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# Land Use Litigation Deadlines Extended by Judicial Council's COVID-19 Emergency Rules

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The California Judicial Council [adopted](#) eleven emergency rules (“Emergency Rules”) on April 6 to address the COVID-19 pandemic's impact on California's residents and the judicial branch. The Judicial Council acknowledged that operations of the California superior courts have been disrupted and delayed, and the Emergency Rules are necessary to protect the rights of litigants and address the long-term backlog of civil actions that is likely to occur.

Developers and public agencies should be aware of some of these rules because they result in a significant extension of the deadlines for filing California Environmental Quality Act (CEQA) and other claims challenging land use projects and approvals. Overall, the Emergency Rules address civil and criminal proceedings, unlawful detainers and foreclosures, juvenile proceedings, and temporary restraining orders. The Emergency Rules temporarily toll deadlines for civil matters, encourage

adoption of technology to conduct remote proceedings, prevent eviction proceedings, and extend timeframes for certain temporary restraining orders.

### **Land use matters impacted by new rules for civil proceedings**

**Statute of limitations.** Emergency Rule 9 tolls the statute of limitations for all civil causes of action from April 6, 2020, to 90 days after California's state of emergency related to the COVID-19 pandemic is lifted. By adoption of this Emergency Rule, the running of time in statutes of limitations is tolled or suspended. The time to bring the action will begin to run again when this tolling period ends (i.e., 90 days from the end of the state of emergency). Emergency Rule 10 extends by six months the five-year deadline for bringing a civil action to trial, and the three-year deadline for bringing a new trial. Emergency Rule 11 allows depositions through remote means.

Critically, Emergency Rule 9 results in a substantial extension of the typically short statutes of limitation that apply to CEQA lawsuits and other actions challenging the approval of new land use projects. CEQA actions generally need to be brought within 30 days after the filing of a notice of adoption of an environmental impact report or mitigated negative declaration. This short deadline is intended to provide developers and agencies with certainty that they can move forward with implementing a project without fear of future lawsuits. The Emergency Rules eliminate that certainty, in an effort to address the inconsistent manner in which courts around the state were allowing new lawsuits to be filed, as well as the resulting confusion for lawyers and litigants.

**Temporary restraining orders.** Land use challenges may also be impacted by provisions in other Emergency Rules. For example, Emergency Rule 8 extends the effect of any temporary restraining order set to expire during the state of emergency. That rule also requires courts to provide a means for filing new ex parte requests for temporary restraining orders, which are often used by project opponents to prevent a project from moving forward while a litigation challenge is pending.

**Remote proceedings.** Emergency Rule 3 allows judicial proceedings and court operations to be conducted remotely until 90 days after the state of emergency is lifted. By allowing court proceedings to be conducted through video, audio, and telephonic means, this provision should allow for resumption of many legal cases

that were thrown into limbo by the near-complete shutdown of many courts around the state.

### **Next steps**

In adopting the Emergency Rules, the Judicial Council implores courts to “responsibly, carefully, stringently and strategically determine which urgent court services take priority.” Several of the rules require implementation by California courts. The result of this implementation, therefore, might differ in different parts of the state. Anyone litigating in California – as well as developers and agencies moving forward with land use projects – should carefully consider the Emergency Rules and evaluate their potential effects on existing or potential litigation.

**Additional resources from CEB:** For a detailed discussion of land use law, see CEB’s [California Land Use Practice](#) and [The California Municipal Law Handbook, chapter 10](#). On CEQA, see CEB’s [Practice Under the California Environmental Quality Act; California Land Use Practice, chapter 13](#); and [The California Municipal Law Handbook, chapter 11](#).

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