

# THE LISTINGS

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

## daily deals

Financings, sales and leases from  
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Compiled by Carla Pineda. Deals are listed in order of  
dollar amount, then square footage.

### OFFICE

**ALISO VIEJO** — Quest Software Inc. obtained \$34 million in debt refinancing for its headquarters, which consists of two mid-rise office buildings totaling 168,703 square feet. Bruce Krall of **Cohen Financial** represented the borrower in the fixed-rate cash-out refinance with a 25-year amortization schedule. Loan-to-value ratio was 70 percent.

**SAN DIEGO** — Siemens Product Lifecycle Management Software Inc. signed a four-year, \$900,000 lease renewal for 7,089 square feet of office space in Carmel Valley Centre at 11995 El Camino Real from Carmel Valley Center LLC. Eric A. Northbrook and Christopher High of **Cushman & Wakefield** represented the lessor, while Chuck Male and Chris Pascale of **CB Richard Ellis** represented the lessee.

**LA JOLLA** — SBIB Inc., doing business as Sowers Baccala Insurance Broker, signed a 25-month, \$268,000 sublease for 3,500 square feet of office space at 7979 Ivanhoe Ave. from Brahma Holdings LLC. Bob Kuzman of **Grubb & Ellis | BRE Commercial** represented the sublessor, while Russ Stai of **Cushman & Wakefield** represented the sublessee.

**SANTA ROSA** — Sirrus Technology signed a 10,661-square-foot lease for office space at 3660 N. Laughlin Road from CORE Realty Holdings. Jeffrey Wilmore and Dave Peterson of **Keegan & Coppin Co. Inc.** represented both parties.

**ROSEVILLE** — Burger Physical Therapy purchased an 8,000-square-foot office space at 2550 Douglas Blvd. from Douglas Commons. Mike Kalmanson of **Grubb & Ellis** represented the buyer.

**MILL VALLEY** — The Schow Family Trust purchased a 7,813-square-foot office property at 225 Miller Ave. from RHBAAC Partnership. Matt Storms of **Keegan & Coppin Co. Inc.** represented the seller, while Jean Spaulding of **Alain Pinel Realtors** represented the buyer.

**SACRAMENTO** — Low, McKinley and Baleria leased 7,198 square feet of office space at 2150 River Plaza Drive from Hines VAF. Kris Reilly, Jason Rutherford, Scott Bennett and Thomas Walcott of **Grubb & Ellis** represented the lessor.

**LOS ANGELES** — Liberty Mutual signed a five-year lease for 7,000 square feet of office space at 818 W. 7th St. from Downtown Properties. Chris Caras and Phillip Sample of **Grubb & Ellis** represented the landlord, while Craig Jablin of **Studley** represented the tenant.

**SANTA ANA** — College Community Services signed a two-year lease for 6,150 square feet of office space at 1910 N. Bush St. from Nabeel and Salwa Nabi. Douglas Garrett of **Lee & Associates - Orange Inc.** represented the landlord, while Wally Courtney of **Paul Kott Realtors** represented the lessee.

**SACRAMENTO** — Area 4 Agency on Aging leased 6,124 square feet of office space at 2700 Gateway Oaks Drive from Jupiter Investments.

Dennis Neeley of **Grubb & Ellis** represented the lessee.

**SACRAMENTO** — U.S. Legal Services leased 4,491 square feet of office space, located at 2700 Gateway Oaks Drive, from Metzler | Metro Center. Dan Chamberlain and Jon Walker of **Grubb & Ellis** represented the lessor.

**SACRAMENTO** — MGT of America leased 4,455 square feet of office space at 2001 P St. from P Street Associates. Dan Chamberlain and Jason Rutherford of **Grubb & Ellis** represented the lessee.

**NORTH HIGHLANDS** — Quest Discovery Services leased 4,453 square feet of office space at 4600 Roseville Road from Highlands 80 Partnership. Scott Bennett, Jason Rutherford and Kenneth Johnson of **Grubb & Ellis** represented the lessor.

**SACRAMENTO** — Carol Nygard leased 3,141 square feet of office space at 2295 Gateway Oaks Drive from Hines VAF. Jason Rutherford, Scott Bennett and Thomas Walcott of **Grubb & Ellis** represented both parties.

**SANTA ROSA** — HDR Engineering Inc. signed a sublease for 2,711 square feet of office space at 90 E. St. from Chicago Title Co. Danny Jones of **Keegan & Coppin Co. Inc.** and Tom Imparato of **Orion Realty** represented the lessor, while Niels von Doepf of **NAI BT Commercial** represented the lessee.

**SANTA ROSA** — Julie Moore leased 350 square feet of office space at 1220 N. Dutton Ave. from Adobe Associates Inc. Kevin Doran of **Keegan & Coppin Co. Inc.** represented both parties.

### MULTIFAMILY

**LOS ANGELES** — A 128-unit apartment complex was refinanced with a \$10.7 million loan. Gary M. Tenzer and Nick Silbergeld of **George Smith Partners** secured the 10-year financing with a 5.8 percent interest rate, a 30-year amortization schedule with two years of interest only. Loan-to-value ratio was 66 percent.

**LOS ANGELES** — Westland Industries obtained a total of \$4.4 million in refinancing for the Burlington Avenue Apartments and the Roxanne Apartments. Mark Wintner of **Holliday Fenoglio Fowler LP** secured the 10-year, 5.95 percent fixed-rate loans. The property at 1320 S. Burlington Ave. received a \$2.1 million loan, while the one at 3939 Roxanne received \$2.25 million.

**LOS ANGELES** — A partnership sold a 52-unit apartment property at 687 Shatto Place for \$3.05 million. Peter Strauss of **Marcus & Millichap Real Estate Investment Services** represented the seller.

**OCEANSIDE** — A \$2.7 million loan was arranged for a ground-leased multifamily property. Michael Yim of **Commercial Realty Consultants Inc.** arranged the five-year loan with a fixed rate of 6.75 percent and a 30-year amortization schedule.

**PASADENA** — DLZ Investment Inc. purchased a 14-unit apartment community at 140 N. Wilson Ave. for \$1.9 million from the Nancy B. Johnson & The Karyn Trust. Kevin Lutz and Kevin W. Hurley of **Hendricks & Partners** represented the seller.

### INDUSTRIAL

**LOS ANGELES** — A financial institution sold a 96,000-square-foot industrial property at 840 Santee St. for \$5.25 million. Jerry Wise, Adam Petriella and Tony Azzi of **Marcus & Millichap**

**Real Estate Investment Services** represented the seller, while Azzi represented the buyer.

**LANCASTER** — American Self Storage Center purchased a foreclosed 30,000-square-foot, 330-unit self-storage facility for \$1.65 million from the property's original construction financing lender. Dean Keller of **Bancap Self Storage Group Inc.** represented both parties.

**SAN DIEGO** — Eastman Kodak Co. signed an 18-month \$1.4 million lease for a 65,755-square-foot industrial and research-and-development building at 16275 Technology Drive from First Industrial LP. Mickey Morera of **Cushman & Wakefield** represented the lessor, while Chris Pascale of **CB Richard Ellis** represented the lessee.

**VAN NUYS** — Quest Diagnostics signed a five-year, \$790,000 lease for a 24,000-square-foot industrial building at 15750 Strathern St. from ARKA Properties Group and Black Equities Group. John DeGrinis, Patrick DuRoss and Jeff Abraham of **Colliers International** represented the lessor, while Jeff Myers of **CB Richard Ellis** represented the lessee.

**HESPERIA** — Castle Hill Enterprises signed a two-year, \$18,000 lease for 960 square feet of industrial space in Alder Industrial Park at 17525 Alder St. from Alder Street Partners. Elizabeth Brown of **Lee & Associates** represented the landlord.

**HESPERIA** — Diaz Polishing signed a one-year, \$6,000 lease for 960 square feet of industrial space in Alder Industrial Park at 17525 Alder St. from Alder Street Partners. Elizabeth Brown of **Lee & Associates** represented the landlord.

**SANTA ROSA** — NAK Engineering Inc. leased 11,240 square feet of industrial space at 3414 Regional Parkway from C&S Partners LLC. Mike Flitner and Kevin Doran of **Keegan & Coppin Co. Inc.** represented the lessor, while Vic Sheltenberg, also of **Keegan & Coppin**, represented the lessee.

**PETALUMA** — Kala Brand Music leased 1,625 square feet of industrial space at 1364 N. McDowell Blvd. from Diamond Jim Properties. Chris Castellucci of **Keegan & Coppin Co. Inc.** represented the lessor, while James Manley, also of **Keegan & Coppin**, represented the lessee.

**NOVATO** — Georgia Anwell leased 265 square feet of industrial space at 501 Palm Drive from Novato Public Finance Authority. Bill Hester of **Keegan & Coppin Co. Inc.** represented both parties.

**NOVATO** — Jill Culver leased 244 square feet of industrial space at 500 Palm Drive from Novato Public Finance Authority. Bill Hester of **Keegan & Coppin Co. Inc.** represented both parties.

**NOVATO** — Nancy Nichols leased 195 square feet of industrial space at 500 Palm Drive from Novato Public Finance Authority. Bill Hester of **Keegan & Coppin Co. Inc.** represented both parties.

**NOVATO** — Donna Solin leased 195 square feet of industrial space at 500 Palm Drive from Novato Public Finance Authority. Bill Hester of **Keegan & Coppin Co. Inc.** represented both parties.

**NOVATO** — Harriet Burge leased 194 square feet of industrial space at 500 Palm Drive from Novato Public Finance Authority. Bill Hester of **Keegan & Coppin Co. Inc.** represented both parties.

**NOVATO** — Larry Bryson leased 165 square feet of industrial space at 500 Palm Drive from Novato Public Finance Authority. Bill Hester of **Keegan & Coppin Co. Inc.** represented both parties.

### RETAIL

**FREMONT** — The city of Fremont purchased the 22,000-square-foot Town Fair Shopping Center at State Street and Capitol Avenue for \$5.2 million from Tribeca Cos.

**SAN JOSE** — Seecan Partners purchased the 11,691-square-foot Orchard Plaza retail center at 804-820 S. Winchester Blvd. for \$4.7 million from the Adamian Family Trust. Matt Taylor of **Terranomics Retail Services** represented the buyer.

**FAIRFIELD** — Raj Chabra and Vimal Kumar purchased a 33,258-square-foot former Circuit City building at 1560 Gateway Blvd. for \$2.8 million from Circuit City Investors-Fairfield LP. Todd Oliver and Matt Taylor of **Terranomics Retail Services** and Bob Tuller of **NAI BT Commercial** represented the seller.

**BELLFLOWER** — Mahn Properties purchased a 9,171-square-foot retail strip center at 9345-9361 Alondra Blvd. for \$2 million from PB Investments I Ltd. Eric Wohl and Kevin Fryman of **Hanley Investment Group** represented the seller, while John Son of **Lee & Associates - Orange Inc.** represented the buyer.

**ESCONDIDO** — JP Morgan Chase signed a 10-year, \$1.5 million lease for 5,000 square feet of retail space at 1401 E Valley Parkway from Bulen Holdings LLC. Don Zech and Nancy Murphy of **CDC Commercial** represented the lessor, while Dave Haglund of **CB Richard Ellis** represented the lessee.

**TEMECULA** — BVTI Inc., doing business as Pho Tho Vietnamese Restaurant, signed a seven-year, \$338,000 lease for 1,900 square feet of retail space in Temecula Towne Center at 27644 Ynez Road from Lakha Properties - Temecula TC LLC. The lessor represented itself, while Reg Kobzi of **CB Richard Ellis** represented the lessee.

**MISSION HILLS** — A loan in the amount of \$1.6 million was arranged for a shopping center. Michael Yim of **Commercial Realty Consultants Inc.** secured the 25-year loan with a five-year fixed rate of 6.65 percent and 30 years of amortization.

**ESCONDIDO** — Srirama Entrepreneurs Inc., doing business as Great Clips, signed a five-year, \$128,000 lease for 1,100 square feet of retail space in Felicita Town Center at 1835 Centre City Parkway from Felicita Holdings LLC. Aaron Hill, Chris Walton and Rob Ippolito of **Cushman & Wakefield** represented the lessor, while the lessee represented itself.

**CARLSBAD** — Maritime Escrow Inc. signed a two-year, \$98,000 lease renewal for 2,170 square feet of retail space in La Costa Town Center at 7750 El Camino Real from La Costa Tower LLC. Kam Walton and John Jennings of **Cushman & Wakefield** represented the lessor, while the lessee represented itself.

**OCEANSIDE** — Anthony Acevedo and Gina Fogarty, doing business as Superjuice, signed a three-year, \$87,000 lease for 1,275 square feet of retail space in Mission Marketplace at 467 College Blvd. from Frank Mission Marketplace. Chris Walton, Kam Walton and John Jennings of **Cush-**

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## DEALS

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**man & Wakefield** represented the lessor.

**HAYWARD** — Cinos Corp. signed a 37,800-square-foot ground lease in the Fairway Park Shopping Center at the intersection of Mission Boulevard and Rousseau Street from Fowler Property Acquisitions. Mark Koenig and John Schaefer of **Terranomics Retail Services** represented the landlord.

**VALLEJO** — AutoZone signed a 15-year, 25,000-square-foot ground lease at 3020 Sonoma Blvd. from Joe Khayat. Jon Stansbury of **Terranomics Retail Services** represented the tenant.

**SELMA** — Victory Outreach Church of Selma leased 21,400 square feet of retail space at 3830 McCall Ave. from McCall Village Investors. John Lee of **Grubb & Ellis | Pearson Commercial** represented both parties.

**ESCONDIDO** — Chuze Fitness leased 16,221 square feet of retail space in Felicita Plaza on the southwest corner of West Felicita Avenue and South Centre City Parkway from **Centro Properties Group**. Jason Ball, Matthew Berger and Gavin Gray represented the landlord in-house, while Chad lafrate of **Grubb & Ellis | BRE Commercial** represented the lessee.

**DALY CITY** — David and Wendy Leung, et al, doing business as Kome, leased 14,000 square feet of retail space in the Pacific Plaza at the intersection of Interstate 280 and Junipero Serra Boulevard from RREEF. Mike Costa and Katie Walsh of **Terranomics Retail Services** represented the landlord.

**VALLEJO** — A 9,968-square-foot Dollar Tree store opened at Vallejo Corners, a shopping center on Admiral Callaghan Way at Turner Parkway, from **Centro Properties Group**. Jason Ball and Matthew Berger represented the landlord in-house.

**CONCORD** — BJ's Restaurants Inc. leased 9,025 square feet of retail space in the SunValley Mall from The Taubman Co. Mike Costa and Todd Oliver of **Terranomics Retail Services** represented the tenant.

**REDWOOD CITY** — The Sleep Train Inc. leased 9,000 square feet of retail space at 2341 El Camino Real from Grace Winston. Todd Oliver with **Terranomics Retail Services** represented the tenant.

**SANTA ROSA** — The Sewing Shop LLC leased 8,800 square feet of retail space at 1250 Mendocino Ave. from Bill Ronchelli. Dino D'Argenzio and Bill Faherty of **Keegan & Coppin Co. Inc.** represented the lessor, while Ron Reinking of **Orion Partners** represented the lessee.

**SAN RAFAEL** — BJ's Restaurants Inc. leased 8,510 square feet of retail space in the Northgate Mall from Macerich. Mike Costa and Todd Oliver of **Terranomics Retail Services** represented the tenant.

**ROSEVILLE** — Glanum Investments purchased a 6,000-square-foot retail building at 4000 Foothills Blvd. from the Rosenberg Survivors Trust. Kris Reilly, Jason Rutherford, Scott Bennett and Thomas Walcott of **Grubb & Ellis** represented the buyer.

**SONOMA** — Sonoma Chicken Coop leased 5,706 square feet of retail space in the Silver Creek Plaza shopping center at the corner of East Capitol Expressway and Aborn Road from Weingarten Realty Investors. James Chung of **Terranomics Retail Services** represented the tenant.

**SAN BRUNO** — The Crossings Bar & Grill signed a 20-year lease for 5,000-square-foot restaurant space in The Crossings retail center on El Camino Real from Stegner Development. Todd Oliver and Matt Taylor of **Terranomics Retail Services** represented the landlord.

**SAN DIEGO** — Chick-fil-A leased 4,343 square feet of retail space at Mira Mesa Mall from **Centro Properties Group**. Brian Baker represented the lessor in-house.

**SAN CARLOS** — Shiki Japanese Restaurant leased a 4,000-square-foot retail building at 825 Laurel St. from Norma Siskin. Michael Seigel of **Terranomics Retail Services** represented both parties.

**GALT** — Anytime Fitness leased 3,542 square feet of retail space at the Carillion Corners shopping center from Carillion Corners LLC. Katie Walsh of **Terranomics Retail Services** represented the lessor.

**LIVERMORE** — Massage Envy leased 3,479 square feet of retail space in Portola Village at the northwest corner of Portola and North Livermore avenues from Donahue Schiber. James Chung, Matt Taylor and Katie Walsh of **Terranomics Retail Services** represented both parties.

**CONCORD** — Clayton Valley Dance Academy leased 3,170 square feet of retail space at Clayton Valley Shopping Center at the intersection of Ygnacio Valley Road and Clayton Road from Regency Centers.

**FRESNO** — West Park Charger Academy leased 1,925 square feet of retail space at 4454 W. Ashlan Ave. from Ashlan Village LLC. Troy McKenney and Mike Mele of **Grubb & Ellis | Pearson Commercial** represented landlord, while Sean Mele, also of Grubb & Ellis, represented the tenant.

**HEALDSBURG** — Michael Lanier leased 1,568 square feet of retail space at 22 Matheson St. from Coco Karma Inc. Bill Faherty of **Keegan & Coppin Co. Inc.** represented both parties.

**FRESNO** — A 974-square-foot retail space in Piccadilly Square Shopping Center at 2225 W. Shaw Ave. was leased. John Lee and Geoff Smith of **Grubb & Ellis | Pearson Commercial** represented the landlord and tenant.

**FRESNO** — A 310-square-foot retail lease for space at Ash Tree Shopping Center was signed by RB Fresno LLC. Geoff Smith and Michael Kennedy of **Grubb & Ellis | Pearson Commercial** represented both parties.

### HOSPITALITY

**BURLINGAME** — Permanent financing in the amount of \$2.3 million has been arranged for a Vagabond Inn on Bayshore Highway. Terri Slocombe of **Newmark Realty Capital Inc.** secured the loan with a fixed rate for five years of the loan's 10-year term.

### LAND

**WEST SACRAMENTO** — WJ Hoffman, as receiver for PMP at River Ranch LLC, sold 71 finished lots of at least 4,000 square feet each in River Landing at Southport. Nasser Mustafa and Jeff Patty of **Asset Solutions Group** negotiated the transaction.

**HAYWARD** — Costco Wholesale Corp. purchased a 16.3-acre parcel from Legacy Partners for a 160,000-square-foot store in the Legacy Eden Shores commercial project at the corner of Hesperian Boulevard and Industrial Parkway. Todd Oliver of **Terranomics Retail Services** and Larry Blickman of **NAI BT Commercial** represented the seller.

## REAL ESTATE in the courts

### Real Property

■ **Federal law does not preempt local rent ordinance's prohibition against eviction of federally subsidized tenants for purpose of raising rent.**

*Barrientos v. 1801-1825 Morton LLC, US Court of Appeals - Ninth Circuit, No. 07-56697, Oct. 9, 2009*

Twenty-two low-income federally subsidized tenants (Tenants) resided in Morton Gardens, an apartment complex in Los Angeles, managed by 1801-1825 Morton LLC (Morton). Morton was subject to the Los Angeles Rent Stabilization Ordinance (LARSO). On March 31, 2006, Morton served notices of eviction upon Tenants because it wanted to raise the rent on the apartment units. Tenants argued that Morton's actions were prohibited under LARSO and Morton argued that a U.S. Department of Housing and Urban Development (HUD) regulation permitted the eviction notices and thus preempted LARSO. Tenants successfully filed action and the court issued a permanent injunction, barring Morton from evicting Tenants without complying with LARSO.

The decision was affirmed. LARSO, a municipal code, explicitly prohibits eviction of tenants for the purpose of raising rent. A HUD regulation enacted by the U.S. Congress permits the eviction of a subsidized tenant on good-cause grounds, which can include the desire to raise rent. Under the Supremacy Clause, a federal regulation preempts a municipal code whenever there is actual conflict. Here, this court held that there was no conflict. The HUD regulation did not grant a right to terminate a tenancy based on a desire to increase rents because its listing of good-cause examples, which included the purpose of raising rent, were merely examples of what good cause could mean. Good cause was ultimately to be determined by state authority, such as LARSO. HUD merely created a floor of protection, which local laws could enhance. Thus, LARSO was not preempted by HUD's good-cause regulation and the permanent injunction against the eviction notices was valid.

*Opinion by Judge Kim McLane Wardlaw — Edward Chang*

■ **Upland homeowner must obtain renewed consent to keep 'shore defense structures' that encroached on tidelands due to ambulatory shoreline.**

*United States v. Nicholson, US Court of Appeals - Ninth Circuit, No. 05-35802, Oct. 9, 2009*

The Lummi Nation reservation included portions of Washington state uplands and surrounding tidelands. The dividing line between the uplands and tidelands was the mean high water (MHW) line. The uplands were divided into lots and sold. The tidelands were later leased to upland homeowners, giving them the right to erect various "shore defense structures" to protect against erosion. However, the leases expired in 1988. As of 2002, the structures sat below the MHW line within the tidelands. The government ordered the homeowners to remove the structures or re-lease the tidelands from the Lummi Nation. When they refused, the government brought suit. The homeowners argued that they had a right to protect their land from erosion. However, the court granted summary judgment to the government, finding that the homeowners were liable for trespass.

The decision was affirmed in part. An owner of littoral land must accept that its boundary is ambulatory and subject to gradual loss or gain. While upland owners have a right to build structures to protect against erosion, tideland owners also have a vested right to gains from the changing of the boundary. Thus, an upland owner may

not permanently fix a boundary that would then deprive the tideland owner of lands they would otherwise gain. Once the shoreline has eroded so that the defensive structure fixes an otherwise ambulatory boundary, the upland owner must obtain the consent of the tideland owner to continue to maintain the structure. Here, erosion caused the MHW line to reach beyond the homeowners' defensive structures. Because the defensive structures extended onto the newly submerged tidelands, the property owners' failure to remove the structures or obtain consent constituted a trespass on the tideland.

### Insurance

■ **Stay of insurer's declaratory relief action is not necessary where factual issues did not overlap with issues in underlying liability action.**

*Great American Insurance Co. v. Superior Court (Angeles Chemical Co. Inc.), California Courts of Appeal - 2nd District, No. B203121, Oct. 9, 2009*

Great American Insurance Co. (Great American) insured Angeles Chemical Co. (Angeles) and its officers and directors. Angeles and its neighboring property owner, McKesson Corp., sued each other for cleanup costs in relation to environmental contamination of groundwater beneath each property. Later, a subsequent owner of Angeles sued some of the insured Angeles owners and directors and those owners sued Angeles. Eventually, Great American settled the lawsuits filed by McKesson against its insureds and left actions among the Angeles-related parties still pending. Later, Great American brought an action for declaratory relief, seeking a finding that it was no longer obligated to defend its insureds. The insureds sought a stay of the action, arguing that resolution of the issues raised in the declaratory relief action would prejudice it in the underlying litigation. The trial court granted the stay and Great American petitioned for writ of mandate.

The petition was granted. An insurer may bring a declaratory relief action to obtain a declaration that it is not required to defend the insured. However, an insured may seek to stay the insurer's declaratory relief action if that action could prejudice its defense of an underlying liability action. If factual issues to be resolved in the declaratory relief action overlap with those to be resolved in the underlying action, the trial court must stay the declaratory relief action. If not, then the issue of whether to stay the action is entrusted to the trial court's discretion. Here, the declaratory relief action raised issues as to the length of Great American's policy, the limit of the policy and whether bad faith existed. Each of these issues involved interpretation of the policy, rather than liability for environmental contamination on the Angeles site. Given that such contamination was the issue in the underlying action, the trial court was not required to stay the declaratory relief action. Thus, the trial court erred in granting the motion to stay.

*Opinion by Justice Croskey — Seena Nikravan*

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