

19TH ANNUAL
THE LAND USE CONFERENCE

Planning, Law and Regulation



FUNDAMENTALS

March 25, 2015

CONFERENCE

March 26–27, 2015

Marriott Austin North
Round Rock, Texas

Fundamentals—Earn up to 3.50 Hours of Credit

Conference—Earn up to 14.50 Hours of Credit Including 2.50 Hours of Ethics Credit

TX Legal Specialization Credit Approved for Administrative Law,
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Credit Available: TREC, TX Professional Engineers,
TX Professional Land Surveyor, and AAPL (RPL and CPL)

Credit Expected: AICP and TX Appraiser (ACE)

2015

LAND USE FUNDAMENTALS

March 25, 2015 ■ Marriott Austin North ■ Round Rock, Texas

WEDNESDAY AFTERNOON, MARCH 25, 2015

Presiding Officer:

Kathryn A. Lumpkin, Bickerstaff Heath Delgado Acosta LLP, Austin, TX

1:15 p.m. Registration Opens

Includes light refreshments.

1:50 p.m. Welcoming Remarks

2:00 p.m. .75 hr

Zoning Law and Theory

Zoning is the fundamental land use regulation used by cities to implement their planning policies. As such, zoning concerns technical planning and legal issues to assure compliance with a city's comprehensive plan. Gain insight into the foundation for zoning, its structure, the players, and the process.

William S. Dahlstrom, Jackson Walker L.L.P., Dallas, TX

2:45 p.m. .50 hr

Zoning on the Ground

Zoning regulations apply to land use, urban design and the physical development requirements of property. Comprehensive regulations also address procedures for entitlement and the protection of existing rights. Learn the fundamentals of zoning and gain tips for creating flexible zoning tools in response to innovative urban trends.

Theresa O'Donnell, City of Dallas, Dallas, TX

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 3.50 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 Administrative Law, Oil, Gas and Mineral Law, and Real Estate Law
- TREC General Elective MCE Credit Available
- Credit for TX Professional Engineers Available
- 3.50 Hours of AAPL Credit for Registered Professional Landman (RPL) and Certified Professional Landman (CPL) Expected
- Credit for AICP and TX Appraiser (ACE) Expected
- 4.00 Hours of Texas CPE Credit for Accountants

3:15 p.m. .50 hr

Platting 101

This basic building block for land use regulation is explained and contrasted with zoning. Practical pointers are included to help practitioners on both sides of the aisle understand the platting process and avoid legal pitfalls.

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

3:45 p.m. Break

4:00 p.m. .50 hr

Signs of the Times: Regulation Fundamentals and Cases of Interest

Gain insight into fundamental regulation concepts and take a look at recent cases of interest that affect sign regulation.

Christopher L. Nichols, Randle Law Office Ltd., L.L.P., Houston, TX

4:30 p.m. .50 hr

Chapter 245 Basics

An introduction to vested rights, including how permits are processed under Chapter 245 of the Texas Local Government Code, when permits expire and become dormant, and relevant cases and statutes that impact Chapter 245.

Dorothy Palumbo, City of Galveston, Galveston, TX

5:00 p.m. .75 hr

Economic Development Toolbox in Texas: An Overview

An overview of the array of development incentives available in Texas, including how such incentives can best be combined to enhance their effectiveness.

Ignacio Perez, Bojorquez Law Firm, PC, Austin, TX
Allison J. H. Thompson, City of Cedar Hill, Cedar Hill, TX

5:45 p.m. Adjourn

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Houston, TX

19TH ANNUAL
LAND USE CONFERENCE

March 26–27, 2015 ■ Marriott Austin North ■ Round Rock, Texas

THURSDAY MORNING, MARCH 26, 2015

Presiding Officer:

Alan J. Bojorquez, Bojorquez Law Firm, PC,
Austin, TX

7:30 a.m. Registration Opens

Includes continental breakfast.

8:35 a.m. Welcoming Remarks

8:45 a.m. .75 hr

Case Law Update

Review new state and federal land use cases, including: exactions and other types of regulatory takings, enforcement, administrative proceedings (boards and commissions), platting, immunity, and more.

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

9:30 a.m. 1.00 hr

Pitfalls in Standard Codes

Learn the effects of adopting an “international code” in the case of *The State of Texas v. Cooper*, including notice requirements, enforcement, charging decisions, prosecution, the appellate process and amendments to city ordinances.

Paige A. Mims, City of Plano, Plano, TX
Michelle L. Voirin, City of Plano, Plano, TX

10:30 a.m. Break

10:45 a.m. .50 hr

The Legal Implications of Sustainable Development Policy

Examine the meaning of “sustainable development,” from its international policy beginnings to its implementation in state legislation and local development codes, programs, and practices, and hear how the courts are reacting to the concrete tensions and conflicts that result.

Kimberley Mickelson, Of Counsel, Olson & Olson LLP,
Houston, TX

11:15 a.m. .50 hr

**Where Are We Now?
RLUIPA and Religious Land Uses**

How much discretion does a city have to prevent or restrict a church use? How do the courts define a protected religious land use? For example, when is a soup kitchen protected? Can a city have an obligation to ensure a church use?

Arthur J. Anderson, Winstead PC, Dallas, TX

11:45 a.m. .50 hr

The Effects of Drought and Population Growth on Land Use

Pressure on cities to provide adequate water to their citizens is increasing with rising populations and climate challenges. Often, the reaction is to simply procure more water supply, but how a city grows is as important to its sustainability as its water supply. Land use ordinances, such as turf grass limitations, irrigation system requirements and ensuring HOAs don’t illegally prohibit xeriscapes, can reduce demand and postpone the need for new, expensive supply.

Amy Hardberger, St. Mary’s University School of Law,
San Antonio, TX

12:15 p.m. Pick Up Lunch

Included in registration.

THURSDAY AFTERNOON

Presiding Officer:

Hon. Penelope Graves Redington,
Texas Association of Regional Councils,
Austin, TX

LUNCHEON PRESENTATION

12:35 p.m. .50 hr

Land Use Law Hot Topics, Part I

A discussion of a variety of current hot topics in land use law from around the nation and a look at where we are headed—from age-restricted zoning to drilling and fracking (or not fracking) in the Barnett Shale—and a lot of topics in between!

Christopher D. Bowers, City of Dallas, Dallas, TX

1:05 p.m. Break

1:20 p.m. 1.00 hr

The Dos and Don’ts for Getting Your Project Approved

When going through the entitlement process, one must consider all the players involved in order to write the playbook. Maneuvering through the political maze, both inside city hall and outside, is paramount to getting your project approved.

Patty Akers, Akers Law Firm, L.L.P., Austin, TX
David Hartman, Smith, Robertson, Elliott, &
Douglas, L.L.P., Austin, TX
Karen K. Mitchell, Mitchell Planning Group, LLC,
Fort Worth, TX

2:20 p.m. .50 hr ethics

**Avoiding Open Government Pitfalls:
A Land Use Perspective**

Explore five pitfalls in open government under the Public Information Act and Texas Open Meetings Act from the land use perspective. Awareness of these issues is a step towards managing the government client’s legal risks, providing effective case management and ensuring good government.

Sabine Romero, City of Austin Law Department
Ethics & Compliance Team, Austin, TX

2:50 p.m. Break

3:00 p.m. .50 hr

Impact of Social Media on Development Issues

Gain insight into the practical and legal issues associated with the increased use of social media by citizens and city officials on development issues.

Charles E. Zech, Denton Navarro Rocha Bernal Hyde
& Zech P.C., San Antonio, TX

3:30 p.m. 1.00 hr

Economic Development Agreement Issues

Learn the statutory basis, procedure, and negotiation issues regarding economic development agreements (including tax abatement) for development projects located in the unincorporated areas of growing Texas counties.

Charles R. Kimbrough, Bickerstaff Heath Delgado
Acosta LLP, Austin, TX

4:30 p.m. .50 hr

**Environmental Concerns:
Floodplains, Cranes and Land Use Deals**

An update on current environmental issues that impact the use of land in Texas and beyond, including wetlands, stormwater, cultural resources, floodplains and endangered species.

Sharon M. Mattox, Sharon M. Mattox, PLLC,
Houston, TX

5:00 p.m. .50 hr

Post-Koontz Exactions

In *Koontz v. St. Johns River Water Management District*, the U.S. Supreme Court answered several questions regarding the scope of the federal constitution’s heightened exactions scrutiny tests, established in its previous landmark decisions in *Nollan* and *Dolan*. What impact will *Koontz* have on exactions practices in Texas and how does it impact the Texas Supreme Court’s seminal exactions case, *Stafford v. Town of Flower Mound*?

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

5:30 p.m. Adjourn

Presiding Officer:

**Monte Akers, Akers Law Firm, L.L.P.,
Austin, TX**

8:00 a.m. Conference Room Opens
Includes continental breakfast.

8:30 a.m. .50 hr | .25 hr ethics

A Legal Primer for Planners

A discussion of best practices when addressing legal issues confronting planners and lawyers.

Meredith A. Ladd, City of Carrollton, Carrollton, TX

9:00 a.m. .50 hr

Dark Sky Cities

Review the municipal regulation of outdoor lighting and common law suits in unincorporated areas, including lessons learned from the City of Dripping Springs—the first municipality in Texas to be designated as a Dark Sky Community by the International Dark Sky Association.

Alan J. Bojorquez, Bojorquez Law Firm, PC, Austin, TX
Robert J. Wood, City of West Lake Hills,
West Lake Hills, TX

9:30 a.m. .75 hr

Innovative Financing and Development of Parks and Recreational Facilities

A lesson in innovative techniques and public-private partnerships to finance, develop, and maintain public parks and recreational facilities, with particular attention to case studies in the Houston and Austin areas involving the use of non-profit corporations, special districts, and economic development agreements pursuant to Chapter 380, Local Government Code.

Camm C. "Trey" Lary III, Allen Boone Humphries
Robinson LLP, Austin, TX
Cassie B. Stinson, BoyarMiller, Houston, TX

10:15 a.m. Break

10:30 a.m. 1.00 hr

Advanced Vested Rights

Explore Chapter 245 issues, including process for recognition of rights, "fair notice," and attorney fees for successfully litigating a vested rights case. Learn best practices from both the municipal and developer perspectives.

Rob Killen, Kaufman & Killen, Inc., San Antonio, TX
Dorothy Palumbo, City of Galveston, Galveston, TX

11:30 a.m. .50 hr

Fair Housing: Limitations on Limitations

The Fair Housing Act prohibits discriminatory housing practices. Recently, parties have challenged the premise that disparate impact claims are cognizable under the FHA, a ground not yet endorsed by the Supreme Court. At the center of this claim is Texas's effort to overturn the Fifth Circuit's ruling ordering a city to allocate affordable-housing credits differently. The outcome could alter the manner in which low-income housing tax credits are allocated. An FHA case update is also included.

Bradford E. Bullock, Knight & Partners, Austin, TX

12:00 p.m. Pick Up Lunch

Included in registration.

FRIDAY AFTERNOON

Presiding Officer:

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

LUNCHEON PRESENTATION

12:20 p.m. .50 hr

Land Use Law Hot Topics, Part II

A continuation of land use law hot topics.

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

12:50 p.m. Break

1:05 p.m. .50 hr

Ground Leasing of Public Land for Private Sector Development

Increasingly municipalities, universities, Type A and B sales tax corporations, and political subdivisions are ground leasing available sites to the private sector for economic development projects and for projects consistent with the needs and demands of the institutions and government. Hear a case study relating to publicly owned property leased for various purposes, including the ground lease of university property for a public golf driving range for commercial and retail purposes to promote economic development, and for multi-family residential units to support the demand for student housing and related retail. Specific projects, zoning and land use challenges, real estate pitfalls and property tax considerations are included.

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

1:35 p.m. .50 hr

Private Nuisance: Judicial Zoning?

Texas nuisance law might be used to enjoin an otherwise legally permitted land use which is "abnormal and out of place in its surroundings." Alternatively, a neighbor may recover damages for loss of use and enjoyment of his or her land, or diminution of fair market value. Explore the limits of Texas nuisance law through the lens of the "Ashby High Rise" case in Houston, where a wealthy neighborhood opposed a fully permitted high rise residential tower on unrestricted, unzoned land.

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

2:05 p.m. .50 hr ethics

Protecting, Overcoming and Distinguishing the Work Product Privilege in Texas

Examine the work product privilege under state and federal law, including differences in application and important considerations for practitioners when working with experts, consultants and other third parties.

John F. Sullivan III, K&L Gates LLP, Houston, TX

2:35 p.m. Break

2:45 p.m. .50 hr | .25 hr ethics

Sovereign and Governmental Immunity in the Land Use Regulation Context

State and local governmental entities generally enjoy immunity from lawsuits. Suing or defending a governmental entity or its employees in a land use case can raise numerous issues, including the nature of immunity, the classification of the governmental action, and the identity of the defendant (i.e., the government entity or government officials).

Eric C. Farrar, Olson & Olson LLP, Houston, TX

3:15 p.m. 1.00 hr ethics

The Devil in the Details: An Ethical Journey toward Governmental Approvals

Ethics issues related to approving projects and financing (special districts, especially), including voting and recusal (or not), speaking to public officials and board members, advocacy on both sides, financing and its role in deals, and what to do when everybody knows everybody.

Barbara A. Boulware-Wells, Knight & Partners,
Austin, TX

4:15 p.m. Adjourn

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- Credit for TX Professional Engineers Available
- Credit for TX Professional Land Surveyor Available

- 14.50 Hours of AAPL Credit Including 2.50 Hours of Ethics for Registered Professional Landman (RPL) and Certified Professional Landman (CPL) Expected
- Credit for AICP and TX Appraiser (ACE) Expected
- 17.00 Hours of Texas CPE Credit for Accountants

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Includes Course Materials

1. Select Registration Type

- Individual registration by Wednesday, March 18. \$110
- Individual registration after Wednesday, March 18. \$140

2. Select Course Materials Format

- Electronic Course Binder on USB Key ONLY
- Printed Course Binder ONLY (available through March 18)

Fundamentals Registration Total \$ _____

CONFERENCE—LD15

Includes Course Materials and Thursday and Friday Luncheon Presentations

1. Select Registration Type

- Individual registration by Wednesday, March 18. \$485
- Individual registration after Wednesday, March 18. \$535

2. Select Course Materials Format

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- Printed Course Binder ONLY (available through March 18)

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Sales tax will be invoiced separately on taxable materials orders for which payment does not include tax.

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- Printed Binder \$275
- Audio Download (MP3) \$175
- Audio CD Set \$225

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Sales tax will be invoiced separately on taxable materials orders for which payment does not include tax.

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ROUND ROCK

March 25, 26–27, 2015

CONFERENCE LOCATION



Marriott Austin North

2600 La Frontera Boulevard
Round Rock, Texas
512.733.6767

Special Room Rate: \$125.95
good through March 10, 2015
reference "Land Use"
(subject to availability)

Self-Parking:

Complimentary

KEY DATES

March 18, 2015

last day for early registrations
add \$50 for registrations
received after this date

March 20, 2015

last day for cancellation (full refund)

March 23, 2015

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

March 25, 2015, 1:50 p.m.

Fundamentals begins

March 26, 2015, 8:35 a.m.

Conference begins

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Houston, TX

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IGNACIO PEREZ
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REID C. WILSON
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Houston, TX

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Akers Law Firm, L.L.P.
Austin, TX

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Winstead PC
Dallas, TX

ALAN J. BOJORQUEZ
Bojorquez Law Firm, PC
Austin, TX

BARBARA A. BOULWARE-WELLS
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Austin, TX

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City of Dallas
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Brown & Hofmeister, L.L.P.
Richardson, TX

BRADFORD E. BULLOCK
Knight & Partners
Austin, TX

JAMES L. DOUGHERTY JR.
Attorney at Law
Houston, TX

ERIC C. FARRAR
Olson & Olson LLP
Houston, TX

AMY HARDBERGER
St. Mary's University School of Law
San Antonio, TX

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Smith, Robertson, Elliott, &
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Kaufman & Killen, Inc.
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Bickerstaff Heath Delgado Acosta LLP
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Allen Boone Humphries Robinson LLP
Austin, TX

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Sharon M. Mattox, PLLC
Houston, TX

KIMBERLEY MICKELSON
Of Counsel
Olson & Olson LLP
Houston, TX

PAIGE A. MIMS
City of Plano
Plano, TX

KAREN K. MITCHELL
Mitchell Planning Group, LLC
Fort Worth, TX

DOROTHY PALUMBO
City of Galveston
Galveston, TX

SABINE ROMERO
City of Austin Law Department
Ethics & Compliance Team
Austin, TX

PETER G. SMITH
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Smith L.L.P.
Dallas, TX

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Houston, TX

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K&L Gates LLP
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REID C. WILSON
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City of West Lake Hills
West Lake Hills, TX

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