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Regulatory Takings

Facing the Challenges and Knowing the Remedies

March 30-31, 2006 • Hyatt Regency • Tampa

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Who Should Attend:

- Lawyers and Legal Staff
 - Government Officials
 - Consultants
 - Appraisers
 - Regulators
 - Planners
 - Developers
 - Property Owners
 - Real Estate Professionals
 - Environmental Professionals
- ... and anyone concerned
with regulatory takings!

The United States Supreme Court has recently revised its analysis of the constitutional remedies an owner may pursue in challenging governmental regulation of private property (*Lingle vs. Chevron*).

This Conference will engage in a two-part examination of this important change in the Court's thinking. First, the basics of property rights challenges and available remedies will be reviewed and re-categorized according to the latest pronouncement of the Court, and in consideration of recent Court trends in the area. Second, specific issues commonly facing practitioners will be reexamined regarding the most effective means to litigate them in both Florida and federal jurisdictions.

Register today—this is one professional opportunity you don't want to miss.

Featuring Speakers From:

**South Florida Water Management District
George Mason University School of Law
Miami-Dade County Attorneys' Office
Levin College of Law, University of Florida
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Register Online at www.cle.com or Call (800) 873-7130
Conference Schedule and Speaker Biographies Inside



Thursday, March 30**Friday, March 31**

- 8:30 Registration and Continental Breakfast
- 9:00 **Welcome and Introduction**
S. William Moore, Esq., Program Chair
Brigham Moore, Sarasota, FL
- 9:05 **Property Rights as Fundamental Rights**
How Did the Marginalization of Property Rights Happen?
S. William Moore, Esq., Program Chair
- 9:45 **Due Process Challenges vs. Inverse Condemnation**
The Law According to Lingle
Professor Steven J. Eagle, Esq.
George Mason University School of Law, Arlington, VA
- 10:30 Morning Break
- 10:45 **Property Rights Claims vs. Other Bill of Rights Claims**
Another Perspective on Property Rights as “Fundamental” or Not, and on the Meaning and Effect of Lingle
Professor Michael Allan Wolf, Esq.
Levin College of Law, University of Florida, Gainesville, FL
- 11:30 Lunch Break
- 1:00 **Burdens of Proof and Standards of Review**
Challenges to Legislative and Non-Legislative Actions—Theory and Reality
Professor Steven J. Eagle, Esq.
Professor Michael Allan Wolf, Esq.
- 1:45 **Federal Land Use Litigation in Florida**
Does the “Theory” Leave Room for Any “Practice”?
Thomas Goldstein, Esq., Assistant County Attorney
Miami-Dade County, Miami, FL
S. William Moore, Esq., Program Chair
- 2:30 Afternoon Break
- 2:45 **Theories of Constitutional Law in the Practice of Land Use Litigation**
Treatment by the Florida Courts
John N. Conrad, Esq.
Valrico, FL
Margaret L. Cooper, Esq.
Jones Foster Johnston & Stubbs, West Palm Beach, FL
- 3:30 **Ethics**
Issues for the Regulatory Land Use Litigation Practitioner
Amy Brigham Boulris, Esq.
Brigham Moore, Miami, FL
Keith L. Williams, Esq.
South Florida Water Management District, West Palm Beach, FL
- 4:30 Q&A Panel
Members of the Faculty
- 4:45 Adjourn

- 8:30 Continental Breakfast
- 9:00 **Introduction**
Overview of Day Two
S. William Moore, Esq., Program Chair
- 9:05 **When the “Police Power” Invades the Backyard of an Eminent Domain Lawyer**
Brian B. Patchen, et. ux., vs. Florida Department of Agriculture & Consumer Services
Brian P. Patchen, Esq.
Miami, FL
Professor Michael Allan Wolf, Esq.
- 9:45 **Forced Dedications**
Exactions and Moratoria on Florida Remedies
Paul D. Bain, Esq.
Gaylord Merlin Ludovici Diaz & Bain, Tampa, FL
- 10:30 Morning Break
- 10:45 **Challenges to Wetlands Regulations**
Recognizing a Claim and Deciding How to Pursue It
Keith L. Williams, Esq.
Amy Brigham Boulris, Esq.
- 11:30 Lunch Break
- 1:00 **Challenges to Rezoning, Variance, and Development Denials**
What Works and How to Avoid Lengthy, Costly Disappointments
Mark S. Bentley, Esq.
GrayRobinson, Tampa, FL
Thomas Goldstein, Esq., Assistant County Attorney
- 1:45 **Pre-Condemnation Blight and Abandonment of Public Projects**
Effects of Abnormal Delays in Government Approvals
S. William Moore, Esq., Program Chair
- 2:30 Afternoon Break
- 2:45 **Pleading the Basics**
Inverse Condemnation Claims, Necessary Witnesses and Proof
Paul D. Bain, Esq.
Amy Brigham Boulris, Esq.
- 3:30 **Other Remedies**
Tort, Bert Harris, Equitable Relief, Due Process
Margaret L. Cooper, Esq.
- 4:15 **The Professor Responds—In Light of Practitioners’ Laments**
Suggestions for Improving Results
Professor Michael Allan Wolf, Esq.
- 5:00 Evaluations and Adjourn

Regulatory Takings

meet your faculty

Program Chair

S. William Moore is involved in all areas of eminent domain, from initial proceedings through appeal, and has developed a special interest in the expansion of private property protection by inverse condemnation actions. Before joining his firm, he worked with the Florida Department of Transportation and the 12th Circuit State Attorney's Office.

Paul D. Bain practices exclusively in the fields of eminent domain, inverse condemnation and property rights litigation. He has represented property owners throughout Florida for over 10 years in state and federal court, and is published in the *Florida Realtor*, the *Florida Bar Journal* and the *Florida Eminent Domain Practice & Procedure* manual. He was recently acknowledged as a "Legal Elite" in *Florida Trend Magazine*.

Mark S. Bentley focuses his practice on eminent domain litigation, land use, zoning, governmental and administrative law. He has represented hundreds of private property owners against various condemning authorities and is qualified as an expert witness on eminent domain, growth management and land use planning issues in various state courts.

Amy Brigham Boulris has devoted her entire law practice to the defense of constitutional property rights in the context of eminent domain, inverse condemnation, property-related civil rights claims, and related land-use litigation. She was recognized in *Florida Trend* magazine as one of Florida's "Legal Elite" in 2004 and 2005, and was named a "Top Lawyer" in the 2006 edition of the *South Florida Legal Guide*.

John N. Conrad focuses his practice on all aspects of eminent domain law. He is a member of the Association of Eminent Domain Professionals and the Florida Bar Association's Eminent Domain Committee.

Margaret L. Cooper practices in the areas of employment law, general business disputes, professional malpractice defense, real estate/zoning litigation, and civil appeals. She is Florida Bar Board Certified in Civil Trial Law and Business Litigation Law, and Board Certified by the National Board of Trial Advocacy in Civil Trial Advocacy. She is listed in *Best Lawyers in America*.

Steven J. Eagle is known for his work in regulatory takings and other aspects of property law, and is involved in the ongoing dialogue among American legal scholars, lawyers, and judges on the proper interpretation of property rights in the Constitution. He is the author of a leading property treatise, as well as academic articles, and teaches programs for judges and the practicing bar. He joined the faculty in 1987.

Thomas Goldstein joined the County Attorney's Office in 1975. He has been representing the County as condemning authority in the field of eminent domain since 1982. He has been active in the Eminent Domain Bar, serving on the Eminent Domain Committee of the Florida Bar for the past 23 years, including a year as Vice-Chairman. He co-wrote Chapter 7, "Order of Taking," in the 6th Edition of the *Florida Eminent Domain Practice and Procedure* book published by the Florida Bar. He also wrote a chapter entitled "Trial Tactics and Strategies in the Presentation of Comparable Sales" for the treatise *Nichols on Eminent Domain*.

Brian P. Patchen has practiced in the area of eminent domain for over 30 years. Before starting his own firm, he worked for three years for Morgan Guaranty Trust Company on Wall Street.

Keith L. Williams has been with his organization since 2002. He was formerly with the Palm Beach County Attorney's Office. Prior to that, he was a senior attorney within the Public Lands Section of the State of Florida's Department of Environmental Protection. His practice focuses chiefly on eminent domain, administrative law and real property litigation.

Michael Allan Wolf has been teaching and writing for over 20 years in the areas of land use planning, environmental law, property, local government, urban revitalization, and legal and constitutional history. He is the General Editor of *Powell on Real Property* (17 Volumes), the most prominent treatise in the area that is regularly cited by state and federal courts. He is the first occupant of the Richard E. Nelson Chair in Local Government Law at the University of Florida, Levin College of Law. Previously, he was a Professor of Law and History at the University of Richmond for 15 years.

CLE INTERNATIONAL Program Coordinator:
Julie Nolan, julie@cle.com.

conference information

Continuing Education Credit

MCLE: This course has been accredited by the Florida State Bar for a maximum of 14 hours MCLE credit, including one hour of ethics.

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For accreditation in other jurisdictions or disciplines, please contact Jill Shannon at (800) 873-7130 or jill@cle.com.

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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 Friday preceding the Conference. Substitutions may be made at any time.

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Knowledge is Power

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