

22<sup>ND</sup> ANNUAL  
**LAND USE CONFERENCE**

Planning, Law, and Regulation



FUNDAMENTALS

March 21, 2018

CONFERENCE

March 22–23, 2018

AT&T Conference Center  
Austin, Texas

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 Also Available via Live Webcast

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2018

# LAND USE FUNDAMENTALS

March 21, 2018 ■ AT&T Conference Center ■ Austin, Texas

## WEDNESDAY AFTERNOON, MAR. 21, 2018

### Presiding Officer:

**Dorothy Palumbo, Bojorquez Law Firm, PC, Austin, TX**

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

Includes light refreshments.

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

### 1:30 p.m. .50 hr

#### Overview

This presentation will explain the fundamentals of city regulation, including a discussion of the different types of cities in Texas.

Christy Drake-Adams, Texas Municipal League, Austin, TX

### 2:00 p.m. .75 hr

#### Subdivision and Platting

A review from the basics to the complex, addressing the legal basis, exceptions, process, limitations, and plat notes.

Reid C. Wilson, Wilson, Cribbs & Goren, P.C., Houston, TX

### 2:45 p.m. .75 hr

#### Zoning

Review zoning legal requirements and procedures, how to make zoning decision, and how zoning interacts with the comprehensive plan.

Brenda N. McDonald, Messer, Rockefeller & Fort, PLLC, Frisco, TX

### 3:30 p.m. Break

### 3:45 p.m. .50 hr

#### Non-Conformities and Chapter 245

Explore Chapter 245 "Issuance of Local Permits" of the Texas Local Government Code issues, including processes for the recognition of rights, "fair notice" and attorney fees awards in recent litigation. Relevant cases and statutes that impact Chapter 245 will also be discussed along with best practices for the municipal and development community. In addition, there will a discussion of nonconformities as nonconformities relate to Chapter 245.

Dorothy Palumbo, Bojorquez Law Firm, PC, Austin, TX

### 4:15 p.m. .50 hr

#### Exactions and Subdivisions

Consider the methods and requirements related to developer participation toward the costs of public improvements.

Patty Akers, Akers & Akers, L.L.P., Austin, TX

### 4:45 p.m. .50 hr

#### Bring it all Together: A Synthesis of Zoning, Platting, Comprehensive Planning, Building Code, and More

Kimberley Mickelson, City of Houston Legal Department, Houston, TX

### 5:15 p.m. Adjourn

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**LAND USE CONFERENCE**

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**THURSDAY MORNING, MAR. 22, 2018**

**Presiding Officer:**

Joseph J. Gorfida Jr., Nichols, Jackson,  
Dillard, Hager & Smith L.L.P., Dallas, TX

**7:30 a.m. Registration Opens**

Includes continental breakfast.

**8:20 a.m. Welcoming Remarks**

**8:30 a.m. 1.00 hr**

**Land Use Update**

A quick survey of recent land use cases with a review of 2017 state legislation, including key updates on state preemption, permits (enforcement), flooding and floodplains, takings, and more.

James L. Dougherty Jr., Attorney at Law, Houston, TX

**9:30 a.m. .75 hr**

**SB 1004 and Public Rights of Way**

An analysis of the 2017 Texas statute sharply curtailing municipal decision making authority as it regards wireless “network nodes” and other facilities (including poles and cables) in public rights of way (S.B. 1004, now chapter 284 of the Local Government Code) and including discussion of municipal ordinances and design manuals allowed under the new statute.

Cathy Meyer Cunningham, Boyle & Lowry, Irving, TX  
Don Knight, Dallas City Attorneys Office, Dallas, TX

**10:15 a.m. Break**

**10:30 a.m. .50 hr**

**Annexation Update: Where Do We Go from Here?**

Since the creation of home rule cities in Texas more than 100 years ago, the process of municipal annexation has produced dynamic cities that are among the nation’s leaders in job creation and economic growth. During the 2017 session, legislation passed that allows unincorporated subdivisions to veto the annexation plans of cities in a county with a population of more than 500,000. The bill effectively freezes the current boundaries of those cities. Will this mark the beginning of a process of urban decline that doomed cities in other states? Come find out how the new legislation affects your city.

Scott N. Houston, Texas Municipal League,  
Austin, TX

**11:00 a.m. .75 hr**

**Development Issues Outside Corporate Limits**

Development of land outside of corporate boundaries can involve jurisdictional conflicts between cities and counties. There also can be conflicts when city urban development standards are applied in a rural environment and development projects are started prior to annexation.

Arthur J. Anderson, Winstead PC, Dallas, TX  
Robert F. Brown, Brown & Hofmeister, L.L.P.,  
Richardson, TX

**11:45 a.m. .50 hr**

**Takings Law: Determining the “Relevant Parcel” in Standard Taking Cases and Understanding When to Apply Heightened Scrutiny for Exactions**

Discuss the Supreme Court’s 2017 decision in *Murr v. Wisconsin*, announcing a multi-factor test for “determining the denominator,” and recent case law determining when to apply the “essential nexus” and “rough proportionality” standards pursuant to *Koontz v. St. Johns River Water Management District*.

Rachael Anne Rawlins, University of Texas School of  
Architecture, Austin, TX

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

Included in registration.

**THURSDAY AFTERNOON**

**Presiding Officer:**

Barbara A. Boulware-Wells, The Knight  
Law Firm, LLP, Austin, TX

**LUNCHEON PRESENTATION**

**12:35 p.m. .75 hr**

**Winds of Change in the Texas Legislature: Legislative Outlook and the Challenges Ahead**

Discuss the changing political and legislative environment in Texas, with a focus on how those changes will impact the overall public policy agenda of the State.

Brandon Aghamalian, Focused Advocacy, LLC,  
Austin, TX  
Snapper Carr, Focused Advocacy, LLC, Austin, TX  
Daniel Gonzalez, Texas Association of Realtors,  
Austin, TX

**1:20 p.m. Break**

**1:35 p.m. .75 hr**

**Regulation of Solicitation, the Homeless, and Charitable Donation Bins**

Review the legal issues associated with solicitation ordinances (including “panhandling”), the criminalization of homeless populations (“tent cities”), and the emergence of charitable bins and donation centers as constitutionally protected speech (Is this Reed, part 2?).

Chris L. Nichols, The Nichols Firm, PLLC, Houston, TX

**2:20 p.m. .75 hr**

**Reeding Sign Regulations in 2017**

A review of current federal court cases including *Reed v. Town of Gilbert* and Texas legislation related to sign regulation with an emphasis on application of the new laws to current sign ordinance drafting and enforcement including *Reed v. Town of Gilbert*.

Laura Mueller, Bojorquez Law Firm, Austin, TX

**3:05 p.m. .50 hr**

**Master Planned and Other Significant Development Projects**

Join a developer, a civil engineer, and a land use attorney in a discussion on leveraging municipalities’ expectations, regulations and incentives to foster flexibility and ensure certainty for long-term development projects.

Harry Ben Adams IV, McCombs Enterprises,  
San Antonio, TX  
Kenneth W. Brown, Brown & Ortiz, P.C.,  
San Antonio, TX  
Cara Tackett, Pape-Dawson Engineers, Inc., San  
Antonio, TX

**3:35 p.m. Break**

**3:45 p.m. .75 hr**

**Infill Development**

Given the financial challenges related to greenfield development and the increased movement of people back into city centers, municipalities are struggling with infill development that does not comply with current ordinances and regulations designed for suburban development. Join us for a discussion of development issues, including subdivision regulations, zoning, and storm water infrastructure deficiencies.

**Moderator:**  
Melinda Ramos, City of Fort Worth, Fort Worth, TX

**Panelists:**  
Laura Voltmann, City of Fort Worth, Fort Worth, TX  
Michael Brennan, Near Southside Inc, Fort Worth, TX  
Justin S. Light, Pope Hardwicke Christie Schell Kelly  
& Taplett, L.L.P., Fort Worth, TX

4:30 p.m. .75 hr ethics

**Bracing for Impacts: A Practical Guide to Preparing for Disasters**

Law firms are not immune to disasters – severe weather, work place violence, medical emergencies. What is a lawyer’s ethical duty to prepare for disasters, and how can they go about it efficiently?

Paul Martin, National Association of Mutual Insurance Companies, Austin, TX

5:15 p.m. Adjourn

**FRIDAY MORNING, MAR. 23, 2018**

**Presiding Officer:**

**Terrence S. Welch, Brown & Hofmeister, L.L.P., Richardson, TX**

7:30 a.m. Conference Room Opens

Includes continental breakfast.

8:30 a.m. 1.00 hr

**Creative Districts**

The way we do business has drastically changed over the last ten years. Special districts are being created to combine academic, business, creative, and technological forces to cater to a generation that works in a different environment. Hear an overview of these districts and discuss how zoning regulations are affected, what are the impacts on communities (both good and not so good), and how zoning and economic development efforts can encourage these districts.

**Moderator:**

William S. Dahlstrom, Jackson Walker LLP, Dallas, TX

**Panelists:**

E. Scott Polikov, Gateway Planning Group, Inc., Dallas, TX

Peter G. Smith, Nichols, Jackson, Dillard, Hager & Smith L.L.P., Dallas, TX

Mark Stein, Stein Planning LLC, Dallas, TX

9:30 a.m. .50 hr

**Land Use Development in the County**

Hear a discussion on the authority of counties in the ETJ, including conflicts that arise from municipal regulations and issues of county maintenance of improvements.

Russell H. Roden, Dallas County Criminal District Attorney’s Office, Civil Division, Dallas, TX

10:00 a.m. .50 hr

**Municipal Regulation of Mobile Homes**

From zoning to code enforcement, get a practical review of the options and limitations on dealing with houses on wheels.

Matthew C. G. Boyle, Boyle & Lowry, L.L.P., Irving, TX

10:30 a.m. Break

10:45 a.m. .75 hr

**Incorporating Stock Tanks, Dams and Wetlands Into Suburban Sprawl**

Discuss regulations, risks, strategies, and techniques for integrating existing water features into new development.

Mark McPherson, McPherson LawFirm, PC, Dallas, TX

11:30 a.m. .75 hr

**Political Hot Topics in the Land Use World**

How should a city address the removal of Confederate monuments or the political appropriateness of renaming city streets, applications for new affordable housing projects, payday lenders, alcohol sales, or pawnshops? Hear an overview of how cities around the country have attempted to achieve consensus on political hot topics in land use.

Terrence S. Welch, Brown & Hofmeister, L.L.P., Richardson, TX

12:15 p.m. Pick Up Lunch

Included in registration.

**FRIDAY AFTERNOON**

**Presiding Officer:**

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

**LUNCHEON PRESENTATION**

12:35 p.m. .50 hr

**Craft Breweries and Downtown Revitalization**

Like many other craft breweries, Texas Beer Company started as a backyard home brewing operation that eventually grew into a pilot brewhouse and later a distribution brewery. This growth would not have been possible without the support of the City of the Taylor and Texas Beer Company’s commitment to being a long-term partner in Taylor’s downtown revitalization efforts, creating jobs and tax revenue, and supporting local philanthropic causes.

Ian Davis, The Texas Beer Company, Taylor, TX  
Jesse Ancira Jr., Former Mayor, City of Taylor, Taylor, TX

**Materials By:**

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

1:05 p.m. Break

1:20 p.m. 1.50 hrs

**Post-Disaster Regulation**

Consider forward-looking planning and regulatory approaches to recovery and new building after a disaster—from the legal, planning, and engineering perspectives—with a particular emphasis on minimizing private and public sector legal challenges.

**Moderator:**

Kimberley Mickelson, City of Houston Legal Department, Houston, TX

**Panelists:**

Panelists TBD

2:50 p.m. Break

3:00 p.m. .50 hr ethics

**Ethics and Natural Disaster**

A review of ethical issues arising from a natural disaster from an attorney whose been there, done that, and declined the T-shirt.

Thomas A. Gwosdz, City Attorney, Victoria, TX

3:30 p.m. .75 hr ethics

**Cover Your Grass: Ethical Issues and Considerations in Land Use**

Explore key ethical issues that arise in land use and professional conduct issues in planning and zoning. Discuss conflicts of interests with current and former clients, revolving door issues, the representations of both parties in a transaction, and what constitutes the practice of law and alternative billing arrangements.

Michael A. Shaunessy, McGinnis Lochridge, Austin, TX

4:15 p.m. Adjourn

**CONFERENCE ACCREDITATION**

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## REGISTRATION

### FUNDAMENTALS—LB18 – MARCH 21

*Includes Course Materials*

**Select Registration Type**

- Individual registration by March 16 ..... \$150
- Individual registration after March 16 ..... \$200

**Printed course binder available for an additional fee through March 16**  
*Conference registration includes Electronic Course Binder Download (PDF) in "Your Briefcase" at utcle.org*

- Printed Course Binder ..... \$27.06  
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- Printed Course Binder for tax exempt registrants ..... \$25  
(e.g., government employees and nonprofits)

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*Includes Electronic Course Binder Download (PDF) in "Your Briefcase"*

- Live Webcast: March 21, 2018 ..... \$100

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

### CONFERENCE—LD18 – MARCH 22–23

*Includes Course Materials and Thursday and Friday Luncheon Presentations*

**Select Registration Type**

- Individual registration by March 16 ..... \$495
- Individual registration after March 16 ..... \$545

**Printed course binder available for an additional fee through March 16**  
*Conference registration includes Electronic Course Binder Download (PDF) in "Your Briefcase" at utcle.org*

- Printed Course Binder ..... \$37.89  
Price includes 8.25% Sales Tax
- Printed Course Binder for tax exempt registrants ..... \$35  
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*Includes Electronic Course Binder Download (PDF) in "Your Briefcase"*

- Live Webcast: March 22–23, 2018 ..... \$445

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

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- Call (512) 475-6876 to register additional participants*

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*Comprehensive Binder and Audio from the live conference. Available for download 6–8 weeks after the live conference date. Texas customers add 8.25% sales tax.*

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## AUSTIN

March 21, 22–23, 2018

### CONFERENCE LOCATION



#### AT&T Conference Center

The University of Texas at Austin  
1900 University Avenue  
Austin, TX  
877.744.8822 (reservations)

**Special Room Rate: \$189**  
good through February 18, 2018  
(subject to availability)

#### Parking:

Complimentary self-parking

### KEY DATES

**March 16, 2018**

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

**March 16, 2018**

*last day for cancellation (full refund)*

**March 19, 2018**

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

**March 21, 2018, 1:20 p.m.**

*Fundamentals begins*

**March 22, 2018, 8:20 a.m.**

*Conference begins*

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