

## FALL 2014 REAL ESTATE NEWSLETTER

**We're devoting** this issue of the real estate newsletter to the idea of liability — and tips on how to avoid it. If your **building is in noncompliance** with energy, take a look at Sean's article below. **ADA compliance** cases are heating up in our region once again. Over 75 were filed arising out of one weekend! We have some helpful suggestions on how to avoid becoming a target. For a while, **design professionals, including architects and engineers**, have owed no prospective liability to future home (or building) owners. All that has changed with the California Supreme Court's recent opinion in *Beacon Residential Community Ass'n v. Skidmore, Owings & Merrill LLP*.

And, speaking of liability, Hoge Fenton has broadened and deepened its ability to protect you from potential liability by bringing three elite and experienced real estate attorneys onboard. Look for information on **Lee Bardellini**, **John Cavin** and **Steven Kahn** in our "inside Hoge Fenton" feature!

Thank you for reading.

**Daniel W. Ballesteros**

Editor and Managing Shareholder

*To read the PDF version of the entire newsletter, [click here](#).*

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### Deadline for California Energy Use Disclosure for Nonresidential Building Owners Extended

**by Sean A. Cottle**

Own a nonresidential building with 10,000 square feet or less? **[read the article](#)**

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### Downtown Tour!

On October 30th, luxury tour buses will once again crawl the streets of downtown San Jose and surrounding areas, treating guests to . . . **[read the article](#)**

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## ADA Litigation is on the Rise and Small Businesses are Being Targeted

by **Daniel W. Ballesteros** and Justine M. Cannon

How can a business insulate itself from ADA lawsuits? Read the article, plus commentary from noted Certified Access Specialist Kim Blackseth. **read the article**

## Architects and Engineers Have Expanded Liability – Even When Not Directly in Contract with Homeowners

by Justine M. Cannon

Construction design professionals owe a duty of care to future homeowners – even when the architect or engineer is not directly in contract with the homeowners? **read the article**

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## Upcoming events.

October 30: Downtown San Jose Real Estate Tour. Info and registration — **click here.**

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## Archives you may find of interest.

Spring 2014 Real Estate Newsletter

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## Inside Hoge Fenton.

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### ***Meet Steven Kahn, Lee Bardellini and John Cavin***

Meet Lee Bardellini, John Cavin and Steven Kahn. Formerly of the Bardellini, Straw, Cavin and Bupp firm in San Ramon, they joined Hoge Fenton in July. Well known and respected for their expertise in complex real estate litigation, real estate transactions, and title insurance law, the lawyers will continue to represent owners of real property in all manner of litigation including disputes involving ownership, use and control. They represent regional and national title companies as well as their insured owners and lenders in complex real property disputes. The three will reside primarily in Hoge Fenton's Tri-Valley office.

**Steven Kahn** concentrates on real estate and business litigation, with particular expertise in disputes over property ownership, use and control, title insurance, escrows, and claims involving real estate professionals. He also counsels clients in real estate transactions and commercial leasing matters.



Steven, his wife, and their adorable rescue dogs, Missy and Ginger, live in the Tri-Valley area. Steven grew up in Marin and comes from a family of small business owners – his father was a solo attorney for over 35 years, while his mother, uncle, grandparents, and now his brother run successful retail clothing businesses in the Bay Area. Steven speaks conversational Spanish, learned from his Chilean mother, and tries to brush up when visiting his parents, who are now retired in Chile. Steven and his wife love to travel to Europe – their last trip was two glorious weeks in Croatia. In his free time, Steven enjoys practicing yoga with his wife, CrossFit, and long-distance road cycling.

**Lee Bardellini** focuses on complex commercial real estate litigation, representing title insurers, escrow companies, brokers and lenders. He also provides advice, counsel and coverage opinions in a broad range of real property related matters.



Lee is a native of the bay area. His family has been in the Pleasanton–Livermore Valley area since the 1800s (his great grandfather opened a hotel in Pleasanton in the 1860s and operated a vineyard in the Livermore valley). Lee followed his father and grandfather into the practice of law. Lee enjoys photography and going on road trips in his restored 1967 Austin Healey 3000 vintage sports car.

**John Cavin** is an experienced real estate and commercial litigator, with clients ranging from start-ups to established commercial real estate businesses and professionals. He has extensive expertise in title insurance, escrow operations, and the construction industry.



The son of a lawyer, John is the eldest of five children. He was born in Oklahoma but grew up in southern California. After college, John worked in-house at a heavy-equipment construction company, which gave him firsthand experience dealing with labor disputes while working on a negotiating committee opposite the Operating Engineers, eventually resolved when President Carter sent in a federal mediator. Family man John and his wife Debbie have lived in Danville since 1987. They have beautiful identical twin daughters, Kristen and Erin, who now live in Dallas. An avid outdoorsman, John likes to fly fish and camp and golf in his spare time.

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*Because of the generality of this newsletter, the information provided in it may not be applicable in all situations and should not be acted upon without specific legal advice based on a particular situation.*

## **Related Attorneys**

- Daniel W. Ballesteros
- Sean A. Cottle
- David J. Hofmann
- Steven J. Kahn
- Sblend A. Sblendorio
- Steven D. Siner