

Thomas M. Ware II

Partner



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Education

Loyola Law School, J.D., 1989, *Cum Laude*,
Order of the Coif

University of Nevada at Las Vegas (B.A.), 1986,
High Distinction

Bar Admissions

- California
- Ninth Circuit Court of Appeals
- United States District Court (C.D. Cal.)
- United States District Court (S.D. Cal.)
- United States District Court (E.D. Cal.)
- Nevada

Practice Areas

- Homeowners Associations
- Complex Civil Litigation
- Fidelity Bond/Insurance
- Land Use
- Non-Profit Corporations
- Appellate

Tom Ware is a partner of Kulik Gottesman Siegel & Ware LLP. For the past twenty-seven years, Mr. Ware's practice has focused on the representation of nonprofit homeowners associations, their volunteer directors and officers, and HOA property managers. He has extensive experience in representing common interest developments, non-profit homeowners associations, and their volunteer directors in connection with general corporate issues, real estate matters, litigation, insurance, fidelity bond claims, and appellate matters. Mr. Ware was one of the attorneys of record for the prevailing parties in the landmark California Supreme Court case *Nahrstedt v. Lakeside Village Condominium Association* which established the legal framework and standards for enforcing CC&R provisions.

LITIGATION TRIAL EXPERIENCE

Mr. Ware has extensive litigation and trial experience and has successfully represented homeowners associations and/or their directors and officers in numerous construction defect cases, developer disputes, CC&R enforcement matters, land use disputes, title issues, controversies involving architectural modifications and other use restrictions, disputes involving alleged breaches of fiduciary duty, assessment collection, lender and contractor disputes, corporate matters, and insurance related matters.

APPELLATE EXPERTISE

Mr. Ware has handled over twenty appeals and represents homeowners associations and their directors and officers in published and unpublished appellate matters before both federal and state appellate courts. Mr. Ware has litigated in the California Supreme Court, including some pivotal cases governing the duties and liabilities of all homeowners associations. In addition to being one of the attorneys representing the prevailing homeowners association in the landmark Supreme Court decision, *Nahrstedt v. Lakeside Village Condominium Assn.*, 8 Cal.4th 361 (1994), which established the legal standard for enforcing CC&R restrictions, Mr. Ware was also appellate counsel for the prevailing party in *Martin v. Bridgeport Community*

Assn., 173 Cal.App.4th 1024 (2009), which holds that CC&Rs can be enforced against tenants, but tenants lack standing to enforce the CC&Rs against the homeowners association.

FIDELITY BOND CLAIMS

Having developed a particular expertise in helping homeowners associations investigate and prosecute fidelity bond claims, Mr. Ware has successfully recovered embezzled association funds. Most recently, he helped a group of homeowner association investigate and recoup approximately \$1.5 million arising from a property manager's misappropriation of association funds. Mr. Ware was a featured speaker on this subject at the 2013 Condominium Association Institute's Annual National Conference, April 17-20, in San Diego, California: Discovering HOA Embezzlement, Recouping Stolen Funds, and Protecting HOAs from Future Theft.

HOMEOWNERS ASSOCIATION GENERAL COUNSEL

Mr. Ware has represented associations in connection with general corporate issues, CC&Rs and By-law provisions, preparation of amendments to governing documents, insurance matters, and general issues relating associations' and directors' fiduciary obligations. As a result of his extensive litigation, bond claim, and appellate experience, Mr. Ware has been influential in representing his clients' best interests relating to the changing laws affecting common interest developments. He is extremely knowledgeable in forecasting how Board of Directors' business and management decisions will be received if a matter is brought to litigation. He counsels his clients to avoid common pit falls and exposure issues facing the Association and its volunteer directors.

NON-PROFIT CORPORATIONS

Having incorporated and advised non-profit 501(c) (3) and 501(c) (4) corporations, Mr. Ware has helped numerous organizations register as a charity with the California Attorney General. He also counsels his client in securing Federal and State Tax Exempt Status.

COMMUNITY AFFILIATIONS

Pail Quarterback Club Board Member – 501(c) (3) charity set up to support and fundraise for the Palisades Charter High School football program. President of Pacific Palisades Lacrosse Association, Inc. – 501(c)(3) charity set up to support and fundraise for the Palisades Charter High School lacrosse program and lacrosse in the Pacific Palisades community.

AWARDS

Selected for inclusion in Super Lawyers 2009-2017, published in Los Angeles Magazine. Awarded the highest peer review rating issued by Martindale-Hubbel, AV Preeminent.