CONFERENCE AGENDA
March 13 & 14, 2014

MOVING BEYOND RECESSON:
WHAT’S NEXT?

HOME STUDY SESSIONS:
HOT TOPICS IN LAND USE LAW

RMLUI
ROCKY MOUNTAIN LAND USE INSTITUTE

UNIVERSITY OF DENVER
STURM COLLEGE OF LAW
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MOVING BEYOND RECESSION: WHAT’S NEXT?

As the nation emerges from the Great Recession, the West is poised to lead the way in economic and population growth. Both Colorado and Arizona expect to add a million people each decade until 2050, with other Western states growing at similar rates, if not in equal numbers. Although newcomers will tend to congregate in the region’s metropolitan areas—where the populations will also be older and more diverse—smaller, high-amenity communities will also experience significant growth. This growth will create demand for new housing, transportation and transit options, educational and economic opportunities, as well as water, energy, and other natural resources. These demands will, in turn, increase pressure on our governmental and policy institutions to help support this growth in a way that protects the quality of life that attracts people to the region in the first place.

The 2014 RMLUI Annual Land Use Conference will focus on how we can approach issues of growth as we come out of the Great Recession. What can we learn about the mistakes of the past to make sure that the next boom results in the right kind of growth? How will our master planned communities do things differently this time around? How will we build new communities and retrofit existing neighborhoods while ensuring access to transit, to jobs, to schools, and to outdoor recreation? How do we ensure that our new forms of development are equitable and ecologically responsible? What are the best ideas about how to make the next boom an opportunity to create enduring communities for the future? And how do we ensure that financing is available to support smarter growth?

ABOUT THE ROCKY MOUNTAIN LAND USE INSTITUTE

The Rocky Mountain Land Use Institute seeks to elevate the law, policy and practice of sustainable development in the West to promote nature-friendly, prosperous and equitable communities. Through innovative research, education and professional development programs and its renowned annual conference, the Institute trains and connects students and professionals across disciplines, sectors and regions to build the sustainable development field while creating new possibilities for the future of the West’s landscapes and livelihoods.

ABOUT THE STURM COLLEGE OF LAW

The University of Denver Sturm College of Law is a top 100 law school with nationally ranked programs in environmental and natural resources law, legal writing, clinical training, international law, trial advocacy and tax law. At the heart of the law school’s mission is the integration of skills and professional identity with a balanced curriculum. Our goal is to graduate practice-ready, client-focused students who understand and embrace the responsibilities of legal practice, both as a representative of the client and as a professional committed to improvement of the law and the community.
Hot Topics in Land Use Law

Credits available from this track:
AICP: 10.5 CM, 1.5 Law
CLE: 13.0 General

Koontz: A Big Deal or Business As Usual?
1.5 Hours (90 minutes)

This session will examine the US Supreme Court’s recent decision in Koontz v. St. John’s River Water Management District. The Court held that a land use permitting agency must show a direct and proportionate link between proposed monetary permit conditions and the activity subject to the permit. In dissent, Justice Kagan warned that the case would “work a revolution in land-use law,” while others see the case as a modest extension of existing law. This session will provide an overview of Koontz and assess the implications of the case’s outcome for planners, attorneys, and developers in the Mountain West.

Panelists:
Moderator:
Justin Pidot
Assistant Professor of Law, University of Denver Sturm College of Law
Denver, CO
Justin Pidot graduated with high honors from Wesleyan University before attending Stanford Law School, where he graduated with distinction and was editor in chief of the Stanford Environmental Law Journal. Pidot clerked for Judge Judith W. Rogers of the U.S. Court of Appeals for the District of Columbia Circuit. Prior to joining the University of Denver faculty, he was an appellate litigator at the Environment and Natural Resources Division of the U.S. Department of Justice, where he presented argument in more than a dozen federal appellate cases and acted as the staff attorney on two cases before the United States Supreme Court. Pidot also completed a fellowship at the Georgetown Environmental Law & Policy Institute.

Speakers:
Tom Macdonald
Director, Otten Johnson Robinson Neff + Ragonetti, PC
Denver, CO
J. Thomas Macdonald is a shareholder and director of his firm. He represents both local governments and developers in land use and constitutional litigation, and has had the opportunity to participate in a number of high profile cases involving impact and other fees, inverse condemnation and other land use matters. Mr. Macdonald has taught at numerous continuing legal education programs on land use issues and authored the chapter on Colorado law for the book Development Impact Fees in the Rocky Mountain Region, Second Edition, published by the Rocky Mountain Land Use Institute. Chambers USA recently ranked him as one of the top land use lawyers in Colorado.
Applying Koontz in a Real World Setting
1.5 Hours (90 minutes)

The US Supreme Court’s recent decision in Koontz v. St. John’s River Water Management District addresses how government can assess monetary exactions to pay for infrastructure or mitigate impacts of development as part of its permitting process. Many commentators have noted that this case will have more important practical consequences for local government planners than any land use case in decades. This session will examine the real-world application of the case for local governments and consider means of addressing its requirements.

Panelists:
Speakers:
Cameron Artigue
Attorney, Gammage & Burnham
Phoenix, AZ
Cameron Artigue specializes in solving hard problems. He has spent his entire career at Gammage & Burnham, and has handled over 100 appeals in state and federal courts. His experience and expertise span many of the firm’s practice areas: health care, administrative law, and land use litigation. Artigue has helped shape public policy through leading court decisions in constitutional law and government affairs. He is an Adjunct Professor of Law at the Sandra Day O’Connor College of Law at Arizona State University.

Frank Cassidy
Town Attorney, Town of Marana
Phoenix, Arizona
Frank Cassidy is the Marana Town Attorney and a Certified Real Estate Specialist. He has handled a wide range of land use, eminent domain, and public works construction matters since his 1982 graduation from the University of Arizona College of Law. Cassidy has practiced law in large and small private law firms and three local governments, and taught Land Use Law as an adjunct lecturer at the University of Arizona for 19 years. His wife Renée is a real estate agent, and they have three grown children.

Travis Parker
Planning Director, City of Lakewood, Co
Travis Parker was appointed Planning Director for Lakewood in August 2011. Since that time, he has led the update of the Lakewood zoning code and major planning efforts surrounding the West Corridor light rail. His previous experience includes over a fifteen years of planning at the city and county level in Virginia, Indiana, Iowa and the District of Columbia. Parker’s career has focused on land use planning...
with an emphasis on writing and interpreting zoning and he has been involved with the update of four
different zoning codes. He has a Masters of Public Administration from George Washington University a
degree in urban planning from Iowa State University.

The Right Things in the Wrong Places
1.5 Hours (90 minutes)

We have a rich history of building houses, businesses, and even entire communities in unsuitable places,
where the threat of fires, floods, and other foreseeable disasters pose staggering costs to the public.
Zoning can and should steer people away from dangerous locations, and the scope of the police power
is broad enough to allow government to limit efforts to rebuild once disaster strikes. This panel explores
zoning tools that can be used to prevent construction—or reconstruction—in the wrong places.

Panelists:
Moderator:
Orlando Delogu, Esq.
Emeritus Professor of Law, University of Maine School of Law
Portland, ME
Orlando E. Delogu, Esq., a Professor of Law at the University of Maine School of Law, teaches property
law, land use law, environmental law, water law, administrative law, and state and local government. He
is the author of over 30 articles and books, including a current land use law casebook and, with
Professor John Davidson, a two-volume treatise on federal environmental law. Professor Delogu has
been a consultant to the National Water Commission and the Association for the Study of Peak Oil, a
member of Maine’s Board of Environmental Protection, a Portland city councilor, and is presently a
member of the City of Portland Planning Board.

Speakers:
Christopher Duerksen, Esq.
Senior Counsel, Clarion Associates, LLC
Melbourne, FL
Chris Duerksen, Esq., is senior counsel at Clarion Associates, a national land use consulting firm. He
specializes in sustainable development code revisions and has worked on ground-breaking sustainable
the Rocky Mountain Land Use Institute, where he conceived the Model Sustainable Development Code
project. He has authored many land use books and articles, including Nature Friendly Communities and
Takings Law in Plain English. Duerksen is a Sonoran Institute board member and served on the
Fredericksburg, VA city council. Duerksen directed Denver’s Gateway/Stapleton Development Office
prior to joining Clarion. He has a law degree from the University of Chicago.

Julian Juergensmeyer
Ben F. Johnson Professor, Georgia State University School of Law
Atlanta, GA
In 2013-1014, Professor Juergensmeyer is celebrating his 49th year of teaching law. He currently serves
as Adjunct Professor of City and Regional Planning at Georgia State University's sister institution,
Georgia Institute of Technology and is also Professor of Law Emeritus of the University of Florida College
of Law. He has authored and co-authored more than 100 articles and books, including a treatise on
Land Use Planning and Development Regulation Law that is widely used by law and planning practitioners and frequently cited by courts, including the Supreme Court of the United States. Juergensmeyer is considered a pioneer in the development of infrastructure finance oriented regulations such as impact fees.

Dwight Merriam, FAICP  
Partner, Robinson & Cole, LLP  
Dwight Merriam, FAICP, is a land use lawyer with Robinson & Cole LLP in Hartford. He is a past president of AICP and former chair of the ABA's State & Local Government Law Section. He has a master’s degree from the University of North Carolina and a JD from Yale. Merriam teaches as an adjunct at the University of Connecticut Law School and Quinnipiac Law School. He has published nine books and 200 articles. Merriam served for 31 years on active and reserve duty as a Navy Surface Warfare Officer, including three tours in Vietnam and retiring with the rank of Captain in 1999.

Understanding and Navigating the Contemporary Fair Housing Challenge  
1.5 Hours (90 minutes)

Housing law and policy have changed dramatically since the Federal Fair Housing Act passed in 1968. Private landowners and government officials are under increasingly complex legal obligations to provide mixed housing options, and a changing U.S. economic and demographic landscape is challenging historical housing development patterns. Municipalities cannot check a box and say “we don’t create any barriers to fair housing.” This session will provide background on recent developments in fair housing law, current fair housing activity at the Supreme Court, and will offer planning and legal strategies for public officials and private individuals to minimize legal risks.

Panelists:  
Speakers:  
Brian Connolly  
Associate, Otten Johnson Robinson Neff & Ragonetti, PC  
Denver, CO  
Brian J. Connolly represents clients in land use matters and handles issues relating to zoning compliance, rezonings and other regulatory amendments, planned-unit developments, development agreements, and private covenants and restrictions. He also represents clients in land use litigation and assists clients in conducting real estate transactions. Prior to practicing law, Connolly was an urban planner in New York State. He writes and speaks frequently on land use issues, namely on the intersections between the First Amendment and zoning, and fair housing and zoning. Connolly holds a J.D., magna cum laude, from the University of Michigan Law School, as well as a Master of Regional Planning and B.S. in urban studies, both from Cornell University.

Donald Elliott, FAICP  
Director, Clarion Associates, LLC  
Denver, CO  
Don Elliott, FAICP, is a Director with Clarion Associates, a national consulting firm with offices in Denver, Fort Collins, and Chapel Hill; and affiliate offices in Chicago, Philadelphia, and Cincinnati. Mr. Elliott’s practice focuses on plan implementation, zoning, development regulations, and international urban
development. Prior to joining Clarion, Mr. Elliott was Project Director for the Denver Planning and Community Development Office. He has also advised numerous local governments in Russia on land use issues, served as Democracy and Governance Advisor for USAID in Uganda, and completed research projects on planning and slum upgrading issues in India. He is the author of *A Better Way to Zone* and co-author of *The Rules That Shape Urban Form*, and *The Citizens Guide to Planning*.

**Recent Land Use Developments in the Rocky Mountain West**

1.5 Hours (90 minutes)

Always engaging, the region's top experts in land use law provide detail and analysis of recent court decisions and legislative activities.

**Panelists:**

**Moderator:**
Doug Jorden  
Partner, Jorden Bischoff & Hiser, PLC  
Scottsdale, AZ

Douglas A. Jorden is a founding member of the Jorden Bischoff & Hiser law firm in Scottsdale, Arizona. His practice emphasizes land use and zoning, municipal law, environmental regulation, real estate transactions and Indian law. Jorden was Town Attorney for the Town of Paradise Valley, Arizona, was a Zoning Hearing Officer for the City of Phoenix, and is currently serving as a Hearing Officer for Maricopa County. He has served as Chairman of the City of Phoenix Environmental Quality Commission and Chairman of the State Bar of Arizona's Continuing Legal Education Committee. Jorden is admitted in Arizona, Arkansas, California, and Colorado, is the co-author of *Arizona Land Use Law*, and has lectured extensively on land use and environmental issues.

**Speakers:**

Cullen Battle  
Attorney, Fabian & Clendenin  
Salt Lake City, UT

Cullen Battle received his law degree from the University of Virginia, where he was an Editor of the *Virginia Journal of Natural Resources Law*. He has practiced at Fabian & Clendenin in Salt Lake City since 1981. He is a past chair of the Litigation Section of the Utah State Bar and currently serves on the Utah Supreme Court’s Advisory Committee on Civil Procedure. In 1999, he was appointed by President Clinton to the Utah Reclamation Mitigation and Conservation Commission, and has also served on the Utah Solid and Hazardous Waste Control Board and Salt Lake City’s Public Utilities Advisory Committee.

Anita Miller  
Attorney, Anita P. Miller, Attorney at Law, LLC  
Albuquerque, NM

Anita Miller recently retired as an Assistant City Attorney for the City of Albuquerque and has returned to a private land use law practice in New Mexico. She is an adjunct professor, teaching land use law, at the University of New Mexico School of Law.

Jeff Parker  
Partner, Hayes, Phillips, Hoffmann & Carberry, PC
Denver, CO
Jeff Parker is a partner at the law firm of Hayes, Phillips, Hoffmann & Carberry, PC, a Denver law firm specializing in representing local governments throughout Colorado. Parker serves as the City Attorney for the Cities of Manitou Springs and Victor, the Town Attorney for the Towns of Buena Vista and Calhan, the County Attorney for Morgan County, and general counsel for the Parker Water and Sanitation District and the Fremont Sanitation District. He also serves as special legal counsel to a variety of governmental entities throughout Colorado.

Marijuana: Colorado's Green Industry
1.5 Hours (90 minutes)

Whether a landlord, employer, property buyer, or resident of Colorado, the marijuana industry has had an impact on Coloradans. Attendees will learn how to address retailers, neighbors, tenants, employees and others engaged in the marijuana industry. This session will educate attendees on the law of retail establishments and home grows and the various land use tools available to address common issues like odor mitigation, hours of operation and fire safety.

Panelists:
Moderator:
Sam Kamin
Professor and Director, University of Denver Sturm College of Law Constitutional Rights and Remedies Program
Denver, CO
Holding both a J.D. and a Ph.D. from the University of California at Berkeley, Sam Kamin is active in the Law and Society Association and in the field of law and social science generally. Kamin’s research interests include criminal procedure, death penalty jurisprudence, federal courts, and constitutional remedies. He is the co-author of two books analyzing California’s Three Strikes and You’re Out Law and has published scholarly articles in the Virginia Law Review, The Indiana Law Journal, the Boston College Law Journal and Law and Contemporary Problems, among others.

Speakers:
Rachel Allen
Staff Attorney, Colorado Municipal League
Denver, CO
Rachel Allen joined the Colorado Municipal League (CML) in 2005 as a Legal Research Associate and has been a Staff Attorney since August 2006. She received her B.A. in political science from Mercer University and her J.D. from the University of Denver Sturm College of Law. Her work at the League consists of filing amicus curiae briefs when cities and towns have litigation on appeal, providing research and analysis for CML’s advocacy program, and responding to inquiries from elected officials and staff. Allen is a member of the Colorado Bar Association, Colorado Women’s Bar Association, William E. Doyle Inn of Court, and served on the Board of Directors for the Junior League of Denver.

Jeremy Németh
Chair and Associate Professor of Planning and Design, University of Colorado Denver
Denver, CO
Jeremy Németh is Chair and Associate Professor of Planning and Design at the University of Colorado Denver, where he also serves as Director of the Master of Urban Design program. Before entering academia, he worked in California for several years as a land planner. His research looks at how planners, designers and the public can help create urban environments that are more just, vibrant and inclusive. Németh has won several awards for excellence in teaching and research and his work has been cited in venues such as the New York Times, Associated Press and the Guardian (UK).

Form-Based Zoning Grows Up
1.5 Hours (90 minutes)

This session will review the 2012 APA PAS report on “The Rules that Shape Urban Form,” which evaluates how form-based zoning controls are being used around the U.S. and how well they are working. Six different form-based zoning codes will be reviewed to illustrate the wide range of application—all the way from very moderate injections of form-based controls into traditional zoning ordinances to the large city-wide mandatory code approved in Miami. In addition, this session will review the usefulness (or not) of various form-based controls in addressing other important challenges facing today’s planners. The session will review new legal tools and criteria used to allow flexibility in the application of form-based regulations and the basis and resolution of legal challenges filed in Miami.

Panelists:

Speakers:
Donald Elliott, FAICP
Director, Clarion Associates, LLC
Denver, CO
Don Elliott, FAICP, is a Director with Clarion Associates, a national consulting firm with offices in Denver, Fort Collins, and Chapel Hill; and affiliate offices in Chicago, Philadelphia, and Cincinnati. Mr. Elliott’s practice focuses on plan implementation, zoning, development regulations, and international urban development. Prior to joining Clarion, Mr. Elliott was Project Director for the Denver Planning and Community Development Office. He has also advised numerous local governments in Russia on land use issues, served as Democracy and Governance Advisor for USAID in Uganda, and completed research projects on planning and slum upgrading issues in India. He is the author of A Better Way to Zone and co-author of The Rules That Shape Urban Form, and The Citizens Guide to Planning.

Matt Goebel, AICP
Director, Clarion Associates, LLC
Denver, CO
Matthew Goebel is a planner and attorney in the Denver office of Clarion Associates. He works principally in the areas of planning and zoning, growth management, and historic preservation. His projects have included development codes and growth management plans for a variety of large and small jurisdictions around the country. He is co-author of The Rules that Shape Urban Form, published by the American Planning Association.