



Section of
State and Local
Government Law

REGISTER ONLINE

www.landuseinstitute.org
(312) 988-5649

31st Annual

Land Use Institute: Planning, Regulation, Litigation, Eminent Domain, and Compensation

Wednesday and Thursday, February 1-2, 2017

**Akerman Conference Center, Three Brickell City Centre,
98 Southeast Seventh Street, Miami, FL 33131**

Local government land use decisions affect economic development and quality of life. They can also create major challenges to efforts by property owners to develop and use their property, as well as to residents as they cope with growth and change.

This program is designed for attorneys, professional planners, and government officials involved in land use planning, zoning, permitting, property development, conservation and environmental protection, and related litigation. It not only addresses and analyzes the state-of-the-art efforts by government to manage land use and development, but also presents the key issues faced by property owners and developers in obtaining necessary governmental approvals. In addition, the entire approach of the program is to provide practice pointers that give immediate "take home value."

Co-sponsored by



inversecondemnation.com

property, regulatory takings,
eminent domain, and land use blog



Why Attend

This outstanding program features:

- Preeminent faculty of practitioners and academics who provide nationwide perspective without losing sight of state specific issues;
- Critical review and analysis of the most important new cases;
- Practice-oriented discussion of basics and “hot” topics;
- Guidance on routine and complex procedural issues; and
- Outstanding networking opportunities, including continental breakfast, breaks and a reception for registrants and faculty.

This course is an investment in your practice, in your career, in your ability to get out ahead of the competition in serving your clients, and in the appreciation and intellectual satisfaction you can get only from having knowledge of land use at the cutting edge.

Networking

Time is set aside throughout the program for faculty interaction and to address written questions submitted by the registrants, both in advance of and during the program. Continuing the tradition of expanded networking opportunities, there will be a Thursday continental breakfast and morning and afternoon breaks, and a reception for registrants and faculty following the program, held jointly with the ABA Midyear Meeting participants.

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What You Will Learn

This course of study, **comprising 11.5 hours of instruction including 2 hours of Ethics**, is designed to provide an effective and efficient review of current issues in land use for attorneys, planners, public officials, developers, and academics. Now in its 31st year, the Land Use Institute has earned its role as one of the most comprehensive land use continuing education program available. The Land Use Institute is now sponsored by the ABA's Section of State & Local Government Law.

Special features of this year's Land Use Institute include:

Update on Planning, Land Use, and Eminent Domain Decisions

The year's course begins with a Wednesday afternoon panel discussion of recent court decisions, providing a common foundation for all registrants to build a better understanding of the current state of land use law. Faculty will review a variety of Federal and state court cases that impact the daily activities of land use practitioners. The discussion will include key cases that deal with procedural and jurisdictional issues, as well as major decisions in numerous areas, including: Affordable Housing; Agricultural Land; Comprehensive Planning; Development Agreements; Eminent Domain; Environmental Justice; Exactions; First Amendment; Historic Preservation; Impact Fees; Moratoria; Non-Conforming Uses; Takings; Variances; Vested Rights and Wetlands.

Ethical and Professionalism Considerations for the Land Use Practitioner and Government Lawyer

The afternoon session will conclude with 2 hours of ethics and professionalism instruction. The session will be an update of key issues facing practitioners. Patricia Salkin serves as both Moderator of the Panel and a speaker, and is joined by the Miami-Dade County Inspector General and the State Attorney for Miami-Dade County. The discussion will include an overview of common aspects of professional ethics codes, and detail numerous specific challenges that land use practitioners face both from traditional activities and from the newer issues of the use of advertising and social media. The role of government ethics watchdogs will be discussed, as well as the requirements for regular ethics training many jurisdictions are now mandating. There will be time for audience Q&A.

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Federal Laws, Regulations, and Programs Affecting Local Land Use Decision-Making

The Federal government continues to encroach upon local government decision-making through a variety of policies and programs. This Thursday morning session presents major current issues as they relate to environmental protection and real estate development at the local level. Among the topics to be discussed in detail are areas of the law where both government and private sector attorneys must now regularly interact with Federal laws, rules and regulations in areas that overlay state and local government laws and ordinances. Included among the topics that will be discussed are: Climate Change/Sea Level Rise, Drones, Endangered Species, Energy, Environmental Justice, Hazardous Materials, Historic Preservation, NEPA, Religious Land Use, Utility Transmission Lines, Water and Wetlands.

Annual Richard F. Babcock Faculty Keynote Address

Richard F. Babcock was one of the twentieth century's greatest land use attorneys, and the first chair of the predecessor to the *Land Use Institute*. In his honor, each year a selected faculty member presents a major address on a topic of substantial current interest. California faculty member Deborah Rosenthal has been selected to present this year's address, and her presentation is entitled, "From the Ground Up: Unshared Assumptions in Law and Planning." Ms. Rosenthal has both Urban Planning and Law degrees, and is recognized as one of the leading practicing "Planner/Lawyers". Her melding of both fields has assisted many clients deal with environmental, historic preservation, endangered species, climate change matters as well and traditional zoning and comprehensive planning issues. Included in this session is a response panel of two "Planner/Lawyers", one from Florida and one from Connecticut, who will help provide a national perspective on the often differing views of planners and lawyers. There will also be the opportunity to address participant questions.

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Hot Topic Concurrent Sessions

In response to registrants' requests for the opportunity to examine current issues in greater detail, Thursday afternoon there are two sets of concurrent sessions and a plenary final session to provide a detailed analysis covering both "hot" topics and traditional critical practice areas. Faculty members summarize their prepared materials, overview key aspects of the topic, and provide ample time for participants' questions.

Topics this year include:

Nuts and Bolts of Land Use Practice: Vested Rights and Regulatory Takings: Where Are We Now?

This session will overview the evolution of vested rights and regulatory takings and review key decisions at the Federal and state level that now define the rights of the parties. The discussion will focus on practice-oriented techniques, outlining issues such as preparation of appropriate issues in the record as the case is prepared, the type of experts that are needed and how to hire them, and proper phrasing of issues.

Public Private Partnerships

More and more local governments are seeking partnerships with the private sector to implement projects that have traditionally been totally within the control of government. Toll roads, real estate development for affordable housing and for sports stadiums, government mixed use buildings, and even academic-related buildings are now undertaken by joint venture efforts. This session will outline the key considerations in such partnerships and will review sample documents that include critical clauses that must be included to protect client interests.

Climate Change and Resilient Development

Federal, state and local governments are recognizing the threat from sea level rise and climate change, and are modifying planning and regulatory requirements to require new development to meet standards that are enhanced to protect against the impacts of climate change. Miami-Dade County, and especially Miami Beach, has been recognized as "ground zero" for current impacts from sea level rise. Key government officials from the County, Miami and Miami Beach who are the "Chief Resilience Officer" for their jurisdiction will describe threats that are being addressed, and discuss the political and financial realities of needed actions and the laws that are being amended to foster development that will withstand the impact of climate change.

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Nuts and Bolts of Land Use Practice: Client Representation-Developer, Government and Citizen Groups

This practice-oriented session will review the checklist of actions attorneys must consider as they begin representation of a client with a land use or related environmental issue. The experienced faculty will describe considerations from client engagement through the administrative process and to potential administrative or judicial review.

Regulating Navigable Airspace: The Drones Are Here

The evolving use of drones for both commercial and recreational use is generating serious airspace issues for all levels of government, including the military. The Federal Aviation Administration has recently issued its first set of regulations, and challenges to use and to restrictions are occurring in many jurisdictions. Faculty experienced with the evolving regulation of drones will lead a discussion of what government and the private sector must consider to have a successful implementation of unmanned aircraft use.

Housing Supply and Affordability: Planning Alternatives and Legal Consequences

Affordable housing has been a critical issue for many years, and recently the failure of the market to supply an adequate amount of moderate and affordable units is impacting economic development as workers cannot afford to live in areas where job opportunities are available. This panel will describe the extent of the problem nationwide and in specific states. They will also present case studies of tools and techniques that can be used to foster construction of affordable units, and mechanisms to keep the units affordable.

Hot Topics in Addressing Disparity

The final plenary session will have presentations on Community Benefits Agreements, Environmental Justice and Access to Housing.

Community Benefits are a new field of practice where the private sector actually negotiates with not only government but also neighbors to mitigate any adverse impact that a development may have on the neighborhood. Empowering the community to require the identification and mitigation of adverse impacts as well as providing appropriate benefits (i.e., local hiring, job training, etc.) has worked to level the playing field in numerous disadvantaged neighborhoods so that residents benefit from the development and redevelopment activity impacting their community.

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Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Government now includes environmental justice considerations in projects and programs involving government funding, considerations of where projects will be located, and the mitigation that will be provided to prevent adverse impacts. Significant advances in fair treatment and meaningful involvement have occurred, and the key criteria for successful implementation of environmental justice requirements will be presented and examples provided that will provide true “take home” value to the practitioner concerned about the unfair impact on their clients by government actions that do not involve local stake holders in the decision-making process.

Access to Housing deals with governmental requirements prohibiting discrimination. Housing discrimination is a pervasive problem nationwide. It is also severely under-reported. The U.S. Department of Housing and Urban Development (HUD) estimates that more than two million instances of housing discrimination occur each year, but fewer than one percent are reported. Renters and homebuyers are becoming more aware of activities that are illegal under the Fair Housing Act, and HUD and/or with private fair housing enforcement agencies located across the country are acting to address this discrimination. This presentation will discuss the acts of discrimination under the Fair Housing Act and review current case law and Federal regulations that can provide relief for individuals or families facing discrimination in housing on the basis of race or color, national origin, religion, sex or gender identification, familial status (families with children), or disability.

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***The distinguished panel of diverse national faculty includes
(subject to change):***

Planning Chair (also on faculty)

Frank Schnidman, former Distinguished Professor of Urban and Regional Planning, and Former John M. DeGrove Eminent Scholar Chair, Florida Atlantic University, Boca Raton, FL

Planning Co-Chair (also on faculty)

Patricia E. Salkin, Provost for the Graduate and Professional Division, Touro College, New York, NY

Faculty

Lisa M. Agrimonti, Fredrikson & Byron, P.A., Minneapolis, MN

Amy Boulris, Gunster, Miami, FL

Mary T. Cagel, Inspector General, Miami-Dade County, Miami, FL

David Callies, Benjamin A. Kudo Professor of Law, University of Hawaii
at Manoa, William S. Richardson School of Law, Honolulu, HI

Daniella Levine Cava, Miami-Dade County Commissioner District 8, Miami, FL

Steven J. Eagle, Professor, George Mason University School of Law,
Arlington, VA

Shahrazad Emami, Advocacy Director, Legal Services of Greater Miami, Inc.,
Miami, FL

W. Andrew Gowder, Jr., Austen & Gowder, LLC, Charleston, SC

Neisen Kasdin, Akerman, LLP, Miami, FL

Wendie L. Kellington, Kellington Law Group PC, Lake Oswego, OR

Victor Marquez, The Marquez Law Group, San Francisco, CA

Dwight Merriam, Robinson + Cole, Hartford, CT

James F. Murley, Chief Resilience Officer, Miami-Dade County, Miami, FL

Wayne Pathman, Pathman Lewis, LLP, Miami, FL

Ellen F. Rosenblum, Oregon Attorney General, Salem, OR

Deborah Rosenthal, FitzGerald Yap Kreditor, LLP, Irvine, CA

Howard Roston, Fredrikson & Byron, P.A., Minneapolis, MN

Katherine Fernandez Rundle, State Attorney, Miami-Dade County, Miami, FL

Robert H. Thomas, Damon Key Leong Kupckak Hastert, Honolulu, HI

Susanne Torriente, Assistant City Manager and Chief Resilience Officer,
Miami Beach, FL

Benjamin F. Wilson, Beveridge & Diamond, Washington, D.C.

Steven W. Zelkowitz, Gray/Robinson, Miami, FL

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Program

(All times are Eastern Standard Time)

Wednesday, February 1, 2017

- 1:00 p.m. Registration
- 1:30 p.m. Welcome – *Neisen Kasdin, Managing Partner, Akerman, Miami, FL*
– *Ellen F. Rosenblum, Oregon Attorney General, and Chair*
– *ABA Section of State and Local Government Law, Salem, OR*
– *Mayor Tomas Regalado, City of Miami, FL*
– *Kieran Bowers, President, Swire Properties, Inc., Miami, FL*
Course Overview: *Mr. Schnidman*
- 2:00 p.m. **Update on Planning, Land Use, and Eminent Domain Decisions**
Moderator: Mr. Schnidman; Panel: Mss. Agrimonti; Boulris, Kellington, Rosenthal and Salkin; Messrs. Gowder and Merriam
- 3:45 p.m. Networking and Refreshment Break
- 4:00 p.m. **Ethical and Professionalism Considerations for the Land Use Practitioner and Government Lawyer**
Moderator: Mr. Schnidman;
Panel: Dean Salkin and Mss. Cagel, and Rundle
- 6:00 p.m. Adjourn for the Day
- 6:30 p.m. Tour of Brickell City Centre by Swire Properties, Inc.

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Program *Continued*

Thursday, February 2, 2017

8:00 a.m. Continental Breakfast

8:30 a.m. **Federal Laws, Regulations, and Programs Affecting Local Land Use Decision Making**

Moderator: Mr. Schnidman; Panel: Dean Salkin; Mss. Agrimonti; Boulris, Kellington, and Rosenthal; Messrs. Gowder and Merriam

10:30 a.m. Networking Break

10:45 a.m. **Annual Richard F. Babcock Faculty Keynote Address: "From the Ground Up: Unshared Assumptions in Law and Planning"**

Introduction by Mr. Schnidman

Speaker: Ms. Deborah Rosenthal

Response Panel: Messrs. Merriam and Zelkowitz

12:00 noon Lunch Break (Sponsored On-Site Box Lunch)

Women in the Law Luncheon Session

Young Practitioners Luncheon Session

1:00 p.m. **CONCURRENT HOT TOPICS SESSIONS**

• **Nuts and Bolts of Land Use Practice: Vested Rights and Regulatory Takings: Where Are We Now**

Moderator: Prof. Eagle; Panel: Messrs. Roston, and Thomas

• **Public Private Partnerships**

Moderator: Mr. Gowder; Panel: Messrs. Kasdin, Zelkowitz and Marquez

• **Climate Change and Resilient Development**

Moderator: Mr. Murley; Panel: Ms. Torriente; Mr. Pathman

2:30 p.m. Networking and Refreshment Break

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Program *Continued*

2:45 p.m.

CONCURRENT HOT TOPICS SESSIONS

- **Nuts and Bolts of Land Use Practice: Client Representation-Developer, Government and Citizen Groups**

Moderator: Mr. Gowder; Panel: Messrs. Marques, and Thomas

- **Regulating Navigable Airspace: The Drones are Here**

Moderator: Mr. Schnidman; Panel: Ms. Kellington; Mr. Merriam

- **Housing Supply and Affordability – Planning Alternatives and Legal Consequences**

Moderator: Ms. Salkin; Panel: Prof. Callies and Mss. Agrimonti and Emami

4:15 p.m.

Networking Break

4:30 p.m.

HOT TOPICS IN ADDRESSING DISPARITY

Moderator: Ms. Rosenblum

Community Benefits Agreementse

Commissioner Cava

Environmental Justice

Mr. Wilson

Access to Housing

Ms. Emami

6:00 p.m.

Adjournment

6:30 p.m.

Networking Reception

(Join with the ABA Section of State and Local Government Law for Reception)

Total 60-minute hours of instruction: 11.5, including 2 hours of Ethics

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Venue

About Brickell City Centre

At the end of the day on Wednesday, February 1, Swire Properties, Inc. will be providing a guided tour of Brickell City Centre.

Brickell City Centre is a new internationally recognized landmark \$1.05 billion, 5.4 million square-foot, mixed-use development in downtown Miami developed by Swire Properties Inc. Swire Properties is one of South Florida's leading international real estate developers, known for its \$1 billion master-planned development of Miami's Brickell Key. The Brickell City Centre project's first phase includes a 500,000-square-foot luxury and premium shopping center, two residential towers, the 352-room East, Miami hotel and two mid-rise office towers. The project is LEED-registered for Neighborhood Development – currently one of the largest in the United States. Sustainability elements include the \$30 million CLIMATE RIBBON™; a masterpiece of art and science. This elevated trellis will span 150,000 square feet, connecting the project's three city blocks and acting as an environmental management system. As the largest private-sector project currently under construction in Miami, Brickell City Centre began vertical construction in 2013 and the first phase of construction is currently nearing completion. Additional information is available at www.brickellcitycentre.com.

About Akerman and the Akerman Conference Center

Akerman is Florida's largest law firm. Akerman, Miami office is the largest tenant (82%) of Three Brickell City Centre, occupying over 110,000 square feet on 7 floors. The Akerman Conference Center is a state-of-the-art facility that has a capacity of up to 300 people, with conferencing technology and retractable wall systems. The Conference Center can easily accommodate both plenary and concurrent sessions.

About the Miami Downtown Development Authority

Downtown Miami is the business, social and cultural epicenter of the Americas, which capitalizes on its unique position as a major world city in a tropical waterfront environment. The mission of the Miami Downtown Development Authority (DDA) is to grow, strengthen and promote the economic health and vitality of Downtown Miami. As an autonomous agency of the City, the Miami DDA advocates, facilitates, plans and executes business development, planning and capital improvements, and marketing and communication strategies.

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Registration and Tuition

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98 Southeast Seventh Street

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Tuition:

Tuition for the two day course of instruction is \$300.

Judges and government attorneys \$250.

Registration:

Register online at **www.landuseinstitute.org**.

Lodging:

Hotel accommodations may be reserved through the ABA registration site (click the "Housing" tab on the Registration Resource Center page.)

The Section hotel for the ABA Midyear Meeting is the Hyatt Regency Miami, 400 SE 2d Avenue, Miami, a short walk from the Akerman Conference Center.

For more information or help with registration, contact:

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