



Real Estate, Land Use, and Zoning Litigation

Kaplan Kirsch & Rockwell attorneys regularly represent public and private parties in administrative proceedings and litigation regarding zoning, comprehensive planning, and other land use issues. Complex land use issues frequently become high profile, publicly controversial subjects—an additional challenge with which we assist our clients.

In front of planning boards, city councils, and other decision-making bodies, we apply our experience to develop cases that address both the political and policy needs of persuasion and the need to develop a strong record for possible future challenges. When our clients find themselves the subject of judicial action, we use our extensive knowledge of land use litigation to maximize the chances of success.

Our attorneys serve on or have served on planning and other boards in cities in which they live. They have participated in hundreds of quasi-judicial land use matters, drafted and negotiated zoning ordinances, developed and approved comprehensive and area plans, and heard zoning appeals and requests for variances. Our experience as deciding officials, proponents, and opponents in various land use matters enables us to provide the best counsel, strategy, and advocacy.

Representative Cases

Colo. Dep't of Transp. v. Board of Comm'rs of Douglas County, 2008 WL 1903523 (Colo. App. 2008) (represented Douglas County in defense of land use regulations)

Vacation Village v. Clark County, 244 Fed.Appx. 785 (9th Cir. 2007), *cert. denied*, 128 S.Ct. 2956 (2008)

Board of Comm'rs of Pitkin County v. Timroth, 87 P.3d 102 (Colo. 2004) (represented local Land Trust and other amici curiae in defense of Pitkin County open space parcels created on abandoned mining claims)

City of Golden v. Jefferson County, Case No. 03CV3045 (D. Colo. 2004) (obtained injunction against construction of HDTV tower and remand to County Commission)

Olson v. Denver, No. 03CA1896 (Colo. App. 2004) (challenge to Denver Election Commission approval of measure to repeal local land use ordinance, and injunction against placement of measure on the ballot)

City of Burbank v. Burbank-Glendale-Pasadena Airport Auth., 113 Cal. App. 4th 465 (Cal. Ct. App. 2003) (represented City of Burbank in prosecuting a challenge to citizen-sponsored initiative on airport development); *City of Burbank v. Burbank-Glendale-Pasadena Airport Auth.*, 72 Cal. App. 4th 366 (Cal. Ct. App. 1999) (represented City of Burbank in defense of authority under state law to review acquisition of property for airport expansion)

City of Des Moines v. Puget Sound Regional Council, 988 P.2d 27 (Wash. Ct. App. 1999) (represented coalition of local governments in challenge to land use approval for new runway project)

City of Cleveland, Ohio v. City of Brook Park, Ohio, 893 F.Supp. 742 (N.D. Ohio 1995) (represented City of Brook Park in defense of zoning regulations controlling airport expansion)

City of Irving v. Dallas/Fort Worth Int'l Airport Bd., 894 S.W.2d 456 (Tex. App. 1995) (represented municipalities in challenge to zoning applicable to airports)



KAPLAN KIRSCH ROCKWELL

City of Colorado Springs v. Board of County Comm'rs of County of Eagle, 895 P.2d 1105 (Colo. App. 1994), *cert. denied*, 116 S.Ct. 564 (1995) (represented citizens' group in successful defense of Eagle County's denial of land use permit against regulatory takings and preemption claims)

Dallas/Fort Worth Int'l Airport Bd. v. City of Irving, Tex., 854 S.W.2d 161 (Tex. App. 1993) (represented municipalities in challenge to zoning for airport project)

Waste Systems Corp. v. County of Martin, Minn., 985 F.2d 1381 (8th Cir. 1993) (filed amicus brief on behalf of county seeking to regulate landfill by imposing composting requirement)

County of Fairfax v. Fleet Industrial Park, Ltd., 410 S.E.2d 669 (Va. 1991) (represented landowners in challenge to county-wide downzoning ordinance)

Representative Experience

- Represented the Lowry Redevelopment Authority in the successful 2015 rezoning of former Department of Defense property to create vibrant mixed uses, despite challenges from certain neighborhood groups.
- Represented a school in Denver, Colorado, before the Denver Board of Adjustment in 2015 to successfully secure variances from Denver Zoning Code provisions for new school construction.
- Developed, defended, and assisted in the issuance of permits for areas and activities of statewide interest regulations in Pitkin County; Douglas County; Golden, Colorado; and other communities.
- Drafted zoning code amendments for transformative projects such as Denver Union Station.
- Represented the City of Golden in litigation challenging use permits for high-definition television towers that resulted in multiple remands to the Board of County Commissioners.
- Served on various boards and committees, including the Boulder Planning Board and committees developing the Denver form-based code and comprehensive plans.
- Served as expert witnesses in litigation and arbitration proceedings involving land use entitlement issues.