

18<sup>TH</sup> ANNUAL  
**THE LAND USE CONFERENCE**

Planning, Law and Regulation



**FUNDAMENTALS**

March 26, 2014

**CONFERENCE**

March 27–28, 2014

**AT&T Conference Center  
Austin, Texas**

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Fundamentals—Earn up to 3.25 Hours of Credit

Conference—Earn up to 13.50 Hours of Credit Including 2.00 Hours of Ethics Credit

Specialization Credit Approved for Administrative Law and Real Estate Law

Credit Available: TREC, TX Professional Engineers,  
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Credit Expected: AICP and TX Appraiser (ACE)

2014

# LAND USE FUNDAMENTALS

March 26, 2014 ■ AT&T Conference Center ■ Austin, Texas

## WEDNESDAY AFTERNOON, MAR. 26, 2014

### Presiding Officer:

**Alan J. Bojorquez, Attorney at Law,  
Austin, TX**

### 12:30 p.m. Registration Opens

Includes light refreshments.

### 1:20 p.m. Welcoming Remarks

### 1:30 p.m. 1.00 hr

#### Fundamentals of Zoning

An overview of basic zoning concepts and procedures including a review of how zoning interacts with comprehensive planning.

William S. Dahlstrom, Dallas, TX

### 2:30 p.m. .50 hr

#### Zoning Boards of Adjustment: Traps and Pitfalls for the Unwary

Zoning boards of adjustment exist to ensure that zoning regulations are applied to particular situations in a fair and equitable manner. It is important to understand the potential pitfalls and traps to avoid instantaneous litigation for the city as a result of the zoning board's decisions.

Steven A. Wood, Fort Worth, TX

### 3:00 p.m. Break

### 3:15 p.m. .75 hr

#### Board of Adjustment Appeals in the Courthouse

When litigation can't be avoided, how can you prepare? Case management concerns are highlighted, including common administrative quagmires, due process and conflicts of interest.

Arthur J. Anderson, Dallas, TX

### 4:00 p.m. .50 hr

#### Clean Up That Plat!

A refresher on the purpose for platting and why to "de-clutter" plats. Plat notes, dedications, private easements, restrictions and format are addressed.

Anthony L. Marré, Houston, TX

### 4:30 p.m. .50 hr

#### Nuisance Law: Here Comes Trouble

Local governmental authority to address nuisances is broad, but has its limits. Hear practical tips, potential pitfalls and the effective use of municipal regulatory authority to define and abate public nuisances.

Bradford E. Bullock, Austin, TX

### 5:00 p.m. Adjourn

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This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 3.25 hours. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).

- TX Legal Specialization Credit Approved for Real Estate Law, Administrative Law, and Oil, Gas and Mineral Law
- TREC General Elective MCE Credit Available
- Credit for TX Professional Engineers Available
- Credit for TX Professional Land Surveyor Expected
- 3.25 Hours of AAPL Credit Including 0.25 Hour of Ethics for Registered Professional Landman (RPL) and Certified Professional Landman (CPL) Expected
- Credit for AICP and TX Appraiser (ACE) Expected
- 3.50 Hours of Texas CPE Credit for Accountants (Sponsor #250)

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**THE LAND USE CONFERENCE**

March 27–28, 2014 ■ AT&T Conference Center ■ Austin, Texas

**THURSDAY MORNING, MAR. 27, 2014**

**Presiding Officer:**

**Ed Walts, The University of Texas System,  
Austin, TX**

**8:00 a.m. Registration Opens**

Includes continental breakfast.

**8:50 a.m. Welcoming Remarks**

**9:00 a.m. .75 hr**

**Case Law Update**

A survey of recent state and federal decisions on exactions and other types of takings, enforcement including civil penalties, boards of adjustment, administrative remedies, platting, immunities and more—with a modest attempt to spot trends in Texas.

James L. Dougherty Jr., Houston, TX

**ECONOMIC DEVELOPMENT**

**9:45 a.m. .75 hr**

**The Economic Development Toolbox**

A review of the vocabulary and tools used when negotiating today's public-private partnerships, covering tools used by large and small cities, and tools used for projects inside and outside city limits.

Misty M. Ventura, Dallas, TX

**10:30 a.m. Break**

**10:45 a.m. .75 hr**

**Negotiating Economic Development Incentives—"Thinking Outside the Box"**

Negotiating successful economic development agreements between public and private entities.

**Moderator:**

Charles E. Zech, San Antonio, TX

**Panelists:**

Kenneth W. Brown, San Antonio, TX  
Habib H. Erkan Jr., San Antonio, TX

**11:30 a.m. .75 hr**

**Redevelopment Issues:  
"My Chickens Won't Lay!"**

Discussion of political, regulatory and field issues that arise before, during and after redevelopment, with consideration of potential solutions.

**Moderator:**

Deborah F. McAbee, Houston, TX

**Panelist:**

Jeanne Harvey McDonald, Sugar Land, TX

**12:15 p.m. Pick Up Lunch**

Included in registration.

**THURSDAY AFTERNOON**

**Presiding Officer:**

**Rick Triplett, Graves Dougherty  
Hearon & Moody, Austin, TX**

**LUNCHEON PRESENTATION**

**12:35 p.m. 1.00 hr ethics**

**Ethical Issues for Lawyers:**

**Social Media, Privacy and Public Information**

Social media is changing expectations regarding client privacy and public information. As lawyers and clients increasingly rely on social media for communication, new ethical challenges arise, including attorney-client privilege concerns.

Peter S. Vogel, Dallas, TX

**1:35 p.m. Break**

**ECONOMIC DEVELOPMENT (CONT'D)**

**1:45 p.m. .75 hr**

**State Farm, a New Economy Build-to-Suit or Value Capture**

Using the State Farm Insurance Texas project as a case study, explore how creative zoning and economic programs can provide the impetus for significant benefits to a community. This session focuses on the use of form-based planning and zoning, and how the objectives of the city and the developer were achieved.

**Moderator:**

William S. Dahlstrom, Dallas, TX

**Panelists:**

E. Scott Polikov, Dallas, TX  
Peter G. Smith, Dallas, TX

**2:30 p.m. .75 hr**

**Tax Increment Reinvestment Zone (TIRZ) Agreements**

A discussion of the competing interests of the city, developer and possible bondholders in projects financed with tax increment reinvestment zone (TIRZ) dollars, including what can or should be financed with TIRZ funds; what governmental immunities can or should be waived by a TIRZ agreement; what taxes should be part of a TIRZ agreement; procedures for creation; and what role 380 grants have in TIRZ agreements.

**Moderator:**

Julie Y. Fort, Frisco, TX

**Panelists:**

Scott Bounds, Houston, TX  
Misty M. Ventura, Dallas, TX

**3:15 p.m. Break**

**3:30 p.m. .50 hr**

**Historic Landmarks and Districts:  
Current Issues**

Highlights of recent case law relating to historic preservation, including the recent 11th Circuit RLUIPA case, and new approaches in historic preservation policy, such as linkages between preservation and both green development and form-based codes.

Matthew Goebel, Denver, CO

**4:00 p.m. 1.00 hr**

**Trying the Land Use Case: Strategies and Trial Tactics for Landowners, Developers and Governmental Entities**

A nuts-and-bolts primer to assist attorneys in a land use trial, identifying matters routinely encountered in land use litigation, and offering practical advice on the trial itself from jury selection to closing argument. Learn from land-use litigators on both sides of the docket.

Arthur J. Anderson, Dallas, TX  
Robert F. Brown, Richardson, TX

**5:00 p.m. Adjourn**

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- Credit for AICP and TX Appraiser (ACE) Expected
- 16.00 Hours of Texas CPE Credit for Accountants (Sponsor #250)

**BREAKFAST BREAKOUT SESSIONS**

Small group discussions on current issues important to you and your clients.

8:00 a.m. .75 hr

**TOPIC A. Dealing with NIMBY**

Legal and political entities dealing with NIMBY issues.

Patty Akers, Austin, TX  
Zelda Zarco Auslander, Bee Cave, TX

8:00 a.m. .75 hr

**TOPIC B. Adios Condo!**

Well-located, older condominium projects are considering their options: continue as-is, renovate or sell. A discussion on upgrading governance by electing into the Texas Uniform Condominium Act (TUCA), renovation issues and sale as redevelopment land.

Anthony L. Marré, Houston, TX

8:00 a.m. .75 hr

**TOPIC C. The Perfect Storm, or, How Green Was My Valley?**

The storm of conditions that left 92 percent of Texas in at least a moderate drought—and more than 75 percent in severe drought conditions—resulted in the loss of green valleys and much more. Reclamation or reuse of water is not only good, it is becoming increasingly necessary. Practical tips on the current and future methods and areas to reclaim and reuse water.

Barbara A. Boulware-Wells, Austin, TX

8:00 a.m. .75 hr

**TOPIC D. Certificates of Convenience and Necessity (CCNs) Federal Preemption**

An examination of the effect of 7 USC Sec. 1926(b) on land development in and around cities, and how the CCN boundaries of a federally-indebted rural water or sewer association have become a barrier to economic development.

Monte Akers, Austin, TX

8:45 a.m. Break

**Presiding Officer**

**Deborah F. McAbee, City of Houston  
Legal Department, Houston, TX**

9:00 a.m. .50 hr

**Zoning: The Saga Continues**

Hot topics in zoning that continue to challenge local governments with an update on regulation of payday lenders, E-cigarettes and boarding homes.

Joseph J. Gorfida Jr., Dallas, TX

9:30 a.m. .50 hr

**An Annexation Tale of Two Cities**

What happens when municipalities collide in a battle over territory? A discussion of practical considerations affecting not simply legal, but political and operational aspects.

Ryan S. Henry, San Antonio, TX

10:00 a.m. .50 hr

**Fair Housing**

Legal and policy aspects of the Fair Housing Act.

Neal J. Rackleff, Houston, TX

10:30 a.m. Break

10:45 a.m. .50 hr

**Disposition of City-Owned Real Property**

Overcoming the limitations state law places on the ability of cities to sell real property.

Gary W. Dzierlenga, Houston, TX

11:15 a.m. .50 hr

**It's Five O'Clock Somewhere:  
The New World of Booze**

Change is brewing! How do recent amendments to Texas alcoholic beverage laws change potential land use by breweries, brew pubs, wineries and distilleries? A brief tour of the *Jester King Craft Brewery v. TABC* lawsuit and the new world of brew pubs, gastro pubs, tasting rooms, growlers, on-site sales, etc.

Peter D. Kennedy, Austin, TX

11:45 a.m. Pick Up Lunch

Included in registration.

**FRIDAY AFTERNOON**

**Presiding Officer:**

**David Hartman, Smith, Robertson,  
Elliott, Glen, Klein & Douglas, L.L.P.,  
Austin, TX**

**LUNCHEON PRESENTATION**

12:05 p.m. .75 hr

**Oil and Gas: Extraction and Transportation**

The evolution of gas drilling and transportation in Fort Worth, Texas, over the past twelve years from the perspectives of the city, the neighborhoods and the industry.

**Moderator:**  
Sarah J. Fullenwider, Fort Worth, TX

**Panelists:**  
Robert Manthei, Fort Worth, TX  
Libby Willis, Fort Worth, TX

12:50 p.m. Break

**WATER**

1:00 p.m. .50 hr

**Government Response to Drought:  
Past versus Present**

The current drought in Texas evokes much discussion on past and present response from the government. A look at the anticipated effects of House Bill 4 and Proposition 6 on water planning in Texas.

Bech K. Bruun, Austin, TX

1:30 p.m. .50 hr

**Water Supply and Demand—"If You Provide It, They Will Come"**

How is the diminishing supply of inexpensive and readily available water affecting development? What are developers and suppliers doing to secure future sources of water?

Timothy G. Green, Houston, TX

2:00 p.m. .50 hr

**Regulatory Takings and Groundwater Regulation**

Coming on the heels of a 2012 Texas Supreme Court holding, the 4th Court of Appeals has cast considerable doubt on the ability of the Edwards Aquifer Authority (EAA) and other similar water districts to regulate the pumping of groundwater. In a recent opinion, the Court held that the EAA's denial of one water well permit application and only partial granting of another constituted "regulatory takings" and the affected landowners were entitled to substantial compensation as a result.

A. Val Perkins, Houston, TX

2:30 p.m. 1.00 hr ethics

**Ethical Considerations in Land Use Practice**

A look at the rules which address attorneys', planners' and elected officials' conduct and ethical obligations in land use applications and decision-making, with special emphasis on lawyers' professional obligations to clients and opposing interests, contact with parties known to be represented by counsel, and how lawyers' actions might create problems for planning professionals' or elected officials' rules of conduct. Examine the fact patterns of real cases where ethics allegations have been raised to evaluate whether the actions complained of constitute illegal and improper conduct on any of the players' parts.

Kimberley Mickelson, Houston, TX  
Dorothy Palumbo, Galveston, TX

3:30 p.m. Adjourn

# REGISTRATION FORM

**Register:**  
www.utcle.org/conferences/LB14  
www.utcle.org/conferences/LD14

**Mail:**  
The University of Texas School of Law  
Attn. Registration  
PO Box 7759  
Austin, TX 78713-7759

**Fax:**  
512.475.6876

**Questions?**  
512.475.6700

*Dietary requirements or Accessibility needs?*  
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Registrant's Email (required) \_\_\_\_\_ Assistant's Email (optional) \_\_\_\_\_

*Invoices, confirmations and receipts are emailed to these addresses.*

## REGISTRATION

### FUNDAMENTALS—LB14

*Includes Course Materials*

#### 1. Select Registration Type

- Individual registration by Wednesday, March 19, 2014. . . . . \$100
- Individual registration after Wednesday, March 19, 2014. . . . . \$125

#### 2. Select Course Materials Format

- Electronic Course Binder on USB Key ONLY
- Printed Course Binder ONLY

Fundamentals Registration Total. . . . . \$ \_\_\_\_\_

### CONFERENCE—LD14

*Includes Course Materials, Thursday and Friday Luncheon Presentations*

#### 1. Select Registration Type

- Individual registration by Wednesday, March 19, 2014. . . . . \$475
- Individual registration after Wednesday, March 19, 2014. . . . . \$525

#### 2. Select Course Materials Format

- Electronic Course Binder on USB Key ONLY
- Printed Course Binder ONLY

#### 3. Select Breakfast Breakout Session

- A. Dealing with NIMBY
- B. Adios Condo!
- C. Perfect Storm, Green Valley
- D. CCNs Federal Preemption

Conference Registration Total. . . . . \$ \_\_\_\_\_

**REGISTRATION SUBTOTAL** \$ \_\_\_\_\_

**SAVE \$50 WHEN YOU REGISTER FOR BOTH LAND USE FUNDAMENTALS AND CONFERENCE** **-\$50** \$ \_\_\_\_\_

## IN-HOUSE For Texas MCLE Credit

*ConferenceComplete package includes Audio CD Set plus a Printed Binder and MCLE Reporting Form for each participant. Available for delivery 3–5 weeks after conference date. Shipping included.*

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- In-House CLE for 2 . . . . . \$250
- \_\_\_\_\_ Additional participant(s) for \$110 each . . . . . \$ \_\_\_\_\_

Fundamentals In-House Total. . . . . \$ \_\_\_\_\_

### CONFERENCE—LD14

- In-House CLE for 2 . . . . . \$850
- \_\_\_\_\_ Additional participant(s) for \$275 each . . . . . \$ \_\_\_\_\_

Conference In-House Total. . . . . \$ \_\_\_\_\_

**IN-HOUSE SUBTOTAL** \$ \_\_\_\_\_

## CONFERENCECOMPLETE MATERIALS For Research and Self-Study

*Comprehensive Binder and Audio from the live conference. Available for delivery 3–5 weeks after conference date. Shipping included. Texas customers add 8.25% sales tax.*

### FUNDAMENTALS—LB14

- eBinder Download (PDF). . . . . \$60
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- Audio Download (MP3) . . . . . \$50
- Audio CD Set . . . . . \$100

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- Printed Binder . . . . . \$275
- Audio Download (MP3) . . . . . \$175
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- Check (make check payable to The University of Texas at Austin)
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- American Express
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Card/P.O. # \_\_\_\_\_ Exp. Date (mm/yy) \_\_\_\_\_ / \_\_\_\_\_

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**AUSTIN**

**March 26, 27–28, 2014**

**CONFERENCE LOCATION**



**AT&T Conference Center and Hotel**

The University of Texas at Austin  
1900 University Avenue  
Austin, TX 78705  
512.685.8100

**Special Room Rate: \$174**  
good through February 28, 2014  
(subject to availability)

**Parking:**

Free daily self-parking at UT garages.  
Separate fees apply for valet and overnight parking.

**KEY DATES**

**March 19, 2014**

*last day for early registration*  
add \$50 for registrations  
received after this time

**March 21, 2014**

*last day for cancellation (full refund)*

**March 24, 2014**

*last day for cancellation (partial refund)*  
\$50 processing fee applied

**March 26, 2014, 1:20 p.m.**

*Fundamentals begins*

**March 27, 2014, 8:50 a.m.**

*Conference begins*

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