

20TH ANNUAL
LAND USE CONFERENCE

Planning, Law, and Regulation



FUNDAMENTALS

April 27, 2016

CONFERENCE

April 28–29, 2016

Radisson Hotel and Suites, Downtown
Austin, TX

Fundamentals—Earn up to 3.75 Hours of Credit
Conference—Earn up to 14.00 Hours of Credit Including 2.50 Hours of Ethics Credit

TX Legal Specialization Credit Approved for Administrative Law,
Oil, Gas and Mineral Law, and Real Estate Law

Credit Available: TREC, TX Professional Engineers,
TX Professional Land Surveyor, and AAPL (RPL and CPL)

Credit Expected: TX Appraiser (ACE)

LAND USE FUNDAMENTALS

April 27, 2016 ■ Radisson Hotel and Suites, Downtown ■ Austin, Texas

WEDNESDAY AFTERNOON, APR. 27, 2016

Presiding Officer:

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

12:30 p.m. Registration Opens

Includes light refreshments.

1:20 p.m. Welcoming Remarks

1:30 p.m. .50 hr

Comprehensive Planning: Consistency and Challenges

With several comprehensive plans being legally challenged in Texas courts, take an in-depth look at the roles the comprehensive plan process and documents play in land use cases.

Kimberley Mickelson, Olson & Olson LLP, Houston, TX

2:00 p.m. .75 hr

Zoning 101

Review basic zoning concepts and procedures and explore how zoning interacts with comprehensive planning.

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

2:45 p.m. .75 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.

E. Allen Taylor Jr., Taylor, Olson, Adkins, Sralla & Elam, L.L.P., Fort Worth, TX

3:30 p.m. Break

3:45 p.m. .50 hr

P&Z and BOA: A Comparison Review

Explore P&Z authority and BOA authority, including land use appeals, internal cases, special exceptions, and other duties (such as the granting of variances).

Victor A. Flores, City of McAllen, McAllen, TX

4:15 p.m. .50 hr

Boards of Adjustment and Variances

Hear an overview of BOAs, with a focus on the unique area of variance, and review BOA and variance case law.

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

4:45 p.m. .75 hr

Nonconformities and Vested Rights

Review the legal bases for, key concepts of, and current issues involved in Texas vested rights (or "grandfathering") law. Learn the basics of statutory vested rights in Chapter 245 of the Texas Local Government Code and the general application of non-conforming rights. Consider some of the issues that cities and developers face in complying with and applying these laws, and hear how Texas courts are resolving some of these issues.

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

5:30 p.m. Adjourn

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 3.75 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).

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- TREC General Elective MCE Credit Available
- Credit for TX Professional Engineers Available
- 3.75 Hours of AAPL Credit for Registered Professional Landman (RPL) and Certified Professional Landman (CPL) Available
- Credit for TX Appraiser (ACE) Expected
- 4.50 Hours of Texas CPE Credit for Accountants

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San Antonio, TX

20TH ANNUAL
LAND USE CONFERENCE

April 28–29, 2016 ■ Radisson Hotel and Suites, Downtown ■ Austin, Texas

THURSDAY MORNING, APR. 28, 2016

Presiding Officer:
**Camm C. “Trey” Lary III, Allen Boone
 Humphries Robinson LLP, Austin, TX**

8:00 a.m. Registration Opens
 Includes continental breakfast.

8:50 a.m. Welcoming Remarks

9:00 a.m. 1.00 hr

What’s New: Cases and Legislation

Survey recent cases and state legislation affecting land use regulation in Texas, taking a special look at regulatory “takings” and immunities from liability.

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

10:00 a.m. .75 hr

Using Public Incentives to Stimulate Private Development

Hear dos and don’ts of underwriting or monetizing economic development agreements. Enforcement issues, remedies, defenses to enforcement, and sovereign immunity are discussed.

Habib H. Erkan Jr., Denton, Navarro, Rocha, Bernal, Hyde & Zech, P.C., San Antonio, TX
 T. Daniel Santee II, Denton, Navarro, Rocha, Bernal, Hyde & Zech, P.C., San Antonio, TX

10:45 a.m. Break

11:00 a.m. 1.00 hr | .25 hr ethics

Economic Development Agreements

The use of economic incentives by cities and developers has become an integral part of major development projects in Texas. It is imperative for attorneys representing both cities and developers to understand the tools in the economic development tool box as well as common issues that surface during incentive negotiations. Discover the statutory basis, procedure, and negotiation issues regarding economic development agreements for development projects located in Texas.

William S. Dahlstrom, Jackson Walker LLP, Dallas, TX
 Peter G. Smith, Nichols, Jackson, Dillard, Hager & Smith L.L.P., Dallas, TX

12:00 p.m. .75 hr

Municipal Regulation in the ETJ: Lakewood Village v. Bizios

Engage in a lively discussion framed by *Lakewood Village v. Bizios* on the authority of all Texas cities, home rule and general law, to regulate development in the ETJ.

Arthur J. Anderson, Winstead PC, Dallas, TX
 W. Andrew Messer, Messer, Rockefeller & Fort, PLLC, Frisco, TX

12:45 p.m. Pick Up Lunch

Included in registration.

THURSDAY AFTERNOON

Presiding Officer:
Hon. Penny Redington, Austin, TX

LUNCHEON PRESENTATION

1:05 p.m. 1.00 hr ethics

Municipal Codes of Ethics

Learn about municipal codes of ethics—including their rationale and pitfalls, relationship to statutory Texas law, and suggested procedural safeguards—and see how these relationships play out through a case study on an ethics investigation.

George A. Staples Jr., Taylor, Olson, Adkins, Sralla & Elam, L.L.P., Fort Worth, TX

2:05 p.m. Break

2:20 p.m. .50 hr | .25 hr ethics

Contracts with Governmental Entities: New Ethics Disclosure Requirements

Public entities have many options for contracting with private entities and individuals. As these options have grown and developed in recent years, the manner of dealing with public owners is changing. Understanding the methods available for contracting and the ethical considerations from both the public and private sectors is essential.

Jeffrey S. Chapman, The Chapman Firm, Austin, TX

2:50 p.m. .75 hr

Negotiation of Development Agreements from the Developer and Municipal Perspectives

Assess key issues and options for negotiating development agreements, including a brief examination of the *Shavano* case.

Alan J. Bojorquez, Bojorquez Law Firm, PC, Austin, TX
 Henry H. Gilmore, DuBois, Bryant & Campbell, LLP, Austin, TX

3:35 p.m. Break

3:45 p.m. .50 hr

The Role of EB-5 Financing in Development

Review the basics of EB-5 lending in the development context, including the statutory basis for the program, the job creation requirement, the expected timeline from beginning to funding, the need for local government support, and a look at common compliance issues.

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

4:15 p.m. .75 hr

PID/TIRZ in the City

Using real-life examples, explore the advantages and disadvantages of cities funding public improvements and development using Public Improvement Districts (PIDs)/Tax Incremental Reinvestment Zones (TIRZs).

R. R. “Tripp” Davenport III, FMSbonds, Inc., Dallas, TX
 Julie Y. Fort, Messer, Rockefeller & Fort, PLLC, Frisco, TX

5:00 p.m. .50 hr

TxDOT Turnback Program and Urban Thoroughfares

Examine the shifting focus of TxDOT on urban thoroughfares, the turnback program, and related complementary rezoning to reinvent and better activate state highways in urban contexts. Explore what new requirements and new opportunities come with these changes.

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

5:30 p.m. Adjourn

CONFERENCE ACCREDITATION

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- TREC General Elective MCE Credit Available
- Credit for TX Professional Engineers Available
- Credit for TX Professional Land Surveyor Available
- 14.00 Hours of AAPL Credit Including 2.50 Hours of Ethics for Registered Professional Landman (RPL) and Certified Professional Landman (CPL) Available
- Credit for TX Appraiser (ACE) Expected
- 16.50 Hours of Texas CPE Credit for Accountants

FRIDAY MORNING, APR. 29, 2016

Presiding Officer:

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

7:30 a.m. Conference Room Opens
Includes continental breakfast.

8:30 a.m. .50 hr

TWDB Program Update

Hear an update on agency initiatives and programs, including the State Water Implementation Revenue Fund for Texas and the 2017 State Water Plan.

Bech K. Bruun, Chairman, Texas Water Development Board, Austin, TX

9:00 a.m. .75 hr

Harris County Flood Control Dist. v. Kerr

Did *Kerr* change the law on government takings? Explore the impact of *Kerr* on local governments, developers, flooded property owners, and engineers. Get an engineer's perspective on how drainage/flooding really works and review rough proportionality determinations post-*Kerr*.

Truman C. Edminster, EHRA, Houston, TX
Charlie F. McNabb, City of Georgetown, Georgetown, TX
Reid C. Wilson, Wilson, Cribbs & Goren, P.C., Houston, TX

9:45 a.m. Break

10:00 a.m. .50 hr

Finally, Something the Supreme Court Agrees On: *Reed v. Town of Gilbert*

Review the U.S. Supreme Court's recent 9-0 opinion from *Reed v. Town of Gilbert, Arizona*, 576 U.S. ____ (2015) and discover why the Town of Gilbert's sign code regulations ultimately failed to survive strict scrutiny analysis.

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

10:30 a.m. .75 hr

Easements: From Acquisition to Termination

Easements are far from easy. Gain a better understanding of the variety and life cycle of easements, including methods of acquisition; defining, describing, and distinguishing types of easements; dedicatory language; uses and/or exclusivity; and recording, modifying, and/or terminating easements.

Barbara A. Boulware-Wells, Knight & Partners, Austin, TX
Aisha Nawaz Hagen, Pedernales Electric Cooperative, Inc., Johnson City, TX

11:15 a.m. 1.00 hr

The Intersection of the Americans with Disabilities Act and Municipal Zoning

Persons suffering from drug, alcohol, and other addictive behaviors are often members of a protected class under the Americans with Disabilities Act and the Rehabilitation Act. Hear recent developments among the courts regarding the application of federal disability law, and learn how municipal zoning is being affected.

Cobby A. Caputo, Bickerstaff Heath Delgado Acosta LLP, Austin, TX
Steven H. Weller, Bickerstaff Heath Delgado Acosta LLP, Austin, TX

12:15 p.m. Pick Up Lunch
Included in registration.

FRIDAY AFTERNOON

Presiding Officer:

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

LUNCHEON PRESENTATION

12:35 p.m. .75 hr

Sharing Economy: Short-Term Rentals

Short-term rentals have challenged traditional zoning codes and pitted neighbors against visitors. Analyze the issues and hear practical pointers when passing new land use regulations to address short-term rentals in your community.

Cindy J. Crosby, City of Austin, Austin, TX

1:20 p.m. Break

1:35 p.m. .75 hr

Regulation of Historic Preservation

Explore the legal challenges and constitutional principles related to historic preservation regulation, including discussions of regulatory takings, RLUIPA, federal standards, and drafting tips for local ordinances.

Omar Izfar, City of Houston, Houston, TX

2:20 p.m. .50 hr

TOMA and TORA: What to Do Tomorrow? Land Use Practice under the Texas Open Meetings Act and the Texas Open Records Act

When working within or for a governmental entity in the area of land use, meetings, paperwork, and controversy abound. Uncover the most common issues that come up with land use vis-à-vis the Texas Open Meetings Act and the Texas Public Information Act.

John A. Haislet, City of College Station, College Station, TX
Mary Ann Powell, City of College Station, College Station, TX

2:50 p.m. 1.00 hr ethics

Revolving Door and State Bar Rules

In the past year, new laws have taken effect imposing additional reporting requirements on those seeking to do business with governmental entities. Failure to properly disclose can have serious consequences on contracts, as well as ethical consequences for attorneys. Learn about the new requirements, how they are being implemented, and what they mean for you and your clients.

Ross Fischer, Gober Group, PLLC, Austin, TX

3:50 p.m. Adjourn

Loved the diversity, comprehensive coverage, and good energy of this conference.

All the topics were timely and interesting.

Speakers were knowledgeable and happy to answer any questions we had.

Awesome, especially written materials to take home.

Very relevant and great coverage of each topic.

Terrific! I learned something useful in every session!

Good balance and breadth of topics.

REGISTRATION FORM

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Includes Course Materials

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- Individual registration by Wednesday, April 20 \$150
- Individual registration after Wednesday, April 20 \$200

2. Select Course Materials Format

- Electronic Course Binder Download (PDF) ONLY
- Printed Course Binder ONLY (available through April 20)

Fundamentals Registration Total \$ _____

CONFERENCE—LD16

Includes Course Materials and Thursday and Friday Luncheon Presentations

1. Select Registration Type

- Individual registration by Wednesday, April 20 \$495
- Individual registration after Wednesday, April 20 \$545

2. Select Course Materials Format

- Electronic Course Binder Download (PDF) ONLY
- Printed Course Binder ONLY (available through April 20)

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SAVE \$25 WHEN YOU REGISTER FOR BOTH FUNDAMENTALS AND CONFERENCE **-\$25** \$ _____

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ConferenceComplete package includes Audio CD Set plus a Printed Binder and MCLE Reporting Form for each participant. Available for delivery 3-5 weeks after conference date. Shipping included.

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Fundamentals In-House Total \$ _____

CONFERENCE—LD16

- In-House CLE for 2 \$850
- _____ Additional participant(s) for \$275 each \$ _____

Conference In-House Total \$ _____

IN-HOUSE SUBTOTAL \$ _____

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Comprehensive Binder and Audio from the live conference. Available for delivery 3-5 weeks after conference date. Shipping included. Texas customers add 8.25% sales tax.

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AUSTIN

April 27, 28–29, 2016

CONFERENCE LOCATION



Radisson Hotel and Suites - Downtown

111 East Cesar Chavez
Austin, Texas
512.478.9611

Special Room Rate: \$199
good through March 27, 2016
reference "UT Law Land Use"
(subject to availability)

Parking:

\$3 daily self-parking; \$26 valet
\$8 overnight self-parking
(subject to availability)

KEY DATES

April 20, 2016

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

April 22, 2016

last day for cancellation (full refund)

April 25, 2016

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

April 27, 2015, 1:20 p.m.

Fundamentals begins

April 28, 2016, 8:50 a.m.

Conference begins

FUNDAMENTALS FACULTY

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City of McAllen
McAllen, TX

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L.L.P.
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Chairman
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City of Austin
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Jackson Walker LLP
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