



AMERICAN BAR ASSOCIATION

Section of State and Local Government Law

31st Annual

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

Thursday, July 30, 2015

Westin Chicago River North, Chicago, Illinois

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

FAU FLORIDA ATLANTIC UNIVERSITY
CENTER FOR URBAN & ENVIRONMENTAL SOLUTIONS



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.



What You Will Learn

This annual course of study, **comprising 6.5 hours of instruction**, with an additional option of **3.5 hrs on the following day** (additional registration fees), 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 Institute is now being sponsored by the ABA's Section of State & Local Government Law, in addition to the original sponsor, American Law Institute Continuing Legal Education (ALI CLE).

Special features of this year's Institute include:

Course Materials

Each panel has a faculty coordinator and materials are discussed among the panelists for each session before being prepared. This effort annually produces materials that assist registrants in following the lectures, and provides a valuable resource that many use as an annual update on current land use issues.

Update on Planning, Land Use, and Eminent Domain Decisions

The year's course begins with a morning 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.

Subject areas where cases will be addressed (subject to change) include: Affordable Housing; Agricultural Land; Climate Change; Comprehensive Planning; Development Agreements; Eminent Domain; Exactions; First Amendment; Historic Preservation; Impact Fees; Medical Marijuana; Moratoria; Non-Conforming Uses; Takings; Variances; Vested Rights and Wetlands.

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

The federal government continues to encroach on local government decision-making through a variety of policies and programs. This second 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 (subject to change) are: Climate Change; Drones; Endangered Species; Energy; Hazardous Materials; Historic Preservation; Hydraulic Fracturing; NEPA; Religious Land Use; Water and Wetlands.



Hot Topic Sessions

In response to registrants' requests for the opportunity to examine current issues in greater detail, two sets of afternoon concurrent sessions 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 (subject to change) include:

- Urban Agriculture

- Regulating Navigable Airspace: The Drones are Here

- The Laws of Transportation Sharing

- Hydraulic Fracturing

- Ethical Considerations for the Land Use Practitioner and Government Lawyer

- The Laws of Sharing Residential Properties

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.

Faculty member Deborah Rosenthal has been selected to present this year's address. Ms. Rosenthal is a news reporter turned planner turned land use lawyer. Her topic, "From the Ground Up: Unshared Assumptions in Law and Planning," will discuss how lawyers and planners can use the same words and mean something totally different. Through numerous examples, she will illustrate the frustration of land use professionals, and make suggestions about how to address the confusion.

Other Benefits of Attending

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 continental breakfast and morning and afternoon breaks, and a reception for registrants and faculty following the program.



The distinguished panel of diverse national faculty includes:

Planning Chair (also on faculty): Frank Schnidman, Professor and Executive Director, Center for Urban and Environmental Solutions (CUES), Florida Atlantic University, School of Urban and Regional Planning, Boca Raton, FL

Planning Co-Chair (also on faculty): Patricia E. Salkin, Dean, Touro College, Jacob D. Fuchsberg Law Center, Central Islip, NY

Faculty

Michael M. Berger, Manatt, Phelps & Phillips, LLP, Los Angeles, CA

Dan Bolin, Ancel Glink. P.C., Chicago, IL

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

Karl D. Camillucci, Holland & Knight, Chicago, IL

Martha Chumblor, Carlton Fields Jordan Burt, Tallahassee, FL

Nicole DuPuis, Senior Associate, Infrastructure National League of Cities, Washington, DC

Marc Gordon, President and CEO, Illinois Housing and Lodging Association, Chicago, IL

W. Andrew Gowder, Jr. Pratt-Thomas Walker, Charleston, SC

Jesse Hathaway, Heartland Institute, Chicago, IL

Jacob Huebert, Liberty Justice Center, Chicago, IL

Michael T. Kamprath, Assistant General Counsel, Hillsborough County Aviation Authority/Tampa International Airport, Tampa, FL

Wendie L. Kellington, Lake Oswego, OR

Beth E. Kinne, Assistant Professor, Hobart and William Smith Colleges, Geneva, NY

Stephen R. Miller, Professor, and Director of the Economic Development Clinic, University of Idaho College of Law, Boise, ID

Sorell E. Negro, Robinson & Cole, LLP, Miami, FL

Erica Levine Powers, Scholar, Department of Geography and Planning, State University Albany (SUNY), Albany, NY

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

Jonathan Riches, General Counsel, Goldwater Institute, Phoenix, AZ

David Silverman, Ancel Glink, P.C., Chicago, IL

John M. Smith, SmithButz, Canonsburg, PA

Julie A. Tappendorf, Ancel Glink, P.C., Chicago, IL

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



Program (All times are Central Daylight Time.)

Thursday, July 30, 2015

- 8:00 a.m. Registration and Continental Breakfast
- 8:30 a.m. Welcome and Course Overview—**Professor Schnidman**
- 8:45 a.m. **Update on Planning, Land Use, and Eminent Domain Decisions** — *Moderator: Prof. Schnidman; Panel Mss. Kellington, Negro, Rosenthal, and Tappendorf, Prof. Miller, and Messrs. Berger, Gowder, and Thomas*
- 10:15 a.m. Networking and Refreshment Break
- 10:30 a.m. **Federal Laws, Regulations, and Programs Affecting Local Land Use Decision Making** — *Moderator: Prof. Schnidman; Panel: Mss. Kellington, Powers, Rosenthal, and Tappendorf, and Prof. Miller and Mr. Thomas*
- 11:45 a.m. Lunch Break: On Your Own
(State and Local Government Law Section Executive Committee Meeting)
- 1:00 p.m. **Annual Richard F. Babcock Faculty Keynote Address: “From the Ground Up: Unshared Assumptions in Law and Planning”**
Introduction by Professor Schnidman
Speaker: Ms. Deborah Rosenthal
- 2:15 p.m. **CONCURRENT HOT TOPICS SESSIONS**
- **Urban Agriculture** — *Moderator: Ms. Negro; Panel: Ms. Chumbler, Messrs. Bolin and Silverman*
 - **Regulating Navigable Airspace: The Drones are Here** — *Moderator: Prof. Schnidman, Panel: Ms. Kellington and Mr. Berger*
 - **The Laws of Transportation Sharing** — *Moderator: Mr. Thomas; Panel: Prof. Miller, Messrs. Kamprath, Riches, and Heubert*



Program *Continued*

- 3:45 p.m. Networking and Refreshment Break
- 4:00 p.m. **CONCURRENT HOT TOPICS SESSIONS**
- **Hydraulic Fracturing** — Moderator: Prof. Callies; Panel: Prof. Kinne, Ms. Powers, Mr. Smith
 - **Ethical Considerations for the Land Use Practitioner and Government Lawyer** — Moderator: Ms. Kellington; Panel: Dean Salkin and Ms. Tappendorf
 - **The Laws of Sharing Residential Properties** — Moderator: Mr. Camillucci; Panel: Prof. Miller, Messrs. Gordon and Hathaway and Ms. DuPuis
- 5:30 p.m. Adjourn
- 6:30 p.m. Networking Reception
(Join ABA Section of State and Local Government Law Reception)

Total Hours of Instruction: 6.5

Additional Sessions (separate registration required for each session)

For more information, please visit <http://ambar.org/landuse15> or www.landuseinstitute.org

Friday, July 31, 2015

- 10:00 a.m. - **The 2014 Supreme Court Term in Review**
12:00 noon (additional registration \$90)
- This panel of noted legal professionals, academics and journalists provides an overview of the Supreme Court decisions of the 2014 term (October 2014 – June 2015).
- Moderator: William Hurd, Troutman Sanders, Richmond, VA*
- Panelists:*
Marcia Coyle, Chief Washington Correspondent, National Law Journal, Washington, DC
Dan Schweitzer, Director and Chief Counsel, National Association of Attorneys General, Washington, DC
Jeffrey B. Wall, Co-Head of Appellate Litigation Practice, Sullivan and Cromwell, Washington, DC

Total Hours of Instruction: 2.0

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Program *Continued*

Friday, July 31, 2015 *continued*

2:45 p.m. -

Looming Land Use Constitutional Issues

4:00 p.m

(additional registration \$90)

- Proper Compensation for Owners Whose Property is Taken for Environmental Protection. *Borough of Harvey Cedars v. Karan*, 70 A.3d 524 (N.J. 2013).
- When can government demand for cash be a taking? *Horne v. Department of Agriculture*, (U.S. June 22, 2015)
- Issues for land use lawyers related to legalization of medical marijuana.
- Are ordinances requiring landlords to pay large sums to tenants evicted at end of their terms to discourage withdrawal of housing from rental market unconstitutional exactions? *Levin v. City and County of San Francisco*, (N.D. Cal. Oct 21, 2014)

Moderator: W. Andrew Gowder, Pratt-Thomas Walker, Charleston, SC

Panelists:

Anthony DellaPelle, McKirdy & Riskin, P.A., Morristown, NJ

Michele L. Maresca, Robinson & Cole LLP, Hartford, CT

Brian R. Smith, Robinson & Cole LLP, Hartford, CT

Stephen Schwartz, Cause of Action, Washington, DC

Bryan Wenter, Miller Starr Regalia, Walnut Creek, CA

Total Hours of Instruction: 1.25

GET CLE CREDIT

This program will receive CLE credit in AK, AL, AR, AZ, CA, CO, DE, FL, GA, HI, IA, IL, IN, KS, KY, LA, ME, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, NV, NY, OH, OK, PA, RI, SC, TN, TX, UT, VA, VT, WA, WI, and WV. This course is expected to qualify for 6.5 credits, in 60-minute MCLE jurisdictions.



Registration and Tuition

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

Thursday, July 30, 2015

**Westin Chicago River North, Chicago, Illinois
320 North Dearborn Street, Chicago, IL 60654**

ABA members: register online at <http://ambar.org/landuse15> or by following the link from www.landuseinstitute.org. Once at the ABA registration site, click "standard" and add the ticket for the Land Use Institute to your shopping cart. You will be directed automatically to lodging options after registration at the ABA site.

Non-ABA members: avoid the additional fee for nonmembers using the ABA website by completing the registration form on the next page. Scan and email it to Lynette M. Kelly.

For more information or help with registration, contact:

Lynette M. Kelley,
Section of State & Local Government Law
American Bar Association
Lynette.kelley@americanbar.org
(312) 988-5649

Land Use Institute (Thursday)

Early Bird Tuition - Register by July 17, 2015, and receive these discounts:

- ☐ State and Local Government Law Section Members \$350
- ☐ Government Employees \$350
- ☐ ABA Members \$400
- ☐ Members of Program Co-Sponsors \$450
- ☐ Non-ABA Member \$500

After July 17, 2015:

- ☐ State and Local Government Law Section Members \$400
- ☐ Government Employees \$400
- ☐ ABA Members \$450
- ☐ Members of Program Co-Sponsors \$500
- ☐ Non-ABA Members \$550

Additional Sessions (Friday)

- ☐ 2014 Supreme Court Term in Review
- ☐ Looming Land Use Constitutional Issues

Registration fees for the Additional Sessions: For private practitioners:
1 Session - \$90, both - \$150; Government, Judges, Academics - \$35 per session;
Law Students pay no fee.



Registration Form

Non-ABA Members Only (ABA members register online) 31st Annual Land Use Institute

\$ _____ Total ☐ Check enclosed (payable to American Bar Association)

Please charge to my credit card: ☐ AMEX ☐ DISCOVER ☐ MasterCard ☐ VISA

Card no.: _____

Card expiration date: ____/____

SIGNATURE:

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Title _____

Firm _____

Address _____

City _____ State _____ Zip _____

Return this form to:

Lynette M. Kelley
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