

23RD ANNUAL
LAND USE CONFERENCE



FUNDAMENTALS

April 24, 2019

CONFERENCE

April 25–26, 2019

AT&T Conference Center
Austin, Texas

 **Conference Available via Live Webcast**
(Webcast Not Available for Fundamentals)

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FUNDAMENTALS—3.50 Hours of MCLE Credit

CONFERENCE—15.00 Hours of MCLE Credit, Including 2.50 Hours of Ethics

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

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

TX Professional Accreditation Approved for Accounting CPE; Professional Engineer (PE); Real Estate Commission (TREC)

and Expected for Appraiser (ACE); Land Surveyor

2019

LAND USE FUNDAMENTALS

April 24, 2019 ■ AT&T Conference Center ■ Austin, Texas

WEDNESDAY AFTERNOON, APR. 24, 2019

Presiding Officer:

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

12:30 p.m. Registration Opens

Includes light refreshments.

1:20 p.m. Welcoming Remarks

1:30 p.m. .75 hr

Zoning 101

Review zoning legal requirements and procedures, how to make a zoning decision, and how zoning interacts with the comprehensive plan.

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

2:15 p.m. .75 hr

Subdivision and Platting: A Land Use Foundation

Platting is a land use basic, which often is overlooked in the due diligence and development process. This presentation will cover basics, but explore more complex and interesting subdivision and platting questions.

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

3:00 p.m. .50 hr

The Basics of Right of Way

An overview of the role of right-of-way for a community both in regard to advance planning and ongoing zoning and aesthetic concerns.

Cathy Meyer Cunningham, Thomson Reuters, Grand Prairie, TX

3:30 p.m. Break

3:45 p.m. .75 hr

Land Use Appeals

Now that the city board and the city council have decided on your land use issue, someone is still dissatisfied. What happens next when the unhappy party takes your city to court?

Ronald D. Stutes, Potter Minton, Tyler, TX

4:30 p.m. .75 hr

Basics of Annexation & Development Agreements

Hear an overview of annexation after the 2017 legislative changes and a primer on ETJ development agreements under Tex. Loc. Gov't Code Ch. 212.

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

5:15 p.m. Adjourn

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The online eConference includes papers, slides and audio – and CLE credit (TX and CA) – from this year's live Conference. Available in "Your Briefcase" through the user's account at www.utcle.org 4–6 weeks after the live event.

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).

LAND USE CONFERENCE

April 25–26, 2019 ■ AT&T Conference Center ■ Austin, Texas

THURSDAY MORNING, APR. 25, 2019**Presiding Officer:**Joseph J. Gorfida Jr., Nichols, Jackson,
Dillard, Hager & Smith L.L.P., Dallas, TX**7:30 a.m. Registration Opens**

Includes continental breakfast.

8:20 a.m. Welcoming Remarks**8:30 a.m. .75 hr | .25 hr ethics****Land Use Case Law Update**

A quick survey of recent state and federal decisions affecting land use regulation in Texas, including zoning, platting, "takings," "vested rights" and more.

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

9:15 a.m. .50 hr | .25 hr ethics**Legislative Update**

Review pending legislation related to land use issues and other matters important to city and county government.

Snapper Carr, Law Offices of Snapper L. Carr,
Austin, TX**9:45 a.m. .75 hr****Redevelopment Challenges**

Texas cities face numerous planning, legal, political and development challenges in redevelopment. As Texas cities continue to expand and age, these challenges will increase. Causes include the need to revitalize deteriorating and neglected communities, gentrification, and the desire to attract business. Discuss these challenges and how the City of Plano, which has been characterized as both a ring suburb and an urban area unto itself, has addressed them.

Moderator:
William S. Dahlstrom, Jackson Walker LLP, Dallas, TX**Panelists:**
Michelle D'Andrea, City Of Plano, Plano, TX
Christina Day, City Of Plano, Plano, TX**10:30 a.m. Break****10:45 a.m. .50 hr****Repurposing Golf Courses: Regulatory and Common Law Challenges**

As more and more golf courses fail and are proposed for redevelopment into alternative uses, nearby landowners and municipalities seek to affect the redevelopment process. This can involve input into the regulatory approval process and/or exercising common law or restrictive covenant rights to maintain the golf course even after the course closes.

Arthur J. Anderson, Winstead PC, Dallas, TX
Reid C. Wilson, Wilson, Cribbs + Goren, P.C.,
Houston, TX**11:15 a.m. .50 hr****Design Discretion in Entitlements: The Hays St. Bridge Problem**

Property adjacent to the Hays St. Bridge, in downtown San Antonio, would seem to have zoning and other entitlements allowing construction of a multi-family complex. However, San Antonio has implemented design guidelines for downtown projects, which injects a large amount of discretion into the development process, via the Historic and Design Review Commission. This discretion calls into question the nature of zoning entitlements.

James McKnight, Brown & Ortiz, P.C., San Antonio, TX

11:45 a.m. .50 hr**Affordable Housing**

The major funding tool for affordable housing today is the Housing Tax Credit program. Discuss the Housing Tax Credit program and how it is utilized by developer's to provide affordable and mixed-income housing for working families and seniors on fixed incomes.

Diana McIver, The DMA Companies, Austin, TX

12:15 p.m. Pick Up Lunch

Included in registration.

THURSDAY AFTERNOON**Presiding Officer:**Ed Walts, The University of Texas
System, Austin, TXTHANK YOU TO OUR
LUNCHEON SPONSOR**12:35 p.m. .50 hr****Demographic Characteristics and Trends in Texas: Implications for Land Use**

Discuss information on demographic, social and economic characteristics, and trends in Texas with a focus on major urban areas in light of implications for shifts related to land value and use.

Lloyd Potter, UTSA - Texas Demographic Center,
San Antonio, TX**1:05 p.m. Break****1:20 p.m. .75 hr****Planning and Development Challenges in Small Towns**

Facilitating development in accordance with local and state laws in small towns is uniquely challenging. Hear how applicants and the town's planner work in less-structured environments with government officials who often do not possess a shared vision of accommodating growth.

Moderator:

Patty Akers, Akers & Akers, L.L.P., Austin, TX

Panelists:Lindsey Oskoui, City of Bee Cave, Bee Cave, TX
John Webb, Town of Prosper, Prosper, TX**2:05 p.m. .50 hr****Authority of Texas Counties Over Land Use**

Discuss how, and to what extent, Texas counties control land use.

Ben L. Stool, Dallas County District Attorney's Office,
Dallas, TX**2:35 p.m. .75 hr****We Can't Regulate That?**

Discuss the areas of land use law where the federal government or the state has either prohibited or significantly limited municipal regulation, from pawn shops to gun ranges to cell towers to churches, and lots of things in between.

Terrence S. Welch, Brown & Hofmeister, L.L.P.,
Richardson, TX**3:20 p.m. Break****3:30 p.m. .50 hr****Short-Term Rentals**

Address the challenges of the commercial intruder invading your neighborhoods. Hear options for protecting single-family residents and their homes.

Matthew Boyle, Boyle & Lowry, L.L.P., Irving, TX

4:00 p.m. .50 hr**Transacting Municipal Public-Private Partnerships in Texas**

The public-private partnership (P3) has emerged as an effective model in Texas as a means of developing infrastructure, and local governments are no exception. Convention centers, hotels, and courthouses are just a few examples of the projects getting done in Texas using the P3 model. Discuss the latest trends in the municipal P3 industry in Texas, and a few of the unique constitutional, statutory and practical challenges that local governments face today.

Jeff Nydegger, Winstead PC, Austin, TX

4:30 p.m. 1.00 hr ethics

Me? Biased? The Psychology and Biology of Decision-Making

So much of the practice of law, and anyone's professional duties, involves decision-making, and convincing others to make better decisions based upon fact rather than emotion. Focus on how people involuntarily make decisions and how to recognize and prevent bias as well as how to effectively communicate with persons whose bias affects others.

Claude E. Ducloux, Attorney at Law, LawPay, Austin, TX

5:30 p.m. Adourn

FRIDAY MORNING, APR. 26, 2019

Presiding Officer:
Hon. Penny Redington, Austin, TX

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

8:30 a.m. .75 hr

Qualified Opportunity Zones: The "Dirt" on Tax-Driven Real Estate Development

QOZs allow gain rollover and tax-free exit in real estate deals in designated "zones." Investment in a QOZ increases after-tax rates of return easily by 50% and may drive the real estate economy for years to come. QOZ rules are still developing, but already the dirt is flying.

Lindsay Dennis, Office of the Governor, Austin, TX
Brian Dethrow, Jackson Walker LLP, Dallas, TX

9:15 a.m. 1.00 hr

Financing Analysis and Requirements for Economic Development Projects

Discuss the good, the bad, and the ugly on financing tools and required financial analysis for strategic partnership agreements with Municipal Utility Districts, Public Improvement Districts, Tax Incremental Reinvestment Zones, and Green Bond.

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

Panelists:
Phil Haag, McGinnis Lochridge, Austin, TX
Jason Hughes, Hilltop Securities, Dallas, TX
Gregory D. Miller, Bickerstaff Heath Delgado Acosta LLP, Austin, TX
Peter G. Smith, Nichols, Jackson, Dillard, Hager & Smith L.L.P., Dallas, TX

10:15 a.m. Break

AMERICAN INSTITUTE OF CERTIFIED PLANNERS (AICP) CREDIT

For every two-year CM reporting period, AICP members may self-report up to 8 credits from professional development activities that are not registered with APA by the provider. Members may submit events that occurred on or after their AICP start date. For more info on how to report your AICP credits for this conference, visit: www.planning.org/cm/logging/selfreport

10:30 a.m. .50 hr

TX-PACE Stimulates \$Millions in Building Retrofits at No Cost to Local Governments

Learn how businesses are using Property Assessed Clean Energy (PACE) economic development programs to update offices, factories, hotels, malls, mixed use properties, and more. Hear details about the uniform plug and play Texas model program called "PACE in a Box," the wide range of economic and environmental benefits, the importance of quality underwriting and technical best practices, and successful PACE projects for hotels, factories, office buildings, malls, and mixed use properties in rural and urban Texas.

Charlene Heydinger, Texas PACE Authority, Austin, TX

11:00 a.m. .50 hr

Building Back Post-Disaster is Not the Answer

Review FEMA higher standards, local or state efforts to strengthen building code requirements, retreat from sensitive areas, adopt resiliency efforts, and other post-disaster rebuilding initiatives, while also examining how courts would respond to challenges.

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

11:30 a.m. .50 hr

Nonconformities

Hear a comprehensive discussion of nonconforming uses and structures, and how nonconforming rights may be established, regulated and terminated. Plus a bonus tip: Stop using the term "legal nonconforming"!

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

12:00 p.m. Pick Up Lunch

Included in registration.

FRIDAY AFTERNOON

Presiding Officer:
Christy Drake-Adams, Texas Municipal League, Austin, TX

LUNCHEON PRESENTATION

12:20 p.m. .50 hr

Land Use & Future Tech

An examination of changing technology and its effect on land use and transportation planning law.

Casey Burgess, Dallas City Attorney's Office, Dallas, TX

12:50 p.m. Break

1:05 p.m. .50 hr

Takings: A Case Study in Current Issues

Explore topical issues in inverse condemnation, with an emphasis on pragmatic suggestions to resolving takings disputes.

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

1:35 p.m. .75 hr

Annexations

Discuss dealing with annexations post SB 6 including public/private cooperation and annexation strategies for Tier 1 and Tier 2 cities.

Craig Farmer, FAICP, Municipal Planning Services, LLP, Weatherford, TX
Rob Killen, Kaufman & Killen, Inc., San Antonio, TX
Charles E. Zech, Denton, Navarro, Rocha, Bernal & Zech, P.C., San Antonio, TX

2:20 p.m. .50 hr

What's Up With Your Right of Way?

A summary of how municipal streets, alleys, and other rights-of-way are created, utilized, and regulated, including recent developments, franchising issues, and recommendations.

Monte Akers, Akers & Akers, L.L.P., Austin, TX

2:50 p.m. Break

3:00 p.m. .50 hr

Cell Site Applications in a 5G World: Reconciling State and Federal Rules

Review current state and federal rules regarding municipal approval of cell sites in the public ROW and on private property and discuss how to reconcile the rules when they conflict. In addition, get an update on the status of litigation over Texas Local Government Code Chapter 284.

Don Knight, Dallas City Attorneys Office, Dallas, TX
Gunnar Peterson Seaquist, Bickerstaff Heath Delgado Acosta LLP, Austin, TX

3:30 p.m. 1.00 hr ethics

Trying Your Land Use Cases in the Media

Legal ethics rules provide specific guidance as to what a lawyer can and cannot say about a pending case. Discuss how those rules work in the age of social media, retweets, and digital counter-punching.

John G. Browning, Passman & Jones, Dallas, TX

4:30 p.m. Adourn

CONFERENCE ACCREDITATION

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REGISTRATION FORM

LB19/LD19

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utcle.org/conferences/LB19
utcle.org/conferences/LD19

Mail:
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Attn. Registration
PO Box 7759
Austin, TX 78713-7759

Fax:
512.475.6876

Questions?
512.475.6700

If you 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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REGISTRATION

FUNDAMENTALS—LB19 – APRIL 24

Includes Electronic Course Materials. eConference access is also available 4-6 weeks after the Conference.

Select Registration Type

- Individual registration by April 17. \$150
- Individual registration after April 17. \$200

Printed course binder available for an additional fee through April 17

Conference registration includes Electronic Course Binder Download (PDF) in "Your Briefcase" at www.utcle.org

- Printed Course Binder \$27.06
Price includes 8.25% Sales Tax
- Printed Course Binder for tax exempt registrants \$25
(e.g., government employees and nonprofits)

Fundamentals Registration Total. \$ _____

Dietary Restrictions for Thursday and Friday Luncheons – food requests will be relayed to the service provider, but please note we cannot guarantee accommodation. Available through April 17.

- Vegetarian Vegan Gluten Free Dairy Free None

CONFERENCE—LD19 – APRIL 25–26

Includes Electronic Course Materials, 2 Continental Breakfasts, and 2 Lunches. eConference access is also available 4-6 weeks after the Conference.

Select Registration Type

- Individual registration by April 17. \$545
- Individual registration after April 17. \$595

Printed course binder available for an additional fee through April 17

Conference registration includes Electronic Course Binder Download (PDF) in "Your Briefcase" at www.utcle.org

- Printed Course Binder \$37.89
Price includes 8.25% Sales Tax
- Printed Course Binder for tax exempt registrants \$35
(e.g., government employees and nonprofits)

CONFERENCE WEBCAST REGISTRATION

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

- Live Webcast: April 25–26, 2019 \$495

Conference Registration Total. \$ _____

REGISTRATION SUBTOTAL \$ _____

SAVE \$25 WHEN YOU REGISTER FOR BOTH THE LIVE, IN-PERSON FUNDAMENTALS AND CONFERENCE **-\$25** \$ _____

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POST CONFERENCE PRODUCTS

eConference—For Texas MCLE Credit

Complete eConference package includes all conference materials for download from "Your Briefcase" at utcle.org. Available 4-6 weeks after the live conference date. MCLE hours may vary from the live conference.

FUNDAMENTALS—LB19

- Individual eConference \$100
Call 512.475.6700 to register additional participants

Complete Conference Binder[†]—For Research and Self-Study

Comprehensive binder with papers and slides from the live event. Available for delivery 4–6 weeks after conference date.

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- eBinder Download (PDF). \$65
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AUSTIN

April 24, 25–26, 2019

CONFERENCE LOCATION



AT&T Conference Center
 The University of Texas at Austin
 1900 University Avenue
 Austin, TX
 877.744.8822 (reservations)

Special Room Rate: \$189
 Good through March 26, 2019
 Reference "2019 Land Use Conference"
 (subject to availability)

Parking:

Extremely limited daily self-parking will be validated for the AT&T Conference Center garage or surrounding UT garages. Please note Dobie is not a UT garage and parking cannot be validated. Separate fees apply for valet and overnight parking.

KEY DATES

April 17, 2019

Last day to order a printed binder

April 17, 2019

Last day for early registration add \$50 for registrations received after this time

April 19, 2019

Last day for full refund cancellation

April 22, 2019

Last day for partial refund cancellation

\$50 processing fee applied

April 24, 2019, 1:20 p.m.

Fundamentals begins

April 25, 2019, 8:20 a.m.

Conference begins

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