



Legal Update: Subdivision Maps Extended

by [JoAnne Dunec](#)

An urgency statute, AB 208, enacted in July 2011, automatically provides a two-year extension for approved tentative maps that had not expired as of July 15, 2011, but were set to expire prior to January 1, 2014. As in past economic downturns, the California legislature enacted the extension in recognition of the current economic climate and the need for maintaining valuable land use entitlements. Generally, land in California, which is entitled and ready for development, is more valuable than land that requires additional approvals such as general plan or zoning amendments, subdivision, or other project approvals.

The automatic extension provided by AB 208 is embodied in California Government Code Section 66452.23 and is in addition to other extensions already provided under the Subdivision Map Act, including the automatic two-year extension provided by AB 333 in 2009 and another automatic one-year extension provided by SB 1185 in 2008.

Additional extensions for subdivision maps are provided under the Subdivision Map Act, including extension through statutory development agreements that enable subdivision maps to be extended for the term of the development agreement, which may extend for twenty years or more. Development agreements are also used to negotiate and “lock in” impact fees, together with zoning and other entitlements. Such agreements, upheld by *Santa Margarita Area Residents Together v. San Luis Obispo County*, 84 Cal. App. 4th 221 (2000), transcend political transitions as local agency elected officials change over time.

AB 208 also provides that legislative, administrative or other approvals issued by *state* agencies that pertain to a development project included in a map extended by AB 208 are automatically extended by two years as well. AB 333 and SB 1185 each provided a comparable automatic extension. However, the term of all applicable entitlements should be examined as neither AB 208, nor the prior bills (AB 333 and SB 1185), provide automatic extensions for *federal* or *local* land use approvals.

Two other provisions of AB 208 are important. For purposes of subdivision maps extended pursuant to AB 208 or AB 333: (1) the time period set forth in Government Code Section 65961(a) after recordation of the final map or parcel map for certain residential subdivisions during which new conditions cannot be imposed has been reduced from five to three years, and (2) a city, county or city and county is not prohibited from levying a fee or imposing a condition that requires the payment of a fee, including an adopted fee that is not included within an applicable zoning ordinance, upon the issuance of a building permit, including but not limited to, a fee defined in Section 66000 of the Mitigation Fee Act.

To determine if a subdivision map is subject to AB 208 or for information on other Subdivision Map Act or other land use matters, please contact JoAnne Dunec or Art Coon at 925-935-9400 or email them at adunec@msrlegal.com or acoon@msrlegal.com, respectively. For more background on the Subdivision Map Act and land use entitlements, see *Miller & Starr California Real Estate 3d*, Chapter 25 “Subdivisions, Land Use Planning, and Approvals”.