

8th Annual SuperConference

Eminent Domain

The Highest and Best Use of Your Time and Money

January 22-23, 2009 • Omni Hotel Downtown • AUSTIN



ACVB Photo/Dan Herron

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The Omni Hotel Downtown is located just a few blocks from Austin's famous Sixth Street. A quick jaunt will bring you into an eclectic mixing ground for yuppies, celebrities, politicians, musicians, cowboys, punks and surfers.

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Dear Colleague:

As eminent domain issues continue to make headlines, you need to stay on top of the strategies that secure settlements and win cases. This Conference provides you with the legal, economic and trial advice you need to see your conflicts through.

This year, we are happy to present a unique program featuring some of the leading practitioners and speakers in our field from around the country. In addition to their own presentations, these accomplished attorneys will join us for a panel discussion exploring eminent domain practice in Texas through a comparison with other jurisdictions.

You will also receive the fresh perspectives on Texas practice that typify our annual Conference. As always, you will network with other attendees, compare best practices, and hear from leaders in the field who will answer your questions on every stage of eminent domain practice, including:

- Emerging Issues and Trends
- Engaging Jurors During Direct Examination of the Appraisal Witness
- The Use of *Ad Valorem* Tax Appraisals in the Condemnation Context
- Forced Dedications
- Compensability of Loss of Direct Access
- Federal Procedure in Takings
- Representing the Condemnor and the Property Owner
- Special Commissioners: A Different Approach
- When Mediation Is Eminent
- Case Studies in Land Planning
- Appraisal Assignment Conditions
- Update from the Texas Department of Transportation

Whether you are an attorney in the public or private sector, a planner or developer, a real estate professional, an appraiser, or a government representative, this is the year's *must attend* Conference!

We hope to see you in January!



Stephen I. Adler, Esq.
Program Co-Chair
Barron & Adler, Austin



Michael M. Barron, Esq.
Program Co-Chair
Barron & Adler, Austin



Christopher M. Clough, Esq.
Program Co-Chair
Barron & Adler, Austin

Schedule and Instructor Bios Inside ►

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THURSDAY, JANUARY 22

8:30 Registration and Continental Breakfast

9:00 Welcome and Introduction

Overview of Day One

Stephen I. Adler, Esq., Program Co-Chair

Michael M. Barron, Esq., Program Co-Chair and

Christopher M. Clough, Esq., Program Co-Chair
Barron & Adler, Austin

9:15 Case Law Update

Emerging Issues and Trends

Christopher M. Clough, Esq., Program Co-Chair

10:00 Getting the Story Told

Six Ideas on Engaging Jurors During Direct Examination of the Appraisal Witness

John C. Murphy, Esq.

Luce Forward, Irvine, CA

10:45 Morning Break

11:00 Use of Ad Valorem Tax Appraisals in the Condemnation Context

Admissibility of Tax Assessments in Condemnation Actions; Admissibility of Appraisals Used in Tax Appeals in a Subsequent Condemnation Action; Should You Appeal a Tax Assessment When a Condemnation Action May Be on the Horizon?

Timothy P. Duggan, Esq.

Stark & Stark, Lawrenceville, NJ

11:45 Why Buy the Cow When You Can Get the Milk for Free? A Review of Forced Dedications

Forced Dedications and Remedies; *Nollan v. California Coastal Commission*, *Dolan v. City of Tigard*, and *Lingle v. Chevron*; Florida Cases and Statutes; Available Remedies and Methods for Pursuing Remedies

Paul D. Bain, Esq.

Gaylord Merlin Ludovici Diaz & Bain, Tampa, FL

12:30 Lunch Break

1:45 Compensability of Loss of Direct Access

A Comparative Analysis

Michael Braunstein, Esq., Professor of Law

The Moritz College of Law, The Ohio State University, Columbus, OH

2:30 Afternoon Break

2:45 Eminent Domain Law: How Does Texas Measure Up?

Lessons to Be Learned from a Comparison of the Texas System with Procedural and Substantive Eminent Domain Law in Other Jurisdictions

John C. Murphy, Esq.

Timothy P. Duggan, Esq.

Paul D. Bain, Esq.

Michael Braunstein, Esq., Professor of Law

Stephen I. Adler, Esq.

4:00 Ethics

Issues for Eminent Domain Practitioners

Thomas H. Watkins, Esq.

Brown McCarroll, Austin

5:00 Adjourn

TELL US WHAT YOU WANT!

Do you have specific questions or topics you hope to see covered in this program? Would you like to see a Conference on another topic? Contact **CLE INTERNATIONAL** Program Attorney Caroline R. Kert, caroline@cle.com.

FRIDAY, JANUARY 23

8:30 Continental Breakfast

9:00 Welcome Back

Overview of Day Two

Stephen I. Adler, Esq., Program Co-Chair

Michael M. Barron, Esq., Program Co-Chair and

Christopher M. Clough, Esq., Program Co-Chair

9:15 Federal Procedure in Takings

The Texas Border Fence and Other Hot Topics

Kimberli D. Loessin, Esq.

Barron & Adler, Houston

10:00 Morning Break

10:15 Special Commissioners

A Different Approach

The Honorable Jerry Lewis, Esq.

Collin County Court at Law No. 2, McKinney

11:00 When Mediation Is Eminent: A Matter of Give and Taking

Pros and Cons of Mediating the Eminent Domain Case; Mediation from the Perspective of the Condemning Authority; What's in Mediation for the Landowner; Getting the Greatest Value from Mediation; Pet Peeves and Practice Tips from a Neutral's Perspective

Michael J. Schless, Esq.

Austin

11:45 Lunch Break

1:00 Representing the Condemnor

Ethics; The Right to Condemn; Statutory Considerations for Public, Quasi-Public and Private Condemnors; Compensation Issues

Luke Ellis, Esq. and

Joseph R. Marrs, Esq.

Jackson Walker, Austin

1:45 Representing the Property Owner

Ethics; Client Solicitation; Fee Considerations; Contesting the Right to Take; Compensation Issues

Charles B. McFarland, Esq.

Vinson & Elkins, Houston

2:30 Afternoon Break

2:45 Update from the Texas Department of Transportation

Strategies to Meet the State's Critical Transportation Needs

Phillip E. Russell, Esq., PE, Assistant Executive Director for Innovative Project Development

Texas Department of Transportation, Austin

Kristina Silcocks, Esq., Chief, Transportation Division

Office of the Attorney General, Austin

3:30 Case Studies in Land Planning

Impacts of Local Regulations

Peter S. Boecher, CRE, AICP, ASLA, Senior Planner Landscape Architect

Vernon G. Henry & Associates, Houston

4:15 Appraisal Assignment Conditions: Why the Number Is Meaningless Without Them

The Six Significant Elements of Any Value Opinion; How Hypothetical Conditions and Extraordinary Assumptions Affect a Value Opinion; Proper and Improper Use of Assumptions in a Condemnation Case

M. Lance Coyle, MAI, CCIM, Principal and CEO

Coyle Realty Advisors, Addison

5:00 Evaluations and Adjourn

PROGRAM CO-CHAIRS

Stephen I. Adler practices eminent domain law. He is a past chair of the Eminent Domain Committee of the Real Property Section of the American Bar Association and is a frequent lecturer and author on the litigation of takings cases.

Michael M. Barron concentrates on eminent domain and condemnation matters and has more than 28 years of experience. He has participated in several hundred special commissioners' hearings and numerous jury trials. He previously served as the Chief of the Antitrust Division of the Texas Attorney General's Office.

Christopher M. Clough joined his firm in 2008, where he focuses exclusively on eminent domain, condemnation and inverse condemnation matters. He previously served for three years as an Assistant Attorney General in the Transportation Division.

FEATURED PRESENTERS

Paul D. Bain practices exclusively in the fields of eminent domain, inverse condemnation and property rights litigation. For over 15 years, he has represented individuals and corporations with collectively over 100,000 acres of property throughout Florida. He is a previous chair of CLE International's Florida Eminent Domain Conference.

Michael Braunstein is a member of the firm Goldman & Braunstein and also Of Counsel to the firm Crabbe, Brown & James, where he represents landowners in eminent domain litigation. His primary current research interests are real estate finance and a special study of the residential real estate market. He is a co-chair of CLE International's Ohio Eminent Domain Conference.

Timothy P. Duggan practices in the Commercial Litigation Group of his firm, primarily in the areas of commercial bankruptcy (debtor and creditor's rights), condemnation (eminent domain), and real estate tax appeals. He is a co-chair of CLE International's New Jersey Eminent Domain Conference.

John C. Murphy specializes in eminent domain, inverse condemnation and other complex jury trials. He has served as lead counsel in several significant, successful jury trials. He is a chair of CLE International's Eminent Domain Conference in Los Angeles.

FACULTY MEMBERS

Peter S. Boecher has more than 29 years of urban planning experience. For nearly 20 years, he has analyzed impacts of eminent domain, working for both the public and private sector. He presently serves on the City of Bellaire Planning and Zoning Commission as well as their Comprehensive Plan Advisory Committee.

M. Lance Coyle has been engaged in valuation and counseling of investment real estate since early 1985. He is a former stockbroker and institutional investments officer and has a unique understanding of real estate as an investment vehicle.

Luke Ellis focuses primarily on complex commercial litigation, with an emphasis on condemnation and eminent domain, real estate, and business litigation. He authored "Eminent Domain 101—The Nuts and Bolts of How the Condemnation Process Works" for the *Flick Report*, Sept.-Oct. 2007 edition.

Jerry Lewis has over 22 years' experience on the bench, where he oversees criminal and general civil matters. He formerly practiced with the Army JAGC, for two and a half years with a civil law firm and for six and a half years in criminal law.

Kimberli D. Loessin is an attorney in her firm's Houston office, a boutique firm that concentrates exclusively on eminent domain, inverse condemnation and regulatory takings.

Joseph R. Marrs practices a broad range of civil litigation in federal and state courts, including eminent domain issues.

Charles B. McFarland is a partner in his firm's condemnation and property rights practice group and has represented private property owners, governmental entities, municipal utility districts, gas utilities and common carrier pipelines.

Phillip E. Russell oversees the environmental studies, financing options, contracting agreements and public-private partnerships related to the Trans-Texas Corridor. His division heads the expansion of the state highway system.

Michael J. Schless has limited his practice to alternative dispute resolution since 1992. He is a past Chair of the ADR Section of the State Bar of Texas and has held every leadership position in that organization over a period of six years.

Kristina Silcocks represents the Texas Department of Transportation in eminent domain proceedings, inverse condemnation suits, property damage claims, contract claims, and various other civil matters.

Thomas H. Watkins has practiced litigation for over 40 years and is experienced in handling high profile litigation. He has handled oil and gas, legal malpractice and intellectual property cases, and also has experience in corporate, healthcare and employment litigation.

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Cancellation

Full tuition refunds (less a \$50 administrative charge) will be given only if notice of cancellation is received by 5:00 p.m. MST on the Friday prior to the Conference. Substitutions may be made at any time.

Tuition

- \$795 per person
- \$695 each for two or more
- \$695 each for government, 501(c)(3) organizations, full-time judges, law students and paralegals
- \$595 each for two or more government, 501(c)(3) organizations, full-time judges, law students and paralegals

Home Study

- Audio transcript and course materials
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Earn up to 12 Hours MCLE Credit, Including 2 Hours of Ethics
Earn up to 12 Hours Real Estate or Appraiser Credit



Austin Skyline with Riverboat, GFDL photo by Dan Herron

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FEATURED PANEL Eminent Domain Law: How Does Texas Measure Up?



CALIFORNIA

John C. Murphy, Esq.
Luce Forward, Irvine, CA
Co-Chair of CLE International's
California Eminent Domain Conference



FLORIDA

Paul D. Bain, Esq.
Gaylord Merlin Ludovici Diaz & Bain, Tampa, FL
Previous Co-Chair of CLE International's
Florida Eminent Domain Conference



NEW JERSEY

Timothy P. Duggan, Esq.
Stark & Stark, Lawrenceville, NJ
Co-Chair of CLE International's
New Jersey Eminent Domain Conference



OHIO

Michael Braunstein, Esq., Professor of Law
The Moritz College of Law
The Ohio State University, Columbus, OH
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