



WESTERN PLACES

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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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.

FUNDAMENTALS OF REAL ESTATE LAW

This course is a recording of a full-day workshop and provides an introduction to how real estate transactions work, from basic property law and covenants to the role of government and planners in the transactions. A team of panelists cover a range of topics designed to give both planners and lawyers a strong understanding of basic real estate law.

PROPERTY LAW BASICS

- Topics Included:**
1. Possessory interests in land
 2. Non-possessory interests in land
 3. Conveyancing: types of deeds and grants

Speakers: Keirstin Beck
Cory Rutz, Otten Johnson Robinson Neff + Ragonetti
Evan Seeman, Robinson + Cole

COVENANTS & SERVITUDES

- Topics Included:**
1. Types of easements (access, conservation, exclusive vs. nonexclusive)
 2. Affirmative and restrictive covenants.
 3. Profits (mineral rights)

Speakers: Chris Pacetti, Ken Caryl Ranch Master Association
John Sullivan, Sullivan Green Seavy

THE PLANNER'S ROLE IN REAL ESTATE TRANSACTIONS

- Topics Included:**
1. Master plans
 2. Zoning
 3. Environment & transportation planning

Speakers: Steve Ferris, Real Estate Garage
Jason Morris, Withey Morris

GOVERNMENT INTERESTS IN LAND

- Topics Included:**
1. City roles involved with land use (assessor, clerk, parks department, development services)
 2. Taxes and financing
 3. Public property

Speakers: Evan Seeman, Robinson + Cole
David Silverman, Ancel Glink

DRAFTING & NEGOTIATING THE PURCHASE AND SALE AGREEMENTS

- Topics Included:**
1. What is included (closing dates, legal parties, legal description, etc.)
 2. Legal descriptions
 3. Conditional clauses
 4. Financial terms

Speakers: David Silverman, Ancel Glick
Brian Smith, Robinson + Cole

TITLE BASICS

- Topics Included:**
1. Ownership (prior claims and exclusivity)
 2. Property rights
 3. Applications and searches

Speakers: Amanda Greenberg, Otten Johnson Robinson Neff + Ragonetti
David Knapp, Land Title

ENVIRONMENTAL ISSUES IN REAL ESTATE TRANSACTIONS

- Topics Included:**
1. What issues can be found by an environmental assessment
 2. Liability and how to manage known problems

Speaker: Polly Jessen, Kaplan Kirsch

SPEAKER BIOS

Keirstin Beck, Foster Graham Milstein & Calisher

Keirstin Beck has practiced commercial real estate and land use law for almost two decades in Colorado. During this time, Ms. Beck has worked with over 30 local governments to establish countless public/private partnerships that advance local economic development policies and result in tangible economic community benefits. She has substantial transactional experience by virtue of assisting her clients in types of development/redevelopment projects including acquisition/disposition, leasing, partnership agreements, annexation, development and vested property rights agreements and financing. Her primary expertise is identifying, leveraging and capitalizing on alternative financing options in commercial real estate transactions through the use of often unknown/underutilized tax credits/deductions, tax increment financing (TIF), public improvement fees (PIF), Property Assessed Clean Energy (PACE) New Markets Tax Credits (NMTC), and other forms of public assistance, tax credits and economic incentives. Her strong relationship with local governments' community development and economic development departments has translated into positive benefits for both her clients and the applicable local community. In addition, Ms. Beck assisted in the development and implementation of the Colorado PACE program.

Brian Connolly, Otten Johnson Robinson Neff + Ragonetti

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 has received national recognition for his work on First Amendment issues associated with local government regulation, including signs and outdoor advertising, and his work on fair housing matters in local planning and zoning, particularly in the area of housing for people with disabilities. Prior to practicing law, Brian was an urban planner in the planning department of Westchester County, New York. Brian also worked in planning capacities at the federal and municipal government levels.

Steve Ferris, Real Estate Garage

Steve Ferris's firm, the Real Estate Garage (<http://realestategarage.net>), focuses on maximizing the production of real estate plans, projects, and approvals. He specializes in land planning, feasibility, entitlements, and zoning matters, with a focus on large, complex, projects, where he captures hidden value and regulatory opportunities. From 2013-2015 he served as a Mayoral Appointee and Director of Development Services for the City of Denver, where he oversaw a staff of 140 processing entitlements and resolving building and zoning code compliance. He has also engaged in \$1B plus of feasibility and development management work in the private sector and served as Director of Planning and Town Manager for the Town of Telluride, CO. Steve holds degrees in Civil Engineering from Marquette University, Urban Planning from Cornell University, and an MBA from the University of Denver.

Amanda Smith Greenberg, Otten Johnson Robinson Neff + Ragonetti

Amanda Smith Greenberg is a commercial real estate and land use planning attorney whose clients include local and national developers, owners, investors and tenants. Amanda represents clients in complex purchase, sale, and development transactions, including mixed-use projects, office buildings, hotels, shopping centers, and sports and entertainment venues. She often advises clients on title and survey matters, entitlements issues, and land use and development approvals, such as easements and rights-of-way, annexation, zoning, subdivision and development agreements. Amanda serves as Colorado counsel for national retailers who acquire and develop commercial pad sites. Amanda also represents both landlords and tenants in large commercial lease deals, including office, shopping center, mixed-use recreational and industrial properties. Amanda is an advisor committed to understanding her clients' business needs and goals.

Polly Jessen, Kaplan Kirsch Rockwell

Polly Jessen's practice focuses on the range of contaminated property redevelopment issues, including environmental due diligence, negotiating purchase and sale agreements, cleanup plans, development agreements and environmental insurance policies, severed mineral interests, and professional service and construction contracting. Polly advises and represents clients before regulatory agencies regarding remedy selection, administrative orders, cleanup standards, institutional controls, redevelopment, and

community relations activities under voluntary cleanup agreements and regulatory orders. She has drafted ordinances governing solid waste management and development standards for areas of statewide interest. Polly also has drafted comments to regulatory agencies regarding wetlands permits and endangered species issues, and has prepared briefs and other pleadings in environmental and natural resource litigation and mediation proceedings. Polly's clients include municipalities and quasi-governmental entities, as well as private developers, lenders, and other private entities involved in complex remediation and redevelopment projects. She speaks and publishes frequently on contaminated property redevelopment issues and environmental and land use issues associated with severed mineral interests.

David Knapp, Land Title Guarantee Company

An expert in the title industry, David Knapp has over 31 years of title experience with 27 of those years in the commercial segment. Mr. Knapp served as Land Title Guarantee's Chief Title Officer and was promoted to Commercial Title Manager in 2013. He has extensive knowledge of title transactions and has an ability to work with our policy underwriters to find solutions to complicated title issues. Mr. Knapp has been instrumental in the closing of many major projects around the metro area including Sports Authority Field at Mile High, the Union Station Redevelopment, Streets at Southglenn Shopping Center, as well as many HUD financing transactions.

Jason Morris, Withey Morris

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, Jason was the Managing Editor of the Arizona Law Journal of International & Comparative Law. Jason also spent time as a congressional staff member in Washington, D.C. Throughout his career, his practice has been exclusively in land use, planning, zoning, and administrative law. His experience in the field includes all levels of entitlement throughout the state. In addition, he is a frequent guest lecturer and expert participating in industry roundtables, media appearances and academic panels. 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. His client list includes several national homebuilders, master plan developers, commercial-industrial land owners, national retailers, and Fortune 100 companies. Jason 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.

Chris Pacetti, Ken Caryl Ranch Master Association

Chris Pacetti, PCAM, has been the Executive Director of the Ken-Caryl Ranch Master Association for the past 25 years and a member of the Colorado Legislative Action Committee since the early 90's. He has served two terms on the RMC Board of Directors including one year as the Chairman of the Board.

Cory Rutz, Otten Johnson Robinson Neff + Ragonetti

Cory represents property owners and developers in the acquisition and entitlement of commercial, residential and industrial projects. Her practice includes assisting clients with local government approval of annexations, subdivisions, rezonings and development agreements, as well as private matters such as covenants and restrictions, easements and construction contracts. While earning her joint law and planning degrees, Cory interned with a national planning and zoning consulting firm, the US Department of Housing and Urban Development's Office of Fair Housing and Equal Opportunity, Denver Water, and the Western Water Policy Program at the University of Colorado. Before starting law school, Cory worked as a resin engineer for a global supplier of paints, coatings, and other chemicals.

Evan Seeman, Robinson + Cole

Evan Seeman is a member of Robinson & Cole's Real Estate + Development Group in Hartford, Connecticut. Mr. Seeman concentrates his practice in land use and zoning and real property litigation. He represents developers, landowners, municipalities, corporations, and advocacy groups. Mr. Seeman serves as the Chair Elect of the Planning and Law Division of the American Planning Association. Mr. Seeman defends municipalities nationwide in cases involving the Religious Land Use and Institutionalized Persons Act (RLUIPA), and is a contributing author for the RLUIPA Defense blog (www.rluipa-defense.com). He represents property owners in eminent domain disputes, and advises clients in matters involving regulatory takings, the Fair Housing Act, First Amendment, equal protection, and due process issues, easements, restrictive covenants, and quiet title actions, and most other real property disputes. He also advises clients on meeting requirements for land development and coastal management development, and has significant experience in administrative appeals related to land use permitting issues.

David Silverman, Ancel Glink

David S. Silverman is a partner with Ancel Glink in Chicago, specializing in local government, land use, and economic development matters. Prior to his career as an attorney, Mr. Silverman was an urban planning and economic development consultant. He is a frequent writer and speaker on a wide variety of land use and economic development issues. Mr. Silverman is a member of the American Institute of Certified Planners, and the honorary society for advancement of land economics, Lambda Alpha International (Ely

Chapter). He is co-chair of Ancel Glink's Zoning and Land Use Group and co-editor of the group's e-newsletter, In the Zone. He also serves as moderator for the Zoning and Land Use Group's Twitter site, @AncelGlinkLand (<https://twitter.com/#!/AncelGlinkLand>).

John Sullivan, Sullivan Green Seavy

John T. Sullivan earned his law degree from the University of Colorado School of Law in 1987. Before co-founding Sullivan Green Seavy, he worked for two Denver law firms and as a sole practitioner. Mr. Sullivan has represented individuals, local and national corporations, and government agencies in litigation involving land use, real estate, business, commercial, bankruptcy, and environmental law. Mr. Sullivan has tried cases in state and federal courts, bankruptcy courts, and represented clients in arbitrations and administrative proceedings. Mr. Sullivan's courtroom experience includes cases involving contract and lease disputes, easement disputes, probate matters, disputes among small business owners, claims for contamination of land, trespass, adverse possession, and quiet title and lien foreclosures. He has also prosecuted and defended parties in many different types of proceedings in bankruptcy courts, represented county governments in actions involving land use regulations, and represented the FDIC, FSLIC and RTC in real estate litigation arising in bank receiverships.