



## Stephen A. McEwen

Partner

Orange County

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*Pronouns: he, him, his*

Stephen A. McEwen joined Burke in 2003. Stephen previously served as City Attorney for Buellton and Laguna Woods and Assistant City Attorney for the cities of Atascadero, Hemet and Stanton. In these roles, Stephen has drafted numerous ordinances and resolutions and has advised cities on a wide range of legal issues with a special emphasis on the Public Records Act, the Brown Act, and code enforcement. Stephen has also utilized his extensive [constitutional law](#) background to advise municipal clients on First Amendment and Fourteenth Amendment issues.

Stephen is responsible for supervising code enforcement efforts for Burke's municipal clients. In this capacity, he utilizes the full range of code enforcement tools, including informal office conferences, inspection warrants, administrative hearings, civil nuisance actions, and misdemeanor prosecutions. Although his emphasis in this area is on resolving code violations without the need for judicial intervention, he has successfully prosecuted numerous code enforcement cases to completion. Stephen obtained a guilty verdict from a jury on all counts against a property owner for maintaining multiple building code and property maintenance violations. He obtained guilty verdicts against two defendants for operating an unpermitted nightclub. He has also obtained preliminary and permanent injunctions in multiple code enforcement matters involving zoning violations, public nuisance conditions, and unpermitted marijuana facilities.

In addition to his code enforcement prosecution experience, Stephen has handled a broad array of litigation for the firm's municipal and governmental clients, including disputes involving [eminent domain](#), inverse condemnation, tort liability, construction defects, [construction contract disputes](#), CEQA, and the Federal Civil Rights Act. He served as co-counsel in a successful bench trial regarding a client's right to take property through eminent domain. Stephen successfully defended the City of East Palo Alto in a trial involving alleged Brown Act and Due Process violations.

### PRACTICES

Eminent Domain and Inverse Condemnation

Inverse Condemnation

Litigation

Public Law

### EDUCATION

J.D., Stanford Law School, 1996

B.A., Political Science, Stanford University, 1992

### ADMISSION

State Bar of California

United States Court of Appeals for the Ninth Circuit

United States District Court for the Central District of California

United States District Court for the Eastern District of California

### AFFILIATIONS

Orange County Bar Association

League of California Cities

Public Safety Policy Committee,

City Attorney Department

Representative

League of California Cities, Ad

Hoc Cannabis Regulation

Committee

Stephen advises municipal clients throughout the state on issues related to medicinal and adult-use marijuana. He has obtained numerous preliminary injunctions against unpermitted dispensaries and successfully defended cities against an array of constitutional and state law challenges brought by dispensary operators. In 2012, he authored the League of California Cities' amicus brief in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, in which the Supreme Court ruled unanimously that local governments have zoning authority to prohibit medicinal marijuana dispensaries within their boundaries. As a result of this work, Stephen was appointed in 2014 to the League of California Cities Ad Hoc Cannabis Regulation Committee. He also served two terms as the City Attorney Department representative for the League's Public Safety Policy Committee from 2014-2015.

After law school graduation, Stephen clerked for Judge Arthur L. Alarcon on the United States Court of Appeals for the Ninth Circuit. He later served as a Deputy Attorney General in the Criminal Division of the California Department of Justice. As a prosecutor, Stephen represented the state in two successful trial-level prosecutions, over seventy felony criminal appeals in the California Court of Appeal, and over eighty habeas corpus proceedings in federal district court and the Ninth Circuit. In November 2002, he represented the California Department of Corrections successfully in an evidentiary hearing in Federal District Court in a case involving allegations of prosecutorial misconduct against the Los Angeles County District Attorney's Office.

### INSIGHTS

Join Us at the CalCities Annual Conference and Expo this October!

### PUBLICATIONS

Code Enforcement by Drone: Critical Considerations Before Launching Preserving Access While Regulating Conduct in Public Libraries

Addressing Health and Safety Issues Related to Public Encampments and Vehicle Habitation

Sleeping-in-Vehicle Ordinances Face Challenges Following Ninth Circuit Decision in *Desertrain v. City of Los Angeles*

2014 California Municipal Law Handbook

### REPRESENTATIVE MATTERS

- **East Palo Alto Merchants Association v. City of East Palo Alto Planning Commission**, San Mateo County Superior Court Case No. CIV 485355 - obtained a complete defense judgment in a trial involving alleged Brown Act and conflict of interest violations.
- **People of the State of California and City of Wildomar v. Wildomar Patients Compassionate Group, Inc., et**

- al., Riverside County Superior Court Case No. RIC10022903 – obtained a preliminary and permanent injunction against the operator of an unpermitted medical marijuana dispensary and the dismissal of the dispensary operator’s petition for writ of mandate against the city; successfully defended both judgments on appeal (California Court of Appeal Case No. E052788).
- **People of the State of California and City of Stanton v. Alternative Tomatoes, Inc., et al.**, Orange County Superior Case No. 30-2010 00407861 – obtained a preliminary injunction against the operator of an unpermitted medical marijuana dispensary.
  - **People of the State of California v. Robert Burris**, Orange County Superior Court Case No. 05WM04906 – obtained a guilty verdict in a criminal prosecution of a property owner for maintaining a converted garage, unpermitted construction, and the outside storage of junk, trash, and debris.
  - **People of the State of California and City of Industry v. DNA Properties, Inc., and Pinks Gentlemen’s Club**, Los Angeles County Superior Court Case No. KC0614170 – obtained a temporary restraining order and preliminary injunction preventing a strip club from opening at the site of a former adult business; case resulted in a settlement agreement that ensured the permanent discontinuance of any vested rights to use the property for adult business purposes.
  - **People of the State of California v. Rene Cota and Cheri Cota**, Los Angeles County Superior Court Case No. 8JB08263 – obtained guilty verdicts in a criminal prosecution against bar owners for operating a nightclub without required permits.
  - **People of the State of California and City of Richmond v. Jawad A. Dayem, et al.**, Contra Costa County Superior Court Case No. C10-01925 – obtained a preliminary injunction against the operator of an unpermitted medical marijuana dispensary. The parties subsequently stipulated to a permanent injunction and Richmond recovered \$50,000 in attorneys’ fees.