

2010 Land Use Conference
March 25-26, 2010 • AT&T Conference Center • Austin, TX

Thursday Morning, Mar. 25, 2010

Presiding Officer:

Julie Y. Fort, Strasburger & Price, LLP - Frisco, TX

8:00 am	<p>Registration Opens</p> <p>Includes continental breakfast.</p>
8:50 am	<p>Welcoming Remarks</p>
	<p>Jump-Starting Development: Tools, Incentives, and Transportation Funding</p>
9:00 am 1.00 hr	<p>Regulatory Barriers to Development: Developer Perspectives and Municipal Responses</p> <p>"Red tape" or necessary administrative and public process? Excessive regulation harming property rights and the economy or valid laws promoting the public health, safety and welfare? The answers may be different depending on the perspective, but how a city prevents one and promotes the other often requires the cooperation and creativity of those with different perspectives. This panel discussion explores how some municipal development procedures and substantive requirements can create "regulatory barriers" to development. The panel also discusses possible methods of addressing, removing or mitigating regulatory barriers where they exist, including a review of tools to facilitate desirable development.</p> <p>Moderator: Jeffrey Steven Howard, McLean & Howard, L.L.P. - Austin, TX Panelists: Rob Killen, Kaufman & Killen - San Antonio, TX Panelists: James B. Knight P.E., Bury + Partners, Inc. - Austin, TX Panelists: John Webb, City of Richardson - Richardson, TX Panelists: Diane Callander Wetherbee, City of Plano - Plano, TX</p>
10:00 am 0.75 hr	<p>An Updated Look at Public Improvement Districts (PIDs) to Promote Economic Development</p> <p>A practical guide to using PIDs for economic development after HB 621, taking into consideration the impact of guidelines from the Attorney General's office including the use of installment sales agreements, reimbursement agreements, and bonds, and including timelines for PID creation and the levy of assessments.</p> <p>Dwight A. (Ike) Shupe, Shupe Ventura Lindelow & Olson, PLLC - Fort Worth, TX</p>
10:45 am	<p>Break</p>

11:00 am
0.75 hr

Economic Development Incentives for Jump Starting Small- and Medium-Sized Development

Hear how to seek and provide financing for small and medium sized developments through the use of 380 agreements, TIRZ, TIF, Certificates of Obligations, Land Banking, and Type A and Type B sales tax, including examples. Economic development is not just for big projects anymore.

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

Thursday Afternoon, Mar. 25, 2010

Presiding Officer:

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

LUNCHEON PRESENTATION

11:45 am

Pick up Box Lunch

Included in Conference registration fee.

12:00 pm
0.83 hr ethics

Avoiding the Perp Walk: Criminal Laws and Ethics in Land Use

In the land use context, seemingly innocent behavior—including emails, meetings, phone calls, meals, trips and even expressions of gratitude—can implicate criminal laws and ethics rules. They can apply to public officials and private parties, both lawyers and non-lawyers. This presentation is designed to help everyone avoid "the worst case scenario."

James L. Dougherty Jr., Attorney at Law - Houston, TX
Ross Fischer, Denton, Navarro, Rocha & Bernal, P.C. - San Antonio, TX

12:50 pm

Break

1:05 pm
0.67 hr

The Road is to Be, or Not to Be? Driving through the Smoke and Mirrors of Transportation Funding

Simplifying the mystery of transportation funding. Will there be any in the future? What is an MPO and how does it affect me? Tips on finding funding for a road or thoroughfare.

Rider Scott, Strasburger & Price, LLP - Frisco, TX

1:45 pm
0.33 hr

TxDOT Project Development Process Manual Revisions

Learn about the revisions to TxDOT's Project Development Process Manual, enabling new approaches for transportation projects in urban contexts. These changes require local partnerships and provide for more flexibility in design of federal aid and state roadways, creating opportunities for more walkable, sustainable development and neighborhoods.

E. Scott Polikov, Gateway Planning Group Inc - Fort Worth, TX

2:05 pm 0.75 hr	<p>Platting and Proportionality: A Practical Look at Local Government Code 212.904</p> <p>This session looks at the impact of "Rough Proportionality" in light of the limits recent case law and statutes place on local government requirements for dedications and fees as a condition to plat and development approvals. The discussion reviews ordinance procedures, and provides guidance on how to assess development impact and how to negotiate a proper result under <i>Stafford v. City of Flower Mound</i> and Tex. Loc. Gov't Code Sec. 212.904, with a primary focus on roadway dedications and traffic issues. The session also includes a discussion on how to present and appeal a local government decision.</p> <p>Susan Alleman, Traffic Engineers, Inc. - Houston, TX David Zuehl Conoly, David Z. Conoly, P.C. - Corpus Christi, TX Reid Carroll Wilson, Wilson, Cribbs & Goren, P.C. - Houston, TX</p>
2:50 pm 0.50 hr	<p>Redevelopment Challenges and Opportunities: A Case Study of Downtown Revitalization</p> <p>How the city or the state looks at redevelopment challenges and opportunities—lessons from the Arlington experience.</p> <p>Ed Walts, Real Estate Office - Austin, TX Trey Yelverton, City of Arlington - Arlington, TX</p>
3:20 pm	<p>Break</p>
3:35 pm 0.75 hr	<p>Annexation and Development Agreements</p> <p>Growth is coming to your city, and state law gives you various ways to prepare for it. Learn the process of annexing territory and when it may be more advantageous to use the development agreement option.</p> <p>Julie Y. Fort, Strasburger & Price, LLP - Frisco, TX Scott N. Houston, Texas Municipal League - Austin, TX</p>
4:20 pm 0.50 hr	<p>The Fair Housing Act and Municipal Zoning</p> <p>This session focuses on the Fair Housing Act and its potential effects on a city's ability to amend its residential zoning ordinances. Density bonuses and affordable housing incentives are also discussed.</p> <p>Michael C. Klein, Smith Robertson Elliott Glen Klein & Bell, L.L.P. - Austin, TX Tom Nuckols, City of Austin Law Department - Austin, TX</p>
4:50 pm 0.50 hr	<p>What are the Texas Banks Doing and Why? Funding for New Development, Refi's and Redevelopment</p> <p>Caught between regulatory demands to increase capital and limit exposure to real estate, the regional banks, including Texas, are providing little if any funding for new development and redevelopment. This session discusses the dynamics and pressures on banks to avoid recognizing losses, increase capital and lower real estate exposure and how that is playing out in the Texas market. How long will this liquidity crisis continue and why? What, if any, options and incentives can municipalities and developers employ to increase the chance of getting development funding?</p> <p>James A. Nolen Jr., McCombs School of Business - Austin, TX</p>
5:20 pm	<p>Adjourn</p>

Friday Morning, Mar. 26, 2010

Presiding Officer:

<p>8:00 am 0.75 hr</p>	<p>Breakfast Break-out Sessions</p> <p>Included in the conference registration. One-on-one discussions on current issues on topics important to you and your clients.</p> <p><i>Everything You Wanted to Know About Oversight and Regulation of Dams</i> Warren Samuelson, Austin, TX</p> <p><i>Placement and Regulation of Cell Towers: What Are the Limits?</i> Georgia Nell Crump, Austin, TX</p> <p><i>Illumination and Dark Skies Ordinances, including Open Spaces Involving Military Facilities</i> Rob Killen, San Antonio, TX</p> <p><i>Transmission Line Issues including Wind and Right of Way</i> Bradford W. Bayliff, Austin, TX</p> <p><i>A Practical Look at Municipal Regulation in the ETJ and the Limits of Such Regulating Powers</i> Robert Brown, Richardson, TX</p> <p><i>Rural Water Supply Issues, Federal Funding Blackouts, CCNs and More</i> Monte Akers, Austin, TX</p> <p><i>Dealing with Wetlands in the Land Development Process: Identification, Permitting, and Avoiding Enforcement</i> Sharon Marie Mattox, Houston, TX</p> <p>Monte Akers, Akers & Boulware-Wells, L.L.P. - Austin, TX Bradford W. Bayliff, Casey Gentz & Magness, L.L.P. - Austin, TX Robert F. Brown, Brown & Hofmeister, L.L.P. - Richardson, TX Georgia Nell Crump, Lloyd Gosselink Rochelle & Townsend PC - Austin, TX Rob Killen, Kaufman & Killen - San Antonio, TX Warren Samuelson, Texas Commission on Environmental Quality (TCEQ) - Austin, TX Kristie M. Tice, Vinson & Elkins LLP - Houston, TX</p>
<p>8:45 am</p>	<p>Break</p>
<p>9:00 am 0.67 hr</p>	<p>Recent Land Use Law Developments</p> <p>A survey of recent case law development and key legislative initiatives including the Texas constitutional amendments related to land use and eminent domain.</p> <p>Bruce M. Kramer, Of Counsel, McGinnis, Lochridge & Kilgore, L.L.P. - Houston, TX</p>
<p>9:40 am 0.50 hr</p>	<p>Advanced Issues Involving Non-Conforming Uses and Structures: Common Law, Ordinances, Chapter 245, and More</p> <p>Two land use lawyers compare and contrast the various types of "grandfathering" available under Texas law and provide practical tips for pursuing—and working with—each type.</p> <p>Arthur J. Anderson, Winstead PC - Dallas, TX James L. Dougherty Jr., Attorney at Law - Houston, TX</p>
<p>10:10 am</p>	<p>Break</p>

<p>10:25 am 0.50 hr</p>	<p>Municipal Challenges in Managing Foreclosures and Bankruptcies, including Prosecuting and Enforcing the Land Use Code</p> <p>What has economic meltdown brought to the front door of City Hall? This session covers the problems many cities are facing during the downturn in the economic landscape, including the economic repercussions of developer foreclosures and bankruptcies, as well as the municipal reactions, responses and possible solutions. Additional discussion includes enforcement of land use ordinances and prosecution of violations when landowners are facing foreclosure, in bankruptcy or when a lending institution has already taken over.</p> <p>Barbara A. Boulware-Wells, Akers & Boulware-Wells, L.L.P. - Austin, TX</p>
<p>10:55 am 0.50 hr</p>	<p>Practical Tips on How to Avoid Challenges Based on Religious Freedom and Discrimination</p> <p>Update on recent court decisions under Tx RFRA and RUILPA but with an added bonus—a practical guide on how to fix your current zoning ordinances to avoid (or help defeat) a legal challenge in the future.</p> <p>Ryan Scott Henry, Denton Navarro Rocha & Bernal, P.C. - San Antonio, TX</p>
<p>11:25 am 0.75 hr</p>	<p>Revitalization through Form-Based Codes and Value Capture</p> <p>Cities are expanding their regulatory tool box beyond conventional zoning to include form-based codes to catalyze redevelopment while preserving the unique character of their downtowns and aging commercial corridors. Combining the creativity of the New Urbanism and the opportunity of preservation, redevelopment can be activated with form-based codes to support catalytic projects that sustain redevelopment through phased reinvestment in streets and public spaces. Scaling up redevelopment in downtowns and commercial corridors requires the belief by investors and developers that investment in one property will be leveraged and supported by investment in other adjacent projects. Accordingly, the need for a city's regulatory scheme for a particular redevelopment area to create a scenario as if the area was under single ownership—in a sense a de facto master development complex—is critical to sustaining development long term. This session explores the changes necessary to the regulatory environment to support such redevelopment in small, medium and large cities.</p> <p>William S. Dahlstrom, Jackson Walker, L.L.P. - Dallas, TX E. Scott Polikov, Gateway Planning Group Inc - Fort Worth, TX</p>

Friday Afternoon, Mar. 26, 2010

Presiding Officer:

Dorothy Palumbo, City of Highland Village - Highland Village, TX

	<p>LUNCHEON PRESENTATION</p>
<p>12:10 pm</p>	<p>Pick up Box Lunch</p> <p>Included in Conference registration fee.</p>

12:25 pm
1.25 hrs ethics

Getting What You Want: A Review of Negotiation Skills and Ethical Issues

This 75-minute presentation outlines the steps in preparing for a negotiation, discusses factors to consider in picking a strategy, and demonstrates both how to use and how to counter some of the most common negotiation tactics. The presentation ends with an audience participation demonstration followed by group critique of the approaches used by participants in the demonstration. A cash prize—jointly sponsored by the law firms of Strasburger & Price and Denton, Navarro, Rocha & Bernal—will be awarded to the best negotiator.

Dewitt F. (Mac) McCarley, City of Charlotte, President of the International Municipal Attorneys Association - Charlotte, NC

1:40 pm

Break

1:55 pm
1.50 hrs

Preservation of Community Assets: Open Spaces, Landscaping, Sustainability, Funding and More

Sustainable community design techniques including: master planning, preservation of existing vegetation and topography, promoting certain landscaping through regulations, well-designed common areas such as parks, trails, open space, and other community assets. Case Studies of preservation of open space and trees.

Moderator:

Dorothy Palumbo, City of Highland Village - Highland Village, TX

Panelists:

Alan J. Bojorquez, Bojorquez Law Firm, PLLC - Austin, TX

Panelists:

Matthew Goebel, Clarion Associates - Denver, CO

Panelists:

Rob Killen, Kaufman & Killen - San Antonio, TX

Panelists:

Kimberley Mickelson, Law Office of Kimberley Mickelson, PC - Houston, TX

3:25 pm

Adjourn