

28TH ANNUAL
LAND USE CONFERENCE



FUNDAMENTALS

April 3, 2024

CONFERENCE

April 4–5, 2024

DoubleTree by Hilton Hotel Austin ■ Austin, Texas

 Live Webcast April 3, 4–5

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FUNDAMENTALS—MCLE Credit Hours: 4.75 hrs

CONFERENCE—MCLE Credit Hours: 15.00 hrs including 2.00 hrs of ethics

Approved in TX, CA, OK, and PA (hours vary by state)

Professional Accreditation available for TX Professional Engineers and TX Real Estate Commission (TREC)

2024

LAND USE FUNDAMENTALS

April 3, 2024 ■ DoubleTree by Hilton Hotel Austin ■ Austin, Texas

Earn up to 4.75 Hours of Credit; MCLE Credit Approved in TX, CA, OK, and PA (hours vary by state)
Professional Accreditation available for TX Professional Engineers and TX Real Estate Commission (TREC)

Times listed are in Central Time

WEDNESDAY AFTERNOON, APR. 3, 2024

Presiding Officer:

Tad Holland Cleaves, Texas Municipal League, Austin, TX

12:00 p.m. Registration Opens

Includes light refreshments.

12:30 p.m. Welcoming Remarks

12:35 p.m. Opening Remarks

This is a unique and engaging conference specifically designed for attorneys new to the world of Texas land use regulation or for seasoned professionals looking for a refresher. Our experienced faculty use an innovative, story-driven approach to help you gain invaluable insights into the real-world application of the laws governing land use and development, helping guide a Texas landowner through the regulatory maze. Whether you're zoning in on the fundamentals or platting your next legal strategy, this conference promises to be an afternoon of professional growth with a touch of enjoyable storytelling. Don't miss this chance to build your expertise and network with peers in an environment that's both educational and entertaining!

Tad Holland Cleaves, Texas Municipal League, Austin, TX

12:45 p.m. .75 hr

The Power of the City Limits and ETJ Authority and Development Agreements

City and county land use control in the extraterritorial jurisdiction, value of annexation/development agreements for municipalities and developers, and impact of new laws.

Rob Killen, Killen, Griffin & Farrimond, San Antonio, TX

1:30 p.m. .75 hr

Zoning 101

A foundational look at zoning as the primary land use regulatory tool and zoning fundamentals such as how to make a zoning decision, and how zoning interacts with the comprehensive plan.

Brenda N. McDonald, Brenda N. McDonald, PLLC, Fort Worth, TX

2:15 p.m. .75 hr

Subdividing Revisited: Things That Go Bump on Plats

Review the basics of platting regulations and how they apply to different development plans, and what you might find on a plat—notes, restrictions, easements, or in related documents.

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

3:00 p.m. 15-Minute Break

3:15 p.m. .75 hr

Site Planning and Other Commercial Development Issues

An overview of the basics for site plan review, approval or denial.

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

4:00 p.m. .50 hr

Deviating Developments: An Intro to PDs, SUPs, and Variances

This session explores the use of Planned Developments (PDs), Specific Use Permits (SUPs), and Zoning Board of Adjustment (ZBA) Variances. The discussion will cover the legal framework for and the differences inherent in each of these different regulatory tools.

Galen Gatten, City of Arlington, Arlington, TX

4:30 p.m. .50 hr

Board of Adjustment: The Safety Valve for Zoning

BOAs fill a valuable position in the zoning regulatory scheme. By reviewing certain administrative decisions and granting certain approvals to deviate from standard zoning provisions, the BOA provides due process, corrects improper decisions, provides site specific approval on special exceptions and permits equitable relief to hardships. Properly run, it provides a prompt decision on matters important to landowners, after due process and consideration by a separate legal board of appointed citizens not beholden to city bureaucracy. However, the arcane (and expedited) processes can trap the non-lawyer citizen in a "permanently unripe" state with a lack of judicial remedies. These issues (and more) are covered in the presentation and materials.

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

5:00 p.m. .75 hr

From A to Zoning: Panel Discussion and Q&A

Moderator:

Tad Holland Cleaves, Texas Municipal League, Austin, TX

Panelists:

Galen Gatten, City of Arlington, Arlington, TX
Kimberley Mickelson, City of Houston Legal Department, Houston, TX
Reid Wilson, Wilson Cribbs + Goren, P.C., Houston, TX

5:45 p.m. Adjourn

UT Law CLE is committed to Practice Excellence.

We are here to support our community. Information and updates regarding our in-person conferences and live webcasts will be posted at www.utcle.org.

In addition, we continue to offer multiple educational opportunities online—both live and on-demand—by bringing practitioners together virtually.

We are fortunate to serve so many of you who strive for excellence in the practice of law.



FUNDAMENTALS ACCREDITATION

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 4.75 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).

28TH ANNUAL
LAND USE CONFERENCE

April 4–5, 2024 ■ DoubleTree by Hilton Hotel Austin ■ Austin, Texas

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Professional Accreditation available for TX Professional Engineers and TX Real Estate Commission (TREC)

Times listed are in Central Time

THURSDAY MORNING, APR. 4, 2024

Presiding Officer:

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

7:30 a.m. Registration Opens

Includes continental breakfast.

8:20 a.m. Welcoming Remarks

8:30 a.m. .75 hr

Land Use Case Law Updates Part 1

A rapid review of recent land uses cases, including platting, zoning, takings, vesting, and development agreements.

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

9:15 a.m. .50 hr

General Legislative Update

Following nearly 250 days of Texas state legislative activity in 2023, this session provides a fast-paced review of the land use bills that passed along with a few that didn't.

Tad Holland Cleaves, Texas Municipal League,
Austin, TX

9:45 a.m. .50 hr

Super Preemption and H.B. 2127 Litigation Update

H.B. 2127, the so called "Super Preemption Bill," was set to become law on September 1, 2023, but was struck down as unconstitutional (at least as to the Cities of Houston, San Antonio, and El Paso) by a Travis County district judge on August 30, 2023. This law seeks to expressly preempt certain city regulations, while implicitly preempting other city regulations that are in conflict with a "field of regulation" occupied by certain state laws. This presentation reviews H.B. 2127, its scope and likely applications, and provide an update on the litigation over H.B. 2127.

Robert F. Brown, Brown & Hofmeister, L.L.P.,
Richardson, TX

10:15 a.m. 15-Minute Break

10:30 a.m. .75 hr

Out of the ETJ and Into the Unknown? What the SB 2038 ETJ-Removal Law Does and Its Impact on Cities and Counties

A review of what the SB 2038 ETJ-removal law does and its impact on cities and counties, by an experienced panel of land use, real estate and development attorneys, including the plaintiff's attorney in *Grand Prairie v. Texas*.

Moderator:

Micah King, Winstead PC, Austin, TX

Panelists:

Bradford E. Bullock, Messer Fort, Austin, TX
Julie Elizabeth Joe, Travis County Attorney's Office,
Austin, TX

11:15 a.m. .75 hr

Deep Dive into Utility and Other Resources in Planning

Legal and land use implications of SB 2038 - ETJ Release.

Jon C. James, Denton, Navarro, Rocha, Bernal &
Zech, P.C., San Antonio, TX
Charles E. Zech, Denton, Navarro, Rocha, Bernal &
Zech, P.C., Austin, TX

12:00 p.m. Pick up Lunch

Included in registration

THURSDAY AFTERNOON

Presiding Officer:

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

LUNCHEON PRESENTATION

12:30 p.m. .75 hr

When Technologies are Ahead of the Building Code

Explore the challenges with emerging technologies that may outpace code development. Topics include examples from 3D printing concrete and advances in low carbon materials.

Skye Masson, City of Georgetown, Georgetown, TX
Andrea Schokker, Swenson College of Science and
Engineering, Duluth, MN

1:15 p.m. 15-Minute Break

1:30 p.m. .75 hr

Navigating Recent Texas Legislative Impacts on Development and Land Use Regulations

A discussion on how various bills adopted by the Texas Legislature in recent years have impacted cities' abilities to regulate development, land use, and building materials on properties. This also includes a discussion on litigation updates concerning those restrictions and cities' attempts to navigate enforcement efforts to address competing concerns of their citizenry.

Carolyn Matthis, City of Irving City Attorney's Office,
Irving, TX

Janet Marie Spugnardi, City of Irving City Attorney's
Office, Irving, TX

2:15 p.m. .75 hr

Cities Don't Enforce Private Restrictive Covenants or Do They: Houston's Unique Land Use Scheme

As one of the only large and unzoned municipalities in the United States, the City of Houston enjoys the unique ability to enforce restrictive covenants as a means of land use regulation. Explore Houston's enforcement authority and processes, as well as how such enforcement might work for other cities.

Heather N. Cook, Randle Law Office Ltd., L.L.P.,
Houston, TX

3:00 p.m. .50 hr

A Private Solution to a Public Concern? Private Restrictive Covenants versus Short Term Rentals, Residential Amenities, and Accessory Dwelling Units

As cities adopt ordinances to regulate a variety of land uses on residential property, they face substantial challenges in both the courts and the Legislature. Perhaps the solution is a private contract between neighbors.

Galen Gatten, City of Arlington, Arlington, TX

Materials By:

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

3:30 p.m. 10-Minute Break

3:40 p.m. .75 hr

Mitigating Disasters: What More Can Land Use Planners Do?

Land use planning offers a host of regulatory and educational tools that planners and attorneys can employ to protect our communities from the impacts of natural disasters. Yet many of these tools are not fully utilized across Texas communities. This session reports on a survey of the extent to which Texas coastal communities are using common and proven techniques to reduce risk and mitigate disaster impacts, with lessons for all parts of the state.

Shannon Van Zandt, Texas A&M University, College Station, TX

4:25 p.m. 1.00 hr ethics

Let's Chat About ChatGPT: Ethical Considerations in the Use of Generative AI

Since the introduction of ChatGPT and other generative AI tools, lawyers around the country have been getting into ethical hot water over their misuse of generative AI. Courts have responded with mandatory AI disclosures and certifications by attorneys. What are your ethical obligations in using AI, and how can you stay within the lines? Come find out in this informative and entertaining presentation!

Hon. John G. Browning, Of Counsel, The Cole Law Firm, McKinney, Texas and Distinguished Jurist in Residence, Faulkner University School of Law, Plano, TX

5:25 p.m. Adjourn to Reception

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5:25 p.m. – 6:25 p.m.

Join program faculty and attendees for drinks and hors d'oeuvres.

CONFERENCE ACCREDITATION

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 15.00 hours, of which 2.00 credit hours will apply to legal ethics/professional responsibility credit.

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).

FRIDAY MORNING, APR. 5, 2024

Presiding Officer:

David Hartman, DuBois, Bryant & Campbell, L.L.P., Austin, TX

7:30 a.m. Conference Room Opens

Includes continental breakfast.

8:30 a.m. .50 hr

Deep Dive Platting

Navigating responses to new restrictions on plat applications, specifically: "The governing body of a municipality or the municipal authority responsible for approving plats may not require an analysis, study, document, agreement, or similar requirement to be included in or as part of an application for a plat, development permit, or subdivision of land that is not explicitly allowed by state law."

Bradley A. Anderle, Taylor, Olson, Adkins, Sralla & Elam, L.L.P., Fort Worth, TX
Jennifer M. Drysdale, Taylor, Olson, Adkins, Sralla & Elam, L.L.P., Fort Worth, TX

9:00 a.m. .50 hr

Land Use Case Law Updates Part 2

A rapid review of recent land uses cases, including platting, zoning, takings, vesting, and development agreements.

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

9:30 a.m. .50 hr

Alternative Subdivisions: Not everyone can Live in a Master Planned Community

Land Use Professionals love to focus on big, beautiful, well designed residential communities. They are not affordable to many citizens. Many citizens are drawn to living in alternative "subdivisions" for affordability or flexibility reasons: small lot "urban" neighborhoods with basic amenities (if any) in rural areas, manufactured housing communities and RV Parks. This presentation covers land use issues for these alternative "subdivisions".

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

10:00 a.m. 15-Minute Break



UT Law CLE is committed to helping attorneys meet their annual Texas MCLE requirements. Following the event, registrants will receive a free, on-demand eSupplement that will bring their total available hours to 15.00, including 3.00 hours of ethics.

10:15 a.m. .75 hr

Advancing Housing Affordability in Counties

Counties across the state are struggling with housing affordability, with population surges in unincorporated areas and a growing mismatch between housing needs and supply. Hear from county leaders and housing experts on tools that counties are using to address local affordable housing needs, along with opportunities for expanding counties' toolboxes.

Moderator:

Heather K. Way, Clinical Professor, The University of Texas School of Law, Austin, TX

Panelists:

Theresa Daniel, County Commissioner, District 1 Dallas County, Dallas, TX

Janae Ladet, Deputy Director of Policy, Office of Commissioner Rodney Ellis, Harris County, Houston, TX

Elizabeth Mueller, Professor, The University of Texas at Austin School of Architecture, Austin, TX

11:00 a.m. .50 hr

Hot Topics in Texas Land Use Law

From the Legislature's concerns about Colony Ridge, to "gentle" density issues in Dallas, to poker houses, to "single-family for rent" projects, to an update on STR litigation, this presentation addresses current Texas land use issues at a fast pace.

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

11:30 a.m. .50 hr

Practical Water Law Considerations: Amenity Lakes, SWCD Reservoirs and Stormwater Detention Ponds

New subdivisions in rural areas raise numerous water law considerations, including how to convert pre-existing rural stock ponds to amenity lakes, dealing with old soil & water conservation district easements and dam structures, and the statutory obligation to avoid flooding downstream neighbors. Come get practical tips on how to address all of these water law issues.

Leonard H. Dougal, Jackson Walker LLP, Austin, TX

12:00 p.m. .75 hr

Why Would Anyone Want to Own and Operate a Utility

A discussion and analysis on recent trends in the water and wastewater regulatory environment. The presentation addresses what hurdles investor and developer owned utilities are facing in front of Texas regulators, navigating municipal oversight and relationships, and the financial and business outcomes from regulation. Audience members who are considering or advising clients on entering the regulated utility space can expect to come away with a better understanding of this critical Texas industry and its administrative oversight.

Cody Faulk, Spencer Fane, Austin, TX

12:45 p.m. Pick Up Lunch

Included in registration

FRIDAY AFTERNOON

Presiding Officer:

**Veronica Rivera, Attorney at Law,
Austin, TX**

LUNCHEON PRESENTATION

1:05 p.m. .50 hr

ULI Advisory Services Program

For the past 75 years, ULI's Advisory Services Program (ASP) has paired the brightest minds in real estate with the most challenging problems facing our cities. Members link together with local leaders to draft a plan to revive, rethink, and restore communities around the globe to ultimately enact change and improve the lives of the people who live there.

Paulette Gibbins, The Urban Land Conference,
Austin, TX

1:35 p.m. 15-Minute Break

1:50 p.m. 1.00 hr

The Evolution of Inverse Condemnation Law

How the courts have expanded property owner exactions and regulatory takings protections.

Arthur J. Anderson, Winstead PC, Dallas, TX

2:50 p.m. .75 hr

Right-of-Way and Land Use Planning

An overview of right-of-way planning, including comprehensive plans, traffic issues, subdivision requirements, street standards, private streets, sidewalks. Also gain insight into right-of-way management ordinances, including design manuals, plats, right-of-way dedications, sidewalk vendors and cafes, dockless mobility issues, robot deliveries, utility placement, and a discussion about utility easements vs. right-of-way.

Cathy Meyer Cunningham, Thomson Reuters,
New York, NY
Don Knight, Dallas City Attorneys Office, Dallas, TX

3:35 p.m. 1.00 hr ethics

Believe It or Not, Ethics do Exist in Land Use!

Come listen and participate in deconstructing ethical dilemmas faced in the land use, development, and economic development practice, from attorneys, elected officials, engineers to planners, all those involved face hurdles one must clear to maintain ethical obligations in the land use space.

George E Hyde, Hyde Kelley LLP, Austin, TX

4:35 p.m. Adjourn

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If you have dietary requirements or would like to request accommodations under the ADA, please contact Customer Service at 512.475.6700 or service@utcle.org at least 10 business days prior to the conference.

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Fundamentals Registration

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

- Live, In-person Event Registration \$225 | \$275 after March 20
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Fundamentals Printed and Shipped Binder with Registration (Shipping Included) – Available Through Friday, April 5, 2024

Please Note: Printed binder will arrive 2-3 weeks after the conclusion of the live conference. Delivery to P.O. boxes is not permitted. Binders will not be distributed on-site.

- Printed and Shipped Course Binder \$81.19 (\$75*)

Fundamentals Webcast Add-on

Register for the in-person conference and add on the webcast format for attendance flexibility.

- Webcast Add-on \$75

Fundamentals Registration Total \$ _____

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- Live, In-person Event Registration \$645 | \$745 after March 20
- Live, Webcast Registration \$645 | \$745 after March 20

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- Printed and Shipped Course Binder \$81.19 (\$75*)

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Register for the in-person conference and add on the webcast format for attendance flexibility.

- Webcast Add-on \$75

Conference Registration Total \$ _____

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Fundamentals eConference – For Texas and California MCLE Credit

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- Fundamentals eConference \$275

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- Electronic Post-Course Download (PDF) \$189.44 (\$175*)
- Printed Post-Course Binder \$243.56 (\$225*)

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Conference eConference – For Texas and California MCLE Credit

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- Conference eConference \$745

Conference Post-Course Binder – For Research and Self-Study

Comprehensive binder with papers and slides, available for delivery 4–6 weeks after live event.

- Electronic Post-Course Download (PDF) \$351.81 (\$325*)
- Printed Post-Course Binder \$405.94 (\$375*)

Conference Post-Conference Products Subtotal \$ _____

TOTAL POST-CONFERENCE PRODUCTS \$ _____

ORDER GRAND TOTAL \$ _____

METHOD OF PAYMENT

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AUSTIN

April 3, 4–5, 2024

CONFERENCE LOCATION



DoubleTree by Hilton Hotel Austin
 6505 N. Interstate 35
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 512.454.3737 (reservations)

Special Room Rate: \$170
 Good through March 15, 2024
 (subject to availability)

Parking:
 Daily or overnight self-parking: \$10

KEY DATES

March 20, 2024

Last day for early registration rates

March 29, 2024

Last day for full refund cancellation

April 1, 2024

Last day for partial refund cancellation
 \$50 processing fee applied

April 3, 2024, 12:30 p.m., CT

Fundamentals begins

April 4, 2024, 8:20 a.m., CT

Conference begins

April 5, 2024

*Last day to order a printed and shipped course binder
 with in-person or webcast conference registration.*

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REASONS TO ATTEND

The **28th Annual Land Use Conference** offers high-level, detailed coverage of the key issues, strategies, challenges, tools, and opportunities facing municipalities, counties, and developers. It focuses on real-world problems with practical solutions presented by an outstanding faculty, including developers' attorneys, land use planners, local government attorneys, engineers, and state and local regulators.

2024 highlights:

- **Two-part case law updates, including key developments on topics such as zoning, platting, "takings," and vested rights.**
- **A review of what the SB2038 ETJ- removal law does and its impact on cities and counties.**
- **Insight on how the courts have expanded property owner exactions and regulatory takings protections.**
- **Guidance from county leaders and housing experts on tools that counties are using to address local affordable housing needs, along with opportunities for expanding counties' toolboxes.**