

# John J. Flynn III

Partner | Orange County

jfflynn@nossaman.com

949.833.7800

18101 Von Karman Avenue, Suite 1800

Irvine, CA 92612



John Flynn represents private developers and public agencies in complex land use and environmental litigation matters. He has prosecuted and defended approximately 40 land use cases, in both state and federal trial and appellate courts. He was recognized in 2015 by *The National Law Journal* as one of the "Top 50 Energy & Environmental Trailblazers" in the U.S., and has been recognized by *Los Angeles* magazine in 2009-2015 as a Southern California "Super Lawyer" in Environmental Litigation.

John earned his J.D. from the University of California, Berkeley and his B.A. from the University of California, Los Angeles. He is a member of all the federal district courts in the State of California, the Ninth Circuit and D.C. Circuit, and the U.S. Supreme Court.

## EXPERIENCE

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***City of Palm Desert v. Sunrise Company.*** Defense of project approvals for \$1 billion resort commercial project planned for City of Indian Wells. Judgment in favor of client.

***Concerned Citizens for Huntington Beach v. Angus Petroleum Corporation.*** Defense of action challenging approvals for major oil well consolidation project in the City of Huntington Beach. Judgment in favor of client.

***Los Ranchos Community Association v. Coto de Caza.*** Defense of approval of vesting tentative subdivision map for residential development in Coto de Caza. Judgment in favor of client.

***Greenbelt Alliance v. Contra Costa Transportation Authority.*** Defense of approval of client's first Congestion Management Program. Judgment in favor of client.

***Laguna Greenbelt v. San Joaquin Hills Transportation Corridor Agency*** and ***Elizabeth Leeds v. Transportation Corridor Agency.*** Defense of actions challenging environmental approvals for San Joaquin Hills Transportation Corridor. Judgment in favor of client and affirmed on appeal.

***Open Space Coalition, et al. v. Regents of the University of California, et al.*** Defense of action challenging sale of right of way for San Joaquin Hills Transportation Corridor by Regents of the University of California. Judgment in favor of client, TCA.

***Laguna Greenbelt, Inc., et al. v. United States Department of Transportation (42 F.3d 517 (9th Cir. 1994)).*** Defense of action challenging Federal Highway Administration approval of San Joaquin Hills Transportation Corridor under the National Environmental Policy Act, the Clean Air Act and the Department of Transportation Act. Judgment in favor of client and affirmed on appeal.

**Save Our San Juan v. County of Orange, et al.** Defense of action challenging County of Orange financing for San Joaquin Hills Transportation Corridor. Judgment in favor of County of Orange and client, TCA.

**Save Our San Juan v. City of San Juan Capistrano.** Defense of action challenging approval of plan for realignment of Rancho Viejo Road in order to construct the San Joaquin Hills Transportation Corridor. Motion for preliminary injunction to halt Corridor construction denied. Court issued writ requiring TCAs to determine whether supplemental EIR required. TCAs determined that supplemental EIR was not necessary and Court affirmed.

**Newport Coast Drive Defense Fund v. San Joaquin Hills Transportation Corridor Agency, et al.** Defense of action challenging approvals by TCA and the County of Orange, incorporating a portion of Newport Coast Drive into the Corridor. Judgment in favor of client and affirmed on appeal.

**City of Santa Ana v. Foothill/Eastern Transportation Corridor Agency** and **City of Laguna Beach, et al. v. Foothill/Eastern Transportation Corridor Agency.** Defense of actions challenging approvals for the Eastern Transportation Corridor. Judgment in favor of client.

**Sea and Sage Audubon Society, et al. v. City of Mission Viejo, et al.** Defense of action seeking to block construction of Northern Segment of Foothill Transportation Corridor. Opposition's motion for preliminary injunction denied. Lawsuit dismissed.

**Endangered Species Committee of the Building Industry Association of Southern California, et al. v. Babbitt, et al. (852 F. Supp 32 (D.D.C. 1994)).** Action by clients TCA and Building Industry Association of Southern California challenging listing of California gnatcatcher as a threatened species. Motion for summary judgment granted in favor of clients, TCA/BIA, vacating listing of California gnatcatcher because of violations of Administrative Procedure Act and Endangered Species Act.

**Bolsa Chica Land Trust v. Board of Supervisors.** Defense of action challenging County approvals under CEQA for 3,300 unit residential project, including development of Bolsa Chica mesa and filling and restoration of Bolsa Chica wetlands. After appeal, judgment in favor of County of Orange and client, Koll Real Estate Group (now known as Hearthside Homes).

**South Laguna Civic Association v. City of Laguna Niguel, et al.** Defense of action challenging approvals for client's controversial ridgetop residential development, to be located in City of Laguna Niguel overlooking Pacific Coast Highway. After appeal, judgment in favor of client.

**Bolsa Chica Land Trust v. City of Huntington Beach.** Defense of action challenging approvals for residential project to be located in the City of Huntington Beach, on a portion of the Bolsa Chica mesa (Warner Mesa). Judgment in favor of City of Huntington Beach and client, Hearthside Homes, Inc. (formerly Koll Real Estate Group).

**Defend the Bay, Inc. etc. et al. v. California Regional Water Quality Control Board.** Defense of action challenging State Water Board's approval under the federal Clean Water Act, of a National Pollution Discharge Elimination Systems Permit, for discharge of water underlying a portion of the Eastern Transportation Corridor. Judgment for Water Board, and for client, Foothill/Eastern Transportation Corridor Agency and affirmed on appeal.

**Ron Holland, et al. v. California Coastal Commission.** Action by clients challenging Coastal Commission's assertion of jurisdiction over County of San Luis Obispo extension of client's subdivision map. Judgment in favor of client and affirmed on appeal.

**D.T. Smith Equities, Ltd. v. City of Dana Point.** Action by client against City of Dana Point seeking order extending life of subdivision map declared by City to have expired. Judgment in favor of client, D.T. Smith Equities, Ltd.

**Christensen v. County of Riverside.** Client sued County of Riverside, challenging, on CEQA grounds, the county's imposition of a scenic protection overlay that prohibited clients' development of their property for wind energy purposes. Judgment in favor of client.

**Rolfe v. Caltrans (104 Cal.App.4th 239).** Defense of action challenging Caltrans' use of property acquired with Park Bond Funds for highway purposes, in a case of first impression. Judgment for client and affirmed on appeal.

**Standard Pacific of Orange County, Inc. v. City of Walnut.** Client sued City of Walnut over City's unlawful requirement of a supplemental EIR for review of plans submitted in accordance with vesting tentative map conditions. Judgment in favor of client and affirmed on appeal.

**South Coast Oil v. City of Huntington Beach.** Defense of EIR for Pacific City project in Huntington Beach. Judgment in favor of client after motion for judgment on the pleadings granted.

**National Enterprises v. Caltrans.** Defense of CEQA action, challenging client's development of the South Bay Expressway (SR 25), a 12-mile private toll highway to be located in San Diego County. Judgment in favor of client, California Transportation Ventures. Affirmed on appeal.

**Quorum Realty III v. City of Paso Robles.** Challenge to City's refusal to prepare an EIR for a resort project near Hwy. 101. Judgment in favor of client.

**Stern v. City of Malibu.** Defense of action challenging negative declaration for telecommunications facility to be built by Sprint, the client, in the City of Malibu. Opponents' motion for preliminary injunction denied. Case then immediately settled on highly favorable terms and dismissed.

**Nextel v. City of Laguna Beach.** Action against City for refusal to issue permit for installation of wireless telecommunications facility. After filing of action, City stipulated to issuance of permit.

**Nextel v. City of Los Angeles.** Action against City for refusal to issue permit for installation of wireless telecommunications facility. After filing of opening brief, City stipulated to issuance of permit.

**Cox Communications v. City of Laguna Beach.** Action against City for refusal to issue permit for installation of wireless telecommunications facility. Judgment in favor of client.

**Cox PCS Assets, LLC v. City of Westminster, et al.** Action against City for refusal to issue permit for installation of wireless telecommunications facility. After filing of action, City stipulated to issuance of permit.

**Sprint PCS Assets, L.L.C. v. City of La Canada Flintridge, et al.** Action against City for refusal to issue permit for installation of wireless telecommunications facility. After appeal, decision in favor of client.

**Building Industry Association of Fresno/Madera Counties v. City of Fresno.** Client challenged the City of Fresno's invalid adoption of a fire sprinkler ordinance. Judgment in favor of client, and affirmed on appeal.

**T-Mobile v. City of Agoura Hills.** Action against City for refusal to issue permit for installation of wireless telecommunications facility. Judgment in favor of client.

**Citizens for Open and Public Participation v. City of Montebello.** Defense of city approvals for Cook Hill Properties' major 1200-unit residential project in the City of Montebello. Judgment for client, Cook Hill Properties, Inc., in the California Superior Court, affirmed by the California Court of Appeal.

## INSIGHTS

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### SPEAKING ENGAGEMENTS

Speaker, "Coastal Litigation and Case Law Update," Nossaman's 2019 California Coastal Law Conference, Huntington Beach, CA, 09.10.2019

Speaker, "CEQA: Important Developments You Need to Know," Nossaman's 2019 California Land Use Seminar, Costa Mesa, CA, 05.21.2019

Speaker, "Case Law Update," Nossaman's 2017 California Coastal Law Conference, La Jolla, CA, 10.10.2017

Speaker, "California Environmental Quality Act (CEQA) Update: Proposed CEQA Guidelines and Key Decisions," Nossaman's 2017 Northern California Environmental & Land Use Seminar, Walnut Creek, CA, 05.18.2017

Speaker, "2015 Environmental & Land Use Seminar," Nossaman's 2015 Environmental & Land Use Seminar, Newport Beach, CA, 09.22.2015

Speaker, "Quick Hits – Coastal Case Law Update," Nossaman's 2015 California Coastal Law Conference, La Jolla, CA, 05.07.2015

Speaker, "2014 Environmental & Land Use Law Update," Nossaman's 2014 Environmental & Land Use Law Update Seminar, Costa Mesa, CA, 05.20.2014

Speaker, "Hot Topics in Coastal Planning," Nossaman's 2014 California Coastal Law Conference, Los Angeles, CA, 01.30.2014

Speaker, "How Far Is Too Far? Conditions of Approval and Takings: Commission Precedents and Court Precedents," Nossaman's 2013 California Coastal Law Conference, San Diego, CA, 10.08.2013

Speaker, "California Coastal Commission 2012: A New Era in Coastal Planning and Permitting," Nossaman California Coastal Commission Seminar, Huntington Beach, CA, 06.12.2012

Co-Chair, "4th Annual California Coastal Law Conference," CLE International's 4th Annual California Coastal Law Conference, Los Angeles, CA, 04.29.2010

Co-Chair, "2nd Annual California Coastal Law Conference," CLE International's 2nd Annual California Coastal Law Conference, Los Angeles, CA, 03.30.2009

## PUBLICATIONS

Co-Author, "Fourth District Holds Local Agency CDP Court Challenge was Mooted by Administrative Appeal to Coastal Commission," *Nossaman eAlert*, 02.26.2019

Co-Author, "A Closer Look at *T-Mobile v. Roswell*," *Law360*, 02.03.2015

Co-Author, "U.S. Supreme Court holds in Favor of Cell Tower Siting Applicants," *Nossaman eAlert*, 01.16.2015

Co-Author, "California Supreme Court Holds No CEQA Review Required for a Voter Initiative-Sponsored Ordinance," *Nossaman eAlert*, 08.12.2014

## HONORS & RECOGNITIONS

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Named to *The National Law Journal's* list of "Top 50 Energy & Environmental Trailblazers" in 2015.

AV Preeminent<sup>®</sup> Peer Review Rated by Martindale-Hubbell

Selected to the Super Lawyers List for 2009-2016

## COMMUNITY & PROFESSIONAL

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Former Member, Community Advisory Board of the UCI Clinical Cancer Center

Former Member, Governing Board of the Irvine Unified School District (1981-1985)

Member, Board of Directors, St. Thomas More Society

## TELECOM LITIGATION

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John Flynn represents clients in litigation and pre-litigation negotiations with cities and counties over approvals for placement of telecommunications facilities and equipment. He uses a thorough knowledge of the interplay between state and local land use law and the federal Telecommunications Act of 1996 to achieve the client's goals, usually through close communication with the city attorney or county counsel, and by litigation, where necessary.

- ***Stern v. City of Malibu***. Defense of action challenging negative declaration for telecommunications facility to be built by Sprint, the client, in the City of Malibu. Opponents' motion for preliminary injunction denied. Case then immediately settled on highly favorable terms and dismissed.
- ***Nextel v. City of Laguna Beach***. Action against City for refusal to issue permit for installation of wireless telecommunications facility. After filing of action, City stipulated to issuance of permit.

- **Nextel v. City of Los Angeles.** Action against City for refusal to issue permit for installation of wireless telecommunications facility. After filing of opening brief, City stipulated to issuance of permit.
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- **Cox PCS Assets, LLC v. City of Westminster, et al.** Action against City for refusal to issue permit for installation of wireless telecommunications facility. After filing of action, City stipulated to issuance of permit.
- **Sprint PCS Assets, L.L.C. v. City of La Canada Flintridge, et al.** Action against City for refusal to issue permit for installation of wireless telecommunications facility. After appeal, decision in favor of client.
- **T-Mobile v. City of Agoura Hills.** Action against City for refusal to issue permit for installation of wireless telecommunications facility. Judgment in favor of client.

## PRACTICES

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Environment & Land Use  
Coastal Development  
Litigation  
Construction Law, Claims & Litigation  
Telecommunications Facilities

## INDUSTRIES

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Renewable & Alternative Energy  
Telecommunications

## EDUCATION

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University of California, Berkeley School of Law, J.D., 1977  
University of California, Los Angeles, B.A., 1974, *magna cum laude*

## ADMISSIONS

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California  
U.S. Supreme Court  
U.S. Court of Appeals, Ninth Circuit  
U.S. Court of Appeals, District of Columbia Circuit  
U.S. District Court, Central District of California  
U.S. District Court, Eastern District of California  
U.S. District Court, Northern District of California  
U.S. District Court, Southern District of California