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3rd Annual Conference!

Eminent Domain

The Implications of Hathcock, Kelo and Adell

October 17-18, 2005 • Ritz-Carlton Hotel • Dearborn

**Make a weekend of it!
Go to the
U of M vs. Penn State
game in Ann Arbor!**

Who Should Attend:

- Attorneys and Legal Staff
 - Judges
 - Appraisers
 - Consultants
 - Engineers
 - Developers
 - Builders
 - Real Estate Professionals
 - Government Officials
 - Planners
- ...anyone interested in eminent domain issues in the Midwest!

Past Seminars Attended By:

Affinity Evaluation Group	Law Offices of Mark S. Demorest
Anderson & Anderson Associates	Mannix-Smith Group
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Attorney General's Office	Michigan Department of Military & Veterans Affairs
Barnes Appraisal	Michigan Department of Transportation
Beeding Legal Group	Mika, Meyers, Beckett & Jone
Berry & Reynolds	Miller, Canfield, Paddock & Stone
Biltmore Properties	Monaghan, Laporte, et al.
Butzel Long	NMREC
City of Dearborn, Department of Law	Office of Otto Pertner
City of Detroit - Law Department	Paul & Associates Realtors
City of Flint	Plante & Moran
City of Troy	Plunkett & Cooney
City of Warren Legal Department	Road Commission for Oakland County
Cooper, Shifman, Gabe, et al.	Secrest, Wardle, Lynch, Hampton, Truex & Morley
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Finkel Whitefield	Stout Risius Ross
First Row	Varnum, Riddering, Schmidt & Howlett
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Integra Detroit	Wayne County
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Conference Schedule and Speaker Biographies Inside



Monday, October 17**Tuesday, October 18**

- 8:30 Registration
- 9:00 **Introduction and Welcome**
Alan T. Ackerman, Esq., Program Co-Chair
Ackerman & Ackerman, Troy
Raymond O. Howd, Esq., Program Co-Chair
Office of the Attorney General, Transportation Division, Lansing
- 9:10 **Application of Evidence Rules**
 Issues Unique to Condemnation Cases
The Honorable William J. Giovan
3rd Circuit Court, Detroit
- 10:00 Morning Break
- 10:20 **Michigan Condemnation Decisions Since 1995**
 A Case Review
Clifford T. Flood, Esq.
Miller, Canfield, Paddock and Stone, Lansing
Alan T. Ackerman, Esq., Program Co-Chair
- 11:00 **Uniform Relocation Assistance Act**
 For Business Property
Charles O'Neill, Realty Officer
Federal Highway Administration, Lansing
- 11:30 Q&A Panel
Members of the Faculty
- 11:55 Lunch Break
- 1:15 **Highest and Best Use Issues and Assemblage/Plottage**
 Opposing Views
Lawrence P. Schneider, Esq.
Knaggs, Harter, Brake & Schneider, Lansing
Darius W. Dynkowski, Esq.
Ackerman & Ackerman, Troy
- 2:00 **USPAP and Licensing Concerns for Appraisers**
 What You Can (and Can't) Expect Your Appraiser to Do
David E. Burgoyne, SR/WA
Burgoyne Appraisal Company, Ann Arbor
David Maturen, SR/WA, President
Maturen & Associates, Portage
- 2:45 Afternoon Break
- 3:00 **MCWC v. Nestle Litigation and Water Use Regulation Proposals**
 Takings Issues
John M. DeVries, Esq.
Mika, Meyers, Beckett & Jones, Grand Rapids
- 4:00 Adjourn
- 8:30 **Overview and Topics for Day Two**
Alan T. Ackerman, Esq., Program Co-Chair
Raymond O. Howd, Esq., Program Co-Chair
- 8:40 **The Subdivision Approach**
 Uncertainties of Damages and Damage Analysis
Arthur C. Spalding, Esq.
Rhoades McKee, Grand Rapids
Raymond O. Howd, Esq., Program Co-Chair
- 9:20 **The Subdivision Approach**
 A Developer's View
Jason M. Horton, Esq.
REDICO, Southfield
- 10:00 **The Subdivision Approach**
 Does It Inflate Value?
Andrew B. Chamberlain
Certified General Real Estate Appraiser
Chamberlain & Walsh, Berkeley
- 10:30 Morning Break
- 10:50 **I Waited Too Long—Lost Profits Revisited**
 Are Speculative Damages Back? Evaluation and Business Damages
Avery K. Williams, Esq.
Williams Acosta, Detroit
Patrick G. Dunleavy, CPA, CBA, CVA, ABV
Conway MacKenzie & Dunleavy, Birmingham
- 12:00 Lunch Break
- 1:00 **The Short-Term and Long-Term Effects and Future Results**
 The Implications of *Hathcock*, *Kelo* and *Adell*
Mary Massaron Ross, Esq.
Plunkett & Cooney, Detroit
Mark J. Zausmer, Esq.
Zausmer, Kaufman, August & Caldwell, Farmington Hills
- 2:00 **Taking It to the Extreme**
 Challenging the Take on Grounds Other Than Public Use
Joseph M. Rogowski, II, Esq.
Berry, Reynolds & Rogowski, Farmington Hills
- 2:45 Afternoon Break
- 3:00 **Lost Opportunity**
 Pre-filing Investigations and Routines and the Last Chance to Reduce Costs and/or Retreat
Avery K. Williams, Esq.
- 3:30 **Inverse Takings, Need for Intrusion, and Temporary Taking**
 An In-depth Analysis
Douglas A. Dozeman, Esq.
Warner, Norcross & Judd, Grand Rapids
- 4:00 **Handling Environmental Regulatory Takings Cases**
 From the Environmental Agency's Perspective
Peter Manning, Esq., Assistant Attorney General
Michigan Attorney General's Office, Lansing
- 4:50 Evaluations and Adjourn

Eminent Domain

meet your faculty

Program Co-Chairs

Alan T. Ackerman has represented property owners and businesses in eminent domain proceedings for over 30 years. He has served as Vice-Chair or Chair of the ABA Real Property Section Condemnation Law Committee and Litigation Section Condemnation Law Committee over the past two decades, and is a Past Chair of the Michigan Bar Association Condemnation Committee.

Raymond O. Howd has been an Assistant Attorney General since 1985. He is the First Assistant in the Transportation Division, representing MDOT in matters involving property acquisition, environmental issues, and condemnation litigation. Mr. Howd oversees all of MDOT's condemnation cases assigned to Attorney General staff and Special Assistant Attorneys General.

David E. Burgoyne is an independent fee appraiser licensed as a Certified General Real Estate Appraiser in Michigan. He is a Senior Member of the American Society of Appraisers holding the ASA Designation for Real Property/Urban.

Andrew B. Chamberlain is an independent fee appraiser licensed as a certified general real estate appraiser in Michigan. He is a senior member of the American Society of Appraisers, holding the ASA designation for real property/urban.

John M. DeVries practices in the areas of civil dispute resolution, zoning, natural resources and eminent domain law. He is a life member of the Sixth Circuit Judicial Conference. Mr. DeVries was recently counsel in the *Perrier* case.

Douglas A. Dozeman has focused on eminent domain for over 15 years primarily representing landowners. He has successfully handled the representation of Carnagel Oil Associates in the Nordhouse Dunes litigation. He represented the property owner in the *Silver Creek* action.

Patrick G. Dunleavy has provided litigation support in cases involving business valuations, lost profits calculations, lost earnings and fraud investigations for over 20 years.

Darius W. Dynkowski has spent the past ten years representing property owners and business clients in all aspects of eminent domain proceedings. He is the Chair of the ABA State and Local Government Law Section Condemnation Committee, and was trial counsel for the property owners in the *Hathcock* case.

Clifford T. Flood focuses on environmental and regulatory law with an emphasis on condemnation and insurance law. He is co-author of the chapter on "Eminent Domain," in *Local Government Law and Practice in Michigan* (2000).

Honorable William J. Giovan is the Presiding Judge of the Third Circuit Court (Wayne County). Considered by many as Michigan's "Evidence Expert," he has written and lectured extensively to the bench and bar, principally in the areas of evidence and civil procedure. He has also served on numerous professional and judicial committees.

Jason M. Horton has been a real estate developer for nearly 30 years. He is a consultant to financial institutions and governmental regulatory agencies. Frequently appointed by courts as a receiver in complex disputes, he also co-chairs the ADR Committee of the State Bar Real Estate Section.

Peter Manning has been an Assistant Attorney General since 1994, primarily in the area of environmental law. He is in the Environment, Natural Resources, and Agricultural Division, and handles and oversees regulatory takings and other litigation based on environmental regulations.

David Maturen is a Certified General Real Estate Appraiser. He is a Senior Member of the International Right-of-Way Association, and represents the IRWA on the Appraisal Foundation. He is the current Chair of the State Board of Real Estate Appraisers.

Charles O'Neill is a Realty Officer for the Federal Highway Administration in Lansing, Michigan, with over 20 years of experience in right-of-way at the state, local and federal levels.

Joseph M. Rogowski, II, focuses on eminent domain, tax appeals and commercial litigation. He was one of the attorneys representing the property owner in *Alibri v. Detroit Wayne County Stadium Authority*, and was President of the Barristers of the Detroit Metropolitan Bar Association.

Mary Massaron Ross practices before state and federal appellate courts for government and private sector clients in cases involving condemnation, land use planning and zoning, and other complex matters. She was a member of the team who reversed *Poletown v. Detroit* last term.

Lawrence P. Schneider has served as a Special Assistant Attorney General for the State of Michigan since 1990. He has represented the Michigan Department of Transportation in approximately 60 eminent domain lawsuits in central and western Michigan.

Arthur C. Spalding practices all aspects of real estate law with an emphasis in condemning, zoning and land use. He has served as Chairman of the Zoning and Land Use Committee of the Michigan Public Corporation Section.

Avery K. Williams concentrates his practice in environmental, eminent domain, land use litigation and commercial law. He is lead counsel for the Department of Water & Sewage, and is involved in its efforts to reduce water pollution in southeast Michigan.

Mark J. Zausmer has been active in eminent domain matters for over 20 years. He was a principle drafter of the amendments to the Michigan Uniform Condemnation Procedures Act, and was Wayne County counsel in the *Hathcock* case.

conference information

Continuing Education Credit

MCLE: This course qualifies for up to 13 hours of continuing legal and professional education credit.
Real Estate/Appraisal/Engineering: This course meets the requirements for up to 11 hours of Real Estate, Appraisal and Engineering credit.

CLE INTERNATIONAL is an approved sponsor in all states with mandatory continuing legal education requirements. For accreditation in specific jurisdictions or disciplines, please contact Brian Fineberg at (800) 873-7130 or brian@cle.com.

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The Conference will be held at the Ritz-Carlton Dearborn, 300 Town Center Drive, Fairlane Plaza, Dearborn, MI 48126. Make your reservation early to secure your space and get the best rate. Please contact Community World Travel at (888) 724-0500 or visit www.communityworldtravel.com.

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What Does the Future Hold?

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Uniform Relocation Assistance Act for Business Property

USPAP and Licensing Concerns for Appraisers

Highest and Best Use Issues and Assemblage/Plottage

Does the Subdivision Approach Deflate Value?

Lost Profits Revisited: Are Speculative Damages Back?

***MCWC v. Nestle* Litigation**

Challenging the Take on Grounds Other than Public Use



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