

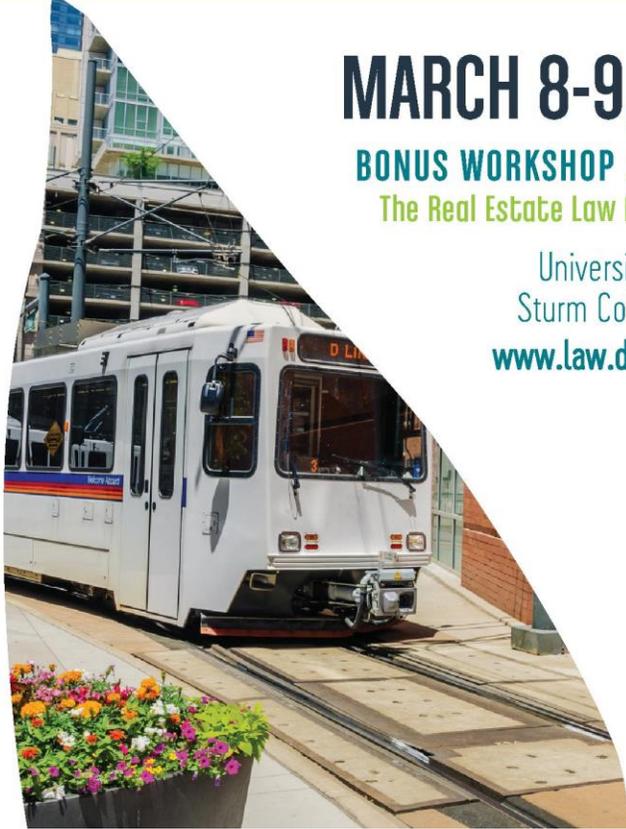


LEGAL DEVELOPMENTS

WESTERN PLACES / WESTERN SPACES

DISRUPTION, INNOVATION, AND PROGRESS:

PLANNING FOR AN UNCERTAIN FUTURE



MARCH 8-9, 2018

BONUS WORKSHOP / MARCH 7
The Real Estate Law For Planners

University of Denver
Sturm College of Law
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ROCKY MOUNTAIN
LAND USE INSTITUTE

 **UNIVERSITY of
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STURM COLLEGE OF LAW
125 YEARS OF LEGAL INNOVATION

WESTERN PLACES/WESTERN SPACES: DISRUPTION, INNOVATION, AND PROGRESS

How do we plan for the future when we don't know what it holds? This is a common dilemma for planners and land use practitioners everywhere. Despite the best-laid plans, new practices or technology can disrupt the entire process. The sharing economy—with the advent of Uber, Lyft, Airbnb, and others—has already made an impact on transportation and housing. Cities are exploring how to become smarter through the use of responsive infrastructure, but question how to integrate this model into the existing city-scape. And with fleets of driverless cars on the horizon, what will this mean for our mobility networks and parking structures?

Disruptive influences impact more than just cities. Landscape managers can now track livestock and grazing, map remote areas, and monitor plant and animal species using drones and GIS mapping. The rise of e-commerce is disrupting both big-box stores and Main Street shops. What additional impacts will drone delivery have on brick-and-mortar retail? And how can rural communities improve their communication and data networks so their residents can also benefit from the smart economy?

In addition to all the change being brought about by technology and innovation, communities also have to contend with the disruptions brought on by natural processes. How do communities embed resilience and adaptation in their long-range planning to address potential impacts caused by climate change, for example, including prolonged droughts, heat waves, and extreme weather events? What adaptive strategies can cities employ to protect public health and safety in the face of extreme weather? How do rural communities manage the risk of wildfire at the wildland-urban interface?

In a world full of disruptions, how do we build infrastructure and craft policies that not only meet our present-day needs, but also have the flexibility to adapt to future scenarios? These questions will help frame our discussions at the 2018 Western Places/Western Spaces conference.

LEGAL DEVELOPMENTS

This course addresses recent legal changes in land use development and regulation. These sessions discuss how these changes may impact future growth and development and the preservation of our land and natural resources.

BLOCKCHAIN: THE NEXT INNOVATION TO MAKE COMMUNITIES SMARTER AND SAFER

Against a backdrop of internet hacking, privacy breaches, and concerns about cybersecurity, local officials are increasingly moving towards the use of internet platforms and big data to create smart cities. Vance Brown, the CEO of the National Cybersecurity Center, will explain blockchain technology, its potential role in disrupting business as usual, and innovative applications that can make our communities smarter and safer.

SPEAKER:

Vance Brown

CEO, National Cybersecurity Center
Denver, CO

Vance Brown is the CEO of the National Cybersecurity Center. He also is Executive Chairman and Co-founder of Cherwell Software, rated in 2014 as one of the 101 fastest growing companies in North America. In 2015, Cherwell was recognized as the top software company in all of Colorado. Formerly, Mr. Brown was President and CEO of GoldMine Software, which at the time was rated as one of the top 100 software companies in the United States. Mr. Brown was named the 2014 EY Entrepreneur of the Year in technology, and in 2017 was named one of the "100 most intriguing entrepreneurs" by Goldman Sachs. He graduated summa cum laude and a member of Phi Beta Kappa from Wake Forest University, with degrees in Economics and Computer Science, and then from the University of North Carolina School of Law. Finishing on Law Review and Order of the Coif, Mr. Brown then mostly practiced law in the area of intellectual property.

OUTLINE:

Topics will include

- What is blockchain technology?
- How blockchain technology is being used in the business world
- What blockchain technology can do for government
- The role of blockchain technology in transactions (business, real estate, etc.)

CONSERVATION OPINIONS IN THE ROCKIES: TRUMP ERA DISRUPTION OR CONSISTENCY OVER EIGHT YEARS?

Does the Trump era represent fundamental changes in Rockies' region attitudes about natural amenities? Vast open spaces, mixes of public-private land ownership, and intense interest in clean environments help define the western states and their quality of life. This session will discuss eight years' of the Colorado College Conservation in the West Surveys that annually take the pulse of the Rockies, with results useful to media, governments and non-profits. A retrospective review will highlight complexities of rural-urban views in the face of political challenges. Results illuminate shared values and deep seated commitment to nature as the foundation of where we all live.

MODERATOR:

Walter Hecox

Faculty Director, Colorado College Rockies Project Conservation in the West Survey
Colorado Springs, CO

Walt Hecox is the founder of the State of the Rockies Project and served as Director from the project's genesis in 2004 until his retirement in 2014. Active as a Colorado College faculty member for 43 years, he managed and performed research for the Grand Canyon Trust; Colorado Department of Natural Resources Executive Director's Office; US Dept. of Energy; World Bank; U.S. Agency for International Development. He serves as Interim Faculty Director for the Conservation Survey. He is Professor Emeritus of Economics in the Environmental Program at Colorado College; among other award was named the recipient of the 2013 Stuart P. Dodge Award for lifetime achievement in conservation by the Palmer Land Trust. Outside of Colorado College, Walt also works closely with the El Pomar Foundation's Pikes Peak Heritage Series. He will act as moderator, introducing the topic and panel, and providing context for the importance of active and aggressive polling about conservation among the Rockies states as we enter the second year of the Trump Administration.

SPEAKERS:

Lori Weigel

Partner, Public Opinion Strategies
Golden, CO

Lori Weigel, a Partner with Public Opinion Strategies' Colorado office has directed research efforts for hundreds of political and public affairs campaigns throughout the country, including polling on behalf of presidential campaigns in four of the last five presidential elections. Over the last 17 years, Weigel has been instrumental in the successful election efforts on behalf of dozens of common sense judges and Attorneys General across the country. Her political work today is primarily focused on polling for and against ballot measures. She has polled on behalf of the winning side of statewide ballot measure campaigns in over a dozen states, and local measures from Washington to New Jersey and Florida to Wyoming. Her experience polling on policy issues extends to such varied areas as health care, energy, land use, food and alcohol regulation, recreation, technology, tort reform/litigation, corporate image, and crisis management.

Greg Zimmerman

Deputy Director, Center for Western Priorities
Denver, CO

Greg Zimmerman is the Deputy Director at the Center for Western Priorities (CWP), first joining the organization in 2012. CWP is a Denver-based public lands conservation policy organization, focused on protected lands, outdoor recreation, and responsible energy development. Greg has worked on Western land and water issues for over a decade with the State of the Rockies Project, the Colorado Watershed Assembly, the Nature Conservancy, and now CWP. He received his Master's in Environmental Management from the Yale School of Forestry and Environmental Studies focusing on conservation policy opportunities to build resilient Western communities, an area of interest he's brought to the job at the Center for Western Priorities.

Corina McKendry

Associate Director, Colorado College State of the Rockies Project
Colorado Springs, CO

Corina McKendry is associate professor of political science at Colorado College. Corina received her PhD in Politics from the University of California Santa Cruz in 2011 and is the author of the book *Greening Post-Industrial Cities: Growth, Equity, and Environmental Governance*, as well as numerous articles on urban environmentalism, the politics of climate change, and social equity. She is currently serving as the associate director of the State of the Rockies project and will be taking over as director in fall 2018.

OUTLINE:

1. Conservation in a Rockies Region Context
 - a. Sketch of the region's mix of public-private lands, natural amenities
 - b. Management Actions and Challenges concerning natural amenities
 - c. Tracking key regional issues over time: Colorado College State of the Rockies Project
 - d. Taking the Pulse of the region: Annual Conservation in the West Surveys
 - e. Heightened attention towards government role in resource management under Trump Administration
2. Surveys and Public Opinion Polling as tools to understand, strategize regional issues and management
 - a. Strategy of sharing conservative-liberal perspectives to establish legitimacy of results
 - b. Broad national experience evaluating opinions on politics, political issues
 - c. Receptive audiences for solid data over 8 years about Rockies conservation
 - d. Key results illuminating opinions before and after the Nov. 2016 elections:
3. Is there an identifiable base around the Rockies for major changes in resource ownership and management?
4. Strategies for informing and mobilizing the public: case example of Center for Western Priorities
 - a. Objectives in mobilizing communication, policy formulation and active challenges
 - b. Organization effort required: staff, locations, uses of media
 - c. Demonstration of CWP uses of Conservation in the West Survey results
 - d. Broadening communication to interactive platforms: examples of web uses and partnerships
5. Audience Q&A

LEARNING OBJECTIVES:

- Status of unique conservation opinion polling in the Rockies, seen as long neglected "fly-over" area but possessing the crown jewels of public lands and now the focus of 8 years of consistent evaluation
- Key insights from the Rockies region survey data on conservation values cross-tabulated by demographics, political persuasion and outdoors activities and aspirations
- Overlap of conservation organizations all seeking to inform the region, increase public awareness, and assist the media by effective use of polling data
- Examples of impacts survey data have on the political process, media coverage, identification of the shared-values across the American West over nature and how /whether it should be managed and preserved.

ADDITIONAL INFORMATION:

The Colorado College State of the Rockies Project's annual Conservation in the West Survey is now approaching an 8th survey in Jan. 2018. We have become for many the "survey of record" for conservation opinions in/about the Rockies. Here is a link to our basic web site:

<https://www.coloradocollege.edu/other/stateoftherockies/conservationinthewest/>

Our proposed panel focuses on conservation opinions in the Rockies before and entering the Trump era. We use two nationally renowned polling companies, one leaning republican, one democratic, and we have established broad international, national and regional press coverage as well as opportunities to brief some in Congress, non-profits, and environment/conservation national meetings.

RECENT LAND USE DECISIONS IN THE ROCKY MOUNTAIN WEST

Hear from the region's top experts, discussing trending cases of significance from all levels of the federal and state court system involving the latest in land use and zoning law as well as an opportunity to discuss areas ripe for further court or legislative action. Learn how recent case law may impact planning ordinances, procedures, and general plans.

MODERATOR:

Jason Morris

Partner, Withey Morris, PLC
Phoenix, AZ

Jason Morris is a founding partner of Withey Morris, PLC. Experienced and effective, his dynamic presentations at public hearings on behalf of his clients prove that an attorney can be both personable and tenacious. While attending the University of Arizona College of Law, Mr. Morris was the Managing Editor of the Arizona Law Journal of International & Comparative Law. He also spent time as a congressional staff member in Washington, D.C. Throughout his career, Mr. Morris's practice has been exclusively in land use, government relations, zoning, and administrative law. His expertise has been critical to state legislative efforts surrounding land use over the past two decades and his cases include many of the area's most significant and notable developments. Mr. Morris's client list includes several national homebuilders, master plan developers, commercial-industrial land owners, national retailers, and Fortune 100 companies. He spends significant time giving back to the community by way of his involvement as State President of the Alliance of Boys & Girls Clubs as well as serving as the Mayor's representative to the City of Phoenix Infill Advisory Board, and the Chairman's appointment to the Maricopa County Board of Adjustment.

SPEAKERS:

Jeff Parker

Partner, Hoffmann, Parker, Wilson & Carberry, PC
Denver, CO

Jefferson Parker is a director at the firm of Hoffmann, Parker, Wilson & Carberry, P.C. He specializes in representing local governments, including municipalities, counties, and special districts, in a variety of matters, including land use issues.

David Foster

Partner, Foster Graham Milstein & Calisher, LLP
Denver, CO

David Foster is co-managing partner of Foster Graham Milstein & Calisher, LLP. Originally founded in 1999, FGMC was quickly recognized as one of Denver's "up and coming" law firms by providing effective and innovative legal representation focused on the achievement of client goals. Mr. Foster's practice is adept at balancing public and private interests and has been achieving serious results for his clients for nearly 20 years by consistently finding a better way to do the deal—better in terms of creativity, efficiency and the ability to bring parties with seemingly disparate interests to common ground. Mr. Foster earned a BA from the University of Colorado, Boulder. He earned his JD at the University of Denver and then went on to earn his MPA from the University of Colorado, Denver.

OUTLINE:

1. Update on recent legislation
 - a. Arizona
 - b. New Mexico
 - c. Colorado
 - d. Utah
 - e. Others

2. Update on recent case law
 - a. Arizona
 - b. New Mexico
 - c. Colorado
 - d. Utah
 - e. Others
3. Learn what is happening in other states
4. Q&A

LEARNING OBJECTIVES:

- Participants will learn about land use issues in Arizona.
- Participants will learn about land use issues in New Mexico.
- Participants will learn about land use issues in Colorado.
- Participants will learn about land use issues in Utah.

REGULATING AIR QUALITY AROUND ENERGY DEVELOPMENT

This session will examine the authority of local governments to address air quality concerns resulting from oil and gas development. From monitoring programs at the local level to regulations at the state level, much is being done to protect air quality around energy development projects.

MODERATOR:

Matt Sura

Attorney, Law Office of Matthew Sura
Boulder, CO

Matt Sura is an attorney specializing in the representation of land owners, mineral owners, communities, and local governments in their negotiations and legal disputes with the oil and gas industry. Prior to becoming an attorney, Matt worked for environmental and landowner protections and oil and gas policy reform for twelve years while he was executive director of Western Colorado Congress out of Grand Junction, Colorado. Matt recently served as a local government representative on Governor Hickenlooper's Oil and Gas Task Force. Matt and his family live in Boulder, Colorado.

SPEAKERS:

Morgan Hill

Environmental Health Specialist, Garfield County
Rifle, CO

Morgan Hill is the program manager of the Air Quality program for Garfield County, and manages contracts and supplies, coordinates educational events, and interacts with the media. She provides technical support for air quality monitoring field technicians, including collection of field samples and equipment checks and maintenance. Ms. Hill is responsible for project management of the Radon Program involving management of funds and distribution of radon resources. She assists residents of the county and other customers with Environmental Health Concerns, and works with other state and local officials and the private sector to facilitate environmental health activities. Ms. Hill develops Source Water Protection Plans and network with other water quality protection groups, and reviews land use applications from the Garfield County Building and Planning Department and provide comments regarding Environmental Health Impacts.

Elizabeth Paranhos

Attorney, Delone Law. Inc.
Boulder, CO

Elizabeth Paranhos is a climate change and clean air expert. As a consultant for the Environmental Defense Fund, Paranhos has successfully lobbied for state, federal and international clean air and climate policies to reduce greenhouse gas and other air pollutant emissions from oil and natural gas activities. She assisted Boulder and Broomfield counties in Colorado to develop regulations to reduce impacts to water and air resources from local oil and gas activities and served as an expert witness on regulations for the oil and gas industry before the New Mexico Environmental Appeals Board. Paranhos is an attorney at Delone Law and cofounder of Energy Innovation Partners. She is also the co-author of three major studies on the natural gas sector for the Department of Energy. The first focused on the regulatory framework governing unconventional natural gas development. The second focused on the regulatory framework for controlling methane emissions across the natural gas supply chain. The third focused on the extent to which the oil and gas industry is adopting practices characteristic of highly reliable organizations. Paranhos received a J.D. from New York University School of Law and a B.S. in Political Science from Vassar College.

Gabrielle Pétron

National Oceanic and Atmospheric Administration
Boulder, CO

Gabrielle Pétron is an associate scientist at the National Oceanic and Atmospheric Administration's Global Monitoring Division. She studied earth sciences at Ecole Normale d'Ulm in Paris and earned a Ph.D. degree in

atmospheric sciences from the Pierre and Marie Curie University in Paris in 2003. Since 2005, she has been making atmospheric measurements to study natural and anthropogenic emissions of air pollutants at NOAA and the University of Colorado Boulder.

OUTLINE:

1. Introduction of topic and panelists
2. Air quality concerns around energy development
 - a. Types of emissions and impacts on human health
3. Garfield County air quality monitoring
4. Broomfield County regulations for energy development
5. State of Colorado air quality regulations around energy development
6. Wrap Up, Q&A

LEARNING OBJECTIVES:

- Understanding of how air quality is impacted by energy development and how it impacts public health
- Learn about Garfield County's approach to working with energy development companies and their communities on public health.
- Learn about the approach of Broomfield County to regulate energy development.
- Learn about state regulations for air quality and public health.

AUDIENCE PARTICIPATION:

Time will be allowed for audience Q&A.

RELEVANT PARCEL ANALYSIS AND MURR: UNDERSTANDING THE SUPREME COURT'S LATEST TAKINGS CASE

In 2017, the Supreme Court is set to decide *Murr v. Wisconsin*, a closely-watched case that will bring new clarity to one of the more vexing questions in takings law: what is the relevant “denominator,” or parcel of land, in determining whether a taking has occurred? This session will provide background on regulatory takings law, review the Supreme Court’s decision in *Murr*, and provide practical advice for planners seeking to avoid takings litigation.

MODERATOR:

Brian Connolly

Attorney, Otten Johnson
Denver, CO

Brian Connolly represents public- and private-sector clients in matters relating to zoning, planning, development entitlements and other complex regulatory issues. Brian’s practice encompasses a broad range of land use matters including zoning compliance, rezonings and other regulatory amendments, planned-unit developments, development agreements, private covenants and restrictions, land use and zoning litigation, initiatives and referenda associated with land use approvals, and real estate transactions. Brian additionally specializes in the First Amendment and land use issues associated with outdoor sign and advertising regulation, and fair housing matters in local planning and zoning.

SPEAKERS:

Don Elliott

Senior Consultant, Clarion Associates
Denver, CO

Don Elliott is a Director with Clarion Associates, a national consulting firm with offices in Denver 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. He has served as project manager for major zoning reform efforts in Detroit, Philadelphia, Indianapolis, and Albuquerque, among others. 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, completed research projects on planning and slum upgrading issues in India, and drafted land use regulations for the city of Ulaanbaatar, Mongolia. He is the author of *A Better Way to Zone* (Island Press, 2008), and co-author of *The Rules That Shape Urban Form* (APA 2012) and *The Citizens Guide to Planning* (APA 2009). He also serves as a member of the Denver Planning Board. Mr. Elliott holds a Master’s Degree in City and Regional Planning from the John F. Kennedy School of Government at Harvard University, a Juris Doctor degree from Harvard Law School, and a Bachelor of Science Degree in Urban Planning and Policy Analysis from Yale University.

Erin Clark

Attorney and Consultant, Erin F Clark LLC
Denver, CO

Erin Clark is a real estate attorney and land use consultant with a solo practice in Denver and Boulder. She is committed to seeing development of thoughtful and sustainable urban infill projects that promote walkability and community cohesion. A Denver native, Erin has worked in the fields of planning and development since 2001, starting with a role in real estate and affordable housing at the Lowry Redevelopment Authority. She later spent five years in the City of Pasadena, CA, as a planner in both long-range planning and economic development where she participated in the drafting and adoption of a citywide Recreation & Parks Master Plan. She also oversaw large commercial and institutional development projects, including environmental review for renovation of the Rose Bowl stadium. In her law and consulting practice, Erin advises developers on purchase and sale agreements, commercial leases, construction loans, and municipal entitlements. She also works with individuals in landlord-tenant disputes and property transactions. Erin holds a bachelor’s degree in sociology

from Brown University, a master's degree in urban planning from the University of Southern California, and a law degree from the University of Wisconsin-Madison.

OUTLINE:

1. Introduction
2. Overview of Takings Law
 - a. Condemnation, Inverse Condemnation, and Regulatory Takings
 - b. Forms of a regulatory taking: physical occupation of property, categorical taking, and a partial regulatory taking
 - c. Relevant parcel analysis in a partial regulatory taking case: why is it important?
3. Murr v. Wisconsin
 - a. Facts
 - b. Procedural posture
 - c. Outcome
4. Practical implications of Murr for local land use planners
5. Questions and answers

LEARNING OBJECTIVES:

- A general background on takings law, including major U.S. Supreme Court cases and a basic understanding of what constitutes a regulatory taking.
- The facts and procedural posture of the case of Murr v. Wisconsin.
- How the outcome in Murr will affect land use planners' practice, and how land use planners can protect their communities from litigation regarding regulatory takings.