduct was "incidental to First Amendment-protected petitioning activity." Kearney argued that the NP "sham exception" applied as F&L intentionally suppressed evidence.

Vacated in part. The NP doctrine provides that governments "are generally immune from statutory liability for their petitioning conduct." The "sham exception" to the NP doctrine exists to prevent immunization of "conduct that used government process...as an anticompetitive weapon," including "intentional misrepresentations to the court that...deprive the litigation of its legitimacy." In this case, F&L could not seek NP protection for suppressing evidence of the existing PT results, which constituted "intentional misrepresentation to the court." This court found that Kearney sufficiently proved that F&L's conduct fell within the "sham exception" and dismissal of her claims was in error.

*Opinion by Judge David Alan Ezra.*  
— Linda Choi

### Real Estate in the Courts offers summaries of published opinions of the:

- U.S. Supreme Court
- 9th U.S. Circuit Court of Appeals
- 9th U.S. Circuit Bankruptcy Appellate Panel
- California Supreme Court
- California Courts of Appeal
- Attorney General
- U.S. District Court in California
- State Bar Court

To assure compliance with Rule 8.1115 of the California Rules of Court, it is urged that counsel verify the official publication status of cases prior to citing Real Estate in the Courts. To report errors, please call Sharon Liang at (213) 229-5300 ext. 5392.