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## THE CENTER FOR AMERICAN AND INTERNATIONAL LAW

# Planning, Zoning and Eminent Domain

for Lawyers, Planners and Public Officials

November 17-18, 2009

*ATTEND BOTH  
of these timely  
sessions!*

# Public-Private Partnerships: A Texas Economic Development Summit

November 16, 2009



This program is co-sponsored by



13.5 hours of MCLE credit (including 1 hour of ethics) available for Planning, Zoning & Eminent Domain  
4 hours of MCLE credit (including 0 hour of ethics) available for Public-Private Partnerships: A Texas Economic Summit  
We will apply for AICP credit from the APA for Planners for both programs

# Planning, Zoning and Eminent Domain

for Lawyers, Planners and Public Officials

November 17-18, 2009

## TUESDAY, NOVEMBER 17

8:00 Registration

9:00 ETHICS

**Patricia E. Salkin**, *Raymond & Ella Smith Distinguished Professor of Law, Albany Law School, Albany, NY*

10:00 NETWORKING BREAK

10:15 SIMULTANEOUS SESSIONS:

**A. GREAT WITNESSES: HOW TO PREPARE ONE AND HOW TO BE ONE**

**Dwight H. Merriam**, *Robinson & Cole LLP, Hartford, CT*

**E. Allen Taylor, Jr.**, *Taylor Olson Adkins Sralla & Elam LLP, Fort Worth, TX*

**B. NONCONFORMING USES: CURRENT ISSUES AND DRAFTING CONSIDERATIONS**

**Patricia E. Salkin**, *Raymond & Ella Smith Distinguished Professor of Law, Albany Law School, Albany, NY*

11:30 **LAND USE RUNNING HOT AND COLD - COPING WITH CLIMATE CHANGE**  
[time includes a 30 minute lunch (provided)]

**Susan Butler**, *CH2M Hill, Austin, TX*

1:00 NETWORKING BREAK

1:15 **THE ROAD TO BETTER PLANNING: REGIONAL TRANSPORTATION AND LAND USE**

**Robert H. Freilich**, *Freilich & Popowitz, LLP, Los Angeles, CA*

**Mark White**, *White & Smith, LLC, Lee's Summit, MO*

2:30 **EMERGING ISSUES IN PROPERTY RIGHTS: WHAT EVERY PLANNER AND LAWYER NEEDS TO KNOW**

**Dwight H. Merriam**, *Robinson & Cole LLP, Hartford, CT*

**Terry D. Morgan**, *Terry Morgan & Associates, Dallas, TX*

3:45 NETWORKING BREAK

4:00 SIMULTANEOUS SESSIONS:

**A. WINNING YOUR CASE WITH DOCUMENTARY EVIDENCE**

**Clint Schumacher**, *Locke Lord Bissell & Liddell, Dallas, TX*

**B. SIGNS — ELECTRONIC BILLBOARDS**

**Daniel R. Mandelker**, *Howard A. Stamper Professor of Law, Washington University, St. Louis, MO*

**John Baker**, *Greene Espel P.L.L.P., Minneapolis, MN*

**Paige Mims**, *Assistant City Attorney, City of Plano, TX*

5:30 RECESS

## GENERAL INFORMATION

**HOUSING:** Rooms (in limited number) have been reserved at the Hampton Inn, 1000 West Plano, TX 75093. Registrants should call the Hampton Inn at 972-423-1234 for a room rate of \$89 per night plus 13% occupancy tax.

**NONDISCRIMINATION POLICY:** The Center for American Progress is an equal opportunity organization. We do not discriminate on the basis of race, color, sex, religion, national origin, age, disability, or sexual orientation in our activities, scholarship programs or admissions.

**MCLE CREDIT: Planning, Zoning and Eminent Domain Summit-4** for 13.5 hours, including 1 hour of ethics. Course ID Number: 901188084. Sign-in sheets and/or certificates will be provided at the end of the event. ALL states.

**AICP CREDIT:** We will apply for AICP credit from the American Institute of Certified Planners.

I liked best the

"Diversity of topics;

up-to-date

information...

good networking

opportunity and

all speakers were

helpful and friendly."

—2008

Planning, Zoning and

Property Rights

attendees

**Robert H. Freilich**  
Freilich & Popowitz, LLP  
Los Angeles, CA

**Terry D. Morgan**  
Terry Morgan & Associates  
Dallas, TX

**Dwight H. Merriam**  
Robinson & Cole LLP  
Hartford, CT

**Kenneth A. Wright**  
Attorney at Law  
Dallas, TX

**WEDNESDAY, NOVEMBER 18**

- 9:00 MARKET VALUE'S SLIPPERY SLOPE: STATUTORY CASES**  
  
**Dixon Montague**, *Vinson & Elkins Law LLP, Houston, TX*
- 10:15 THE ANNUAL ZONING AND PLANNING LAW REPORT AWARDS: THE WACKY AND WEIRD WORLD OF LAND USE**  
  
**Dwight H. Merriam**, *Robinson & Cole LLP, Hartford, CT*
- 11:00 NETWORKING BREAK**
- 11:15 RECENT DEVELOPMENTS LAND USE CASE LAW REVIEW, STRAIGHT FROM THE WHIRLING DERVISH**  
  
**Bruce M. Kramer**, *Maddox Professor of Law Emeritus, Texas Tech University School of Law; Of Counsel, McGinnis, Lockridge & Kilgore, LLP, Houston, TX*
- 12:15 LUNCH (provided)**
- 1:15 THE LATEST AND GREATEST: NATIONAL AND TEXAS EMINENT DOMAIN LAW UPDATE**  
  
**Kenneth A. Wright**, *Attorney at Law, Dallas, TX*  
  
**Peter W. Salsich, Jr.**, *McDonnell Professor of Justice in American Society, St. Louis University School of Law, St. Louis, MO*  
  
**Edward D. Vassallo, Jr.**, *Attorney at Law, Dallas, TX*

- 2:15 NETWORKING BREAK**
- 2:30 SIMULTANEOUS SESSIONS:**
  - A. OIL AND GAS LOCAL REGULATION**  
  
**Robert H. Freilich**, *Freilich & Popowitz, LLP, Los Angeles, CA*  
  
**Bruce M. Kramer**, *Maddox Professor of Law Emeritus, Texas Tech University School of Law; Of Counsel, McGinnis, Lockridge & Kilgore, LLP, Houston, TX*
  - B. CAN WE DO BOTH: IMPACT FEES AND AFFORDABLE HOUSING? YES, WE CAN!**  
  
**James C. Nicholas**, *Professor Emeritus, University of Florida Levin College of Law, Former Associate Director, Environmental and Land Use Law Program, Newberry, FL*  
  
**Arthur C. Nelson**, *Presidential Professor of City & Metropolitan Planning, Director of Metropolitan Research, College of Architecture + Planning, University of Utah, Salt Lake City, UT*
- 3:30 FORM-BASED CODES**  
  
**Mark White**, *White & Smith, LLC, Lee's Summit, MO*  
  
**Arthur C. Nelson**, *Presidential Professor of City & Metropolitan Planning, Director of Metropolitan Research, College of Architecture + Planning, University of Utah, Salt Lake City, UT*
- 4:30 QUESTIONS AND ANSWERS**
- 4:45 ADJOURN**

**ADDITIONAL INFORMATION**

is served at the Hampton Inn Plano, 4901 Old Shepard Place, Plano, TX. Call directly at 972.519.1000 or 1-800-HAMPTON and ask for the special rate. The last day to obtain this special rate is November 1, 2009.

American and International Law does not discriminate on the basis of race, ethnicity, gender, age, disability, veteran status or any other protected status in educational programs.

main-This program has been approved by the State Bar of Texas. CLE number: 901188086. **Public-Private Partnerships: A Texas Economic Development Strategy** (including 0 hour of ethics) has been approved for this course. Certificates of attendance will be available for both programs for

APA for both programs.

# Public-Private Partnerships: A Texas Economic Development Summit

November 16, 2009

## PROGRAM CO-CHAIRS

**William S. Dahlstrom**  
Jackson Walker

**Peter G. Smith**  
Nichols Jackson Dillard  
Hager & Smith

### MONDAY, NOVEMBER 16

8:00 **Registration**

8:40 **WELCOMING REMARKS**

**Peter G. Smith**  
*Nichols Jackson Dillard Hager & Smith*

**Bill Dahlstrom**  
*Jackson Walker*

8:45 **THE HISTORY OF PUBLIC-PRIVATE  
PARTNERSHIPS IN TEXAS**

What has been the history of public-private partnerships in Texas? How have these programs evolved? How do local governments and the private sector work together to formulate an economic program? What are the different approaches and strategies for incentivizing a project?

**Susan Mead**  
*Jackson Walker, LLP*

#### THE "TOOLBOX"

9:15 **TAX INCREMENT FINANCING**

This session will provide a creative insight into the use of TIF's/TIRZ's as a major public-private partnership tool - including examples of the use of this tool in very successful projects.

**Susan Mead**  
*Jackson Walker, LLP*

9:35 **PUBLIC IMPROVEMENT DISTRICTS**

PID's are very versatile tools which are used extensively in commercial and residential developments. This session will demonstrate the applicability of this tool in several settings.

**Ike Shupe**  
*K&L Gates*

9:55 **ECONOMIC DEVELOPMENT CORPORATION-4A**

An economic development sales tax can be a significant source of funds for promoting economic development. This tool has become significant.

**James Gandy**  
*Frisco Economic Development Corporation*

10:15 **380 AGREEMENTS**

The most versatile and, arguably, the most attractive tool for cities and the private sector alike. This session will focus on how creative a tool it can be.

**Peter G. Smith**  
*Nichols Jackson Dillard Hager & Smith*

10:35 **BREAK**

10:50 **TAX ABATEMENT**

Like many tools, tax abatement is included in an overall public-private partnership program. This session will examine how tax abatement is often included in a comprehensive program.

**Hammond Perot**  
*City of Dallas, Economic Development Office*

11:10 **A DOSE OF REALITY**

The City and developer do not always get what they want...and for good reason. This session will provide a practical analysis for incentive programs.

**Mark Stein**  
*Stein Planning, LLC*

11:30 **CERTIFICATES OF OBLIGATION**

Certificates can provide an interesting alternative to projects that have publicly-owned facilities. Often, the City may prefer this tool.

**Robert H. Roeder**  
*Abernathy Roeder Boyd & Joplin P.C.*

We're going **GREEN!**

Most materials for both programs will be provided on a CD instead of a notebook.

# Public-Private Partnerships: A Texas Economic Development Summit

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## CONTINUATION OF AGENDA

### 11:50 HOTEL-MOTEL TAX

Substantial funds are generated from hotel occupancy. This session will explore how a local government can leverage these funds as part of the public-private partnership.

**Scott Joslove**

*Texas Hotel & Lodging Association*

### 12:10 NON-REVENUE INCENTIVES

Not all incentives need to be economic grants. Cities have provided incentives that have facilitated development by expediting development review, rebating development fees, and approving zoning with enhanced development rights.

**Theresa O'Donnell**

*Director of Development Services  
City of Dallas*

### 12:30 RECESS

### MOBILE TOUR (30 MINUTE LUNCH IS INCLUDED)

### 12:40 MONTGOMERY FARM & LUNCH (Provided)

Montgomery Farms is an approximate 500-acre community that incorporates an open space-conservation ethic. A public-private partnership has been integral in the success of this community. The development consists of a mixed use component along US 75 (The Shops at Watters Creek) and residential areas along an integrated open space network.

**Philip Williams**

*Emerson Partners*

**Bill Dahlstrom**

*Jackson Walker*

### 2:00 SPECIAL PRESENTATION ON STIMULUS FUNDS- SUSTAINABLE DEVELOPMENT

ARRA and other recently created federal governmental programs provide funds for sustainable development initiatives. This segment will discuss some of the different programs that are currently available as well as new initiatives that are being undertaken by the Department of Transportation as well as the Department of Housing and Urban Development to help spur sustainable community planning and development.

**Brandon Bolin**

*Jackson Walker, LLP*

### 2:20 TRAVEL TO ALLEN

### 2:30 VILLAGES OF ALLEN

The Village at Allen is a retail and office development with a combined total of more than 3,000,000 square feet of commercial space featuring the Allen Event Center, home of the Allen Eagles of the Central Hockey League, a full service Courtyard by Marriott hotel and other amenities. A public-private partnership including an artificial TIRZ was the key to the successful development with funding from the developer, the City, the Type A and Type B Corporations. A true example of how a private-public partnership can work with the risks of success allocated between the developer and the City.

**Gar Herring** *[Invited]*

*The MGHerring Group*

**Peter G. Smith**

*Nichols Jackson Dillard Hager & Smith*

### 3:25 SPECIAL PRESENTATION ON LEGISLATIVE ACTIVITIES

What happened in the 81st Legislative Session to impact the toolbox? What was left behind that is anticipated for the 82nd Legislative Session?

**Bennett Sandlin**

*Texas Municipal League*

### 3:45 BREAK AND TRAVEL TO FRISCO

### 4:00 CITY OF FRISCO

The City of Frisco has been extremely successful in creating public-private partnerships that have transformed a Texas plain into one of the fastest growing communities in the nation. The architects of that success will provide an overview of the strategies and efforts necessary for such success.

**George Purefoy**

*City Manager, City of Frisco*

**James Gandy**

*Frisco Economic Development Corporation*

### 5:15 ADJOURN

### 5:30- 6:30 NETWORKING RECEPTION

Upon arrival back at the Center following the Mobile Tour, please join us for a pizza reception.



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## Public-Private Partnerships: A Texas Economic Development Summit

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#### Planning, Zoning and Eminent Domain — November 17-18, 2009 Public-Private Partnerships: A Texas Economic Development Summit — November 16, 2009

	Both Programs	Nov 17-18 Only	Nov 16 Only
<b>Regular tuition</b> .....	<input type="checkbox"/> \$525	<input type="checkbox"/> \$395	<input type="checkbox"/> \$195
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