

**News Release**  
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**Court Validates Use of Lease-Leaseback  
Construction Contracts for School Districts**  
*Districts Rely on Useful Construction Method to  
Build and Modernize Much Needed New School Facilities*

*CERRITOS, Calif.* —The law firm of [Atkinson, Andelson, Loya, Ruud & Romo](#) (AALRR) applauds last Tuesday's ruling in the California Superior Court of Orange County that upholds the use of lease-leaseback construction contracts, authorized by the California Education Code, by the Los Alamitos Unified School District on its Los Alamitos High School Track & Field Project.

In the lawsuit, *Los Alamitos Unified School District vs. All Persons Interested in the Matter of*, a local construction contracting firm challenged the District's use of the lease-leaseback construction delivery method, a method that has been in the California Education Code for more than 50 years, alleging that it bypasses the competitive bidding process and therefore was illegal, unconstitutional, and a theft of public funds.

AALRR, is pleased to report that on June 18, 2013, two days after an article was published in the Sunday edition of the Orange County Register which questioned the use of this construction delivery method, the Honorable Randell L. Wilkinson issued a ruling on the District's Motion for Summary Judgment which noted that District demonstrated that it complied with the provisions of the California Education Code for such contracts, and that the construction firm that challenged the District's use of the lease-leaseback construction delivery method, "...did not cite to a single constitutional provision that is allegedly violated by [the] District," nor did they demonstrate how the District's lease-leaseback agreement was unconstitutional, unlawful, or a theft of public funds." AALRR partner, Martin Hom, who led the Los Alamitos USD litigation on this matter calls the ruling "a resounding victory for the District specifically, and the lease-leaseback method in general."

AALRR, which represents more than 450 school districts throughout the State, has long advised clients on the appropriate use of this construction delivery method, having been involved in hundreds of such projects throughout the state of California. This method has advantages to school districts throughout the state which are pressed to build new schools to accommodate a growing student population and to modernize aging schools to bring them in line with current State standards. These construction projects allow for a negotiated guaranteed maximum sum price for construction in lieu of the traditional lowest bid approach, and have resulted in scores of successful projects.

From time to time there are discussions or “controversies” related to this construction method. For example, AALRR was at the forefront of discussions and analysis of what this method had to offer back in 2003 and 2004 at State Allocation Board Implementation Committee Meetings. AALRR attorneys have also conducted countless presentations throughout the State to help educate school district representatives and industry stakeholders in best practices associated with this construction method. Often, the history and details of this approach have been reported incorrectly. Terry Tao, partner at AALRR, notes “this Court Order validates this construction method. There will always be detractors when you innovate. There are some who have built their entire business around looking for advertisements of publicly bid schools who set up a trailer and start working away when they are awarded a ‘low’ bid. However, school construction is becoming more sophisticated since high end technology is being integrated into the learning environment. Someone with a truck and a hammer may not always be the best solution.”

At AALRR, we are always looking for innovative cost effective ways to streamline the processes of our clients. According to [Andreas Chialtas](#), Assistant Chair of the Firm’s Facilities, Construction and Property Practice Group, “the lease-leaseback construction delivery method is a State-recognized tried and true method which can foster a more collaborative approach between district owners, contractors and architects.” According to Mr. Chialtas, “such projects minimize errors, conflicts, and delays and provide incentive to all concerned to complete projects on time and on budget, without the common change orders and pitfalls often associated with traditional construction projects.” AALRR finds it difficult to understand how such a successful construction method could be interpreted by some as a costly exercise simply aimed at avoiding the lowest bid. Such a characterization is “both overly-simplistic and naïve,” says Mr. Chialtas, who added, “school districts utilize this method to maximize the bang for their buck, and history has shown these projects to be very successful in getting projects built on time and with stretching the public dollar.”

Thomas Kovacich, the Chair of the Firm’s Facilities, Construction and Property Practice Group, says “our Facilities team was one of the first to innovate school construction methods and to look at methods that the private industry had used to build hospitals and high rises through the marriage of technologically savvy contractors and architects during the design process. Now, billions of dollars of school contracts throughout the State are being built using the very method developed and refined by the AALRR Facilities Team. We are truly proud of AALRR’s contribution to innovating the school building process.”

Last Tuesday’s ruling validates the Los Alamitos Unified School District’s use of the lease leaseback procedures that are set forth in the California Education Code and allows them to continue using lease-leaseback contracts to construct and complete needed school facilities on-time and on-budget for its students.

**About Atkinson, Andelson, Loya, Ruud & Romo**

[AALRR](#) is a full service California law firm with a focus on [employment and labor](#), [education](#), [corporate](#), [real estate](#), and [construction](#) and [litigation](#). We are counsel to more than 450 school districts and public and private universities. Our diverse teams bring a seasoned perspective to California’s complex legal landscape for both [private](#) and [public](#) entities. AALRR maintains offices in [Cerritos](#), [Fresno](#), [Irvine](#), [Pleasanton](#), [Riverside](#), [Sacramento](#) and [San Diego](#). For further information about us, visit our website at [www.aalrr.com](http://www.aalrr.com) or sign up for key updates at our blogs [www.aalrreducationlaw.com](http://www.aalrreducationlaw.com) or [www.aalrremploymentlaw.com](http://www.aalrremploymentlaw.com).