

**18<sup>th</sup> Annual The Land Use Conference**  
**March 27-28, 2014 • AT&T Conference Center • Austin, TX**

**Thursday Morning, Mar. 27, 2014**

**Presiding Officer:**

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

8:00 am	<p><b>Registration Opens</b></p> <p>Includes continental breakfast.</p>
8:50 am	<p><b>Welcoming Remarks</b></p>
9:00 am 0.75 hr	<p><b>Case Law Update</b></p> <p>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.</p> <p>James L. Dougherty Jr., Attorney at Law - Houston, TX</p>

**ECONOMIC DEVELOPMENT**

9:45 am 0.75 hr	<p><b>The Economic Development Toolbox</b></p> <p>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.</p> <p>Misty M. Ventura, Shupe Ventura Lindelow &amp; Olson, PLLC - Dallas, TX</p>
10:30 am	<p><b>Break</b></p>
10:45 am 0.75 hr	<p><b>Negotiating Economic Development Incentives—"Thinking Outside the Box"</b></p> <p>Negotiating successful economic development agreements between public and private entities.</p> <p>Moderator: Charles E. Zech, Denton, Navarro, Rocha &amp; Bernal, P.C. - San Antonio, TX</p> <p>Panelists: Kenneth W. Brown, Brown &amp; Ortiz, P.C. - San Antonio, TX Habib H. Erkan Jr., Denton, Navarro, Rocha &amp; Bernal, P.C. - San Antonio, TX</p>
11:30 am 0.75 hr	<p><b>Redevelopment Issues: "My Chickens Won't Lay!"</b></p> <p>Discussion of political, regulatory and field issues that arise before, during and after redevelopment, with consideration of potential solutions.</p> <p>Moderator: Deborah F. McAbee, City of Houston Legal Department - Houston, TX</p> <p>Panelists: Tommy Mann, Winstead PC - Dallas, TX Jeanne Harvey McDonald, Attorney at Law - Sugar Land, TX</p>

12:15 pm

**Pick Up Lunch**

Included in registration.

---

**Thursday Afternoon, Mar. 27, 2014**

**Presiding Officer:**

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

**Luncheon Presentation**

12:35 pm

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 as a means of communication, new ethical challenges arise, including attorney-client privilege concerns.

Peter S. Vogel, Gardere Wynne Sewell LLP - Dallas, TX

---

1:35 pm

**Break**

---

**ECONOMIC DEVELOPMENT, CONTINUED**

1:45 pm

0.75 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, Jackson Walker L.L.P. - 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

---

2:30 pm

0.75 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, Messer, Rockefeller & Fort, PLLC - Frisco, TX

Panelists:

Scott Bounds, Olson & Olson LLP - Houston, TX

Misty M. Ventura, Shupe Ventura Lindelow & Olson, PLLC - Dallas, TX

---

3:15 pm

**Break**

---

3:30 pm 0.50 hr	<p><b>Historic Landmarks and Districts: Current Issues</b></p> <p>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.</p> <p>Matthew Goebel, Clarion Associates - Denver, CO</p>
4:00 pm 1.00 hr	<p><b>Trying the Land Use Case: Strategies and Trial Tactics for Landowners, Developers and Governmental Entities</b></p> <p>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.</p> <p>Arthur J. Anderson, Winstead PC - Dallas, TX Robert F. Brown, Brown &amp; Hofmeister, L.L.P. - Richardson, TX</p>
5:00 pm	<p><b>Adjourn</b></p>

**Friday Morning, Mar. 28, 2014**

**Presiding Officer:**  
**Deborah F. McAbee**, City of Houston Legal Department - Houston, TX

**BREAKFAST BREAKOUT SESSIONS**

Small group discussions on current issues important to you and your clients. Bring your questions and participate in interactive sessions. Included in registration.

**A. Dealing with NIMBY**

8:00 am 0.75 hr	<p><b>A. Dealing with NIMBY</b></p> <p>Legal and political entities dealing with NIMBY issues.</p> <p>Patty Akers, Akers Law Firm, L.L.P. - Austin, TX Zelda Zarco Auslander, City Council Member, City of Bee Cave - Bee Cave, TX</p>
--------------------	--

**B. Adios Condo!**

8:00 am 0.75 hr	<p><b>B. Adios Condo!</b></p> <p>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.</p> <p>Anthony L. Marré, Wilson, Cribbs &amp; Goren, P.C. - Houston, TX</p>
--------------------	--

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

<p>8:00 am 0.75 hr</p>	<p><b>C. The Perfect Storm, or, How Green Was My Valley?</b></p> <p>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.</p> <p>Barbara A. Boulware-Wells, McKamie Krueger &amp; Knight, LLP - Austin, TX</p>
<hr/> <p><b>D. Certificates of Convenience and Necessity (CCNs) Federal Preemption</b></p>	
<p>8:00 am 0.75 hr</p>	<p><b>D. Certificates of Convenience and Necessity (CCNs) Federal Preemption</b></p> <p>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.</p> <p>Monte Akers, Akers Law Firm, L.L.P. - Austin, TX</p>
<p>8:45 am</p>	<p><b>Break</b></p>
<p>9:00 am 0.50 hr</p>	<p><b>Zoning: The Saga Continues</b></p> <p>Hot topics in zoning that continue to challenge local governments with an update on regulation of payday lenders, E-cigarettes and boarding homes.</p> <p>Joseph J. Gorfida Jr., Nichols, Jackson, Dillard, Hager &amp; Smith L.L.P. - Dallas, TX</p>
<p>9:30 am 0.50 hr</p>	<p><b>An Annexation Tale of Two Cities</b></p> <p>What happens when municipalities collide in a battle over territory? A discussion of practical considerations affecting not simply legal, but political and operational aspects.</p> <p>Ryan S. Henry, Law Offices of Ryan Henry, PLLC - San Antonio, TX</p>
<p>10:00 am 0.50 hr</p>	<p><b>Fair Housing</b></p> <p>Legal and policy aspects of the Fair Housing Act.</p> <p>Neal J. Rackleff, City of Houston Housing and Community Development Department - Houston, TX John Henneberger, Texas Low Income Housing - Austin, TX</p>
<p>10:30 am</p>	<p><b>Break</b></p>
<p>10:45 am 0.50 hr</p>	<p><b>Disposition of City-Owned Real Property</b></p> <p>Overcoming the limitations state law places on the ability of cities to sell real property.</p> <p>Gary W. Dzierlenga, City of Houston Legal Department - Houston, TX</p>

<p>11:15 am 0.50 hr</p>	<p><b>It's Five O'Clock Somewhere: The New World of Booze</b></p> <p>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 <i>Jester King Craft Brewery v. TABC</i> lawsuit and the new world of brew pubs, gastro pubs, tasting rooms, growlers, on-site sales, etc.</p> <p>Peter D. Kennedy, Graves Dougherty Hearon &amp; Moody - Austin, TX</p>
<p>11:45 am</p>	<p><b>Pick Up Lunch</b></p> <p>Included in registration.</p>

## Friday Afternoon, Mar. 28, 2014

### Presiding Officer:

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

### Luncheon Presentation

<p>12:05 pm 0.75 hr</p>	<p><b>Oil and Gas: Extraction and Transportation</b></p> <p>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.</p> <p>Moderator: Sarah J. Fullenwider, City of Fort Worth - Fort Worth, TX</p> <p>Panelists: Robert Manthei, XTO Energy, Inc. - Fort Worth, TX Libby Willis, Fort Worth League of Neighborhoods - Fort Worth, TX</p>
<p>12:50 pm</p>	<p><b>Break</b></p>
<p><b>WATER</b></p>	
<p>1:00 pm 0.50 hr</p>	<p><b>Government Response to Drought: Past versus Present</b></p> <p>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.</p> <p>Bech K. Bruun, Texas Water Development Board - Austin, TX</p>
<p>1:30 pm 0.50 hr</p>	<p><b>Water Supply and Demand—"If You Provide It, They Will Come"</b></p> <p>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?</p> <p>Timothy G. Green, Coats Rose - Houston, TX</p>

2:00 pm  
0.50 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, Gardere Wynne Sewell LLP - Houston, TX

2:30 pm  
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, Of Counsel, Olson & Olson LLP - Houston, TX  
Dorothy Palumbo, City of Galveston - Galveston, TX

3:30 pm

**Adjourn**