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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
Andrew Reed & Associates	McInerney & Bowen
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
Crown Enterprises	Siegel, Greenfield, Hayes & Gross
Dykema Gossett	Smith, Haughey, Rice & Roegge
Emerald Appraisal Group	Steinhardt, Pesick & Cohen
Finkel Whitefield	Stout Risius Ross
First Row	Varnum, Riddering, Schmidt & Howlett
Fraser, Trebilcock, Davis & Dunlap	Washtenaw County Road Commission
Integra Detroit	Wayne County
Jaffe, Raitt, Heuer & Weiss	Wieme, Rende & Associates
Judeh & Associates	
Kenneth C. Harrison, P.C.	
Kenneth M. Davies, P.C.	
Knaggs, Harter, Brake & Schneider	
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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 has 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

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Advance registration is recommended, and you are encouraged to mail in your registration early. Or simply call in your registration or homestudy order to (800) 873-7130, fax the Registration/Order Form to (303) 321-6320, email your registration to registrar@cle.com, or register online at www.cle.com. Full payment is due at the time of registration. Walk-in registrations will be subject to space availability. Please call **CLE INTERNATIONAL** at (800) 873-7130 if you require any special accommodations.

### Reserve Your Room Early

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](http://www.communityworldtravel.com).

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The tuition fee of \$595 per person includes attendance at all sessions, course materials, continental breakfasts and coffee breaks. **CLE INTERNATIONAL** offers special rates for 501(c)(3) organizations, full-time judges and law students.

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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 Monday prior to the Conference. Substitutions may be made at any time.

### Sponsorship Information

Sponsorship and exhibition opportunities are still available. For more information, please contact Sarah Neenan, Marketing Coordinator, at (800) 873-7130 or [sarah@cle.com](mailto:sarah@cle.com).

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# Eminent Domain

**What Does the Future Hold?**

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

**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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