

# SCHEDULE OF EVENTS

## Thursday, October 4, 2018

- 6:30 pm**      **RECEPTION**  
President's Gallery, Wren Building  
*(please note the Wren Building has limited accessibility for people with physical disabilities)*
- 7:30 pm**      **DINNER AND PRESENTATION OF THE 2018 BRIGHAM-KANNER PRIZE**  
Great Hall, Wren Building

## Friday, October 5, 2018

- 8:30 am**      **REGISTRATION AND CONTINENTAL BREAKFAST**  
William & Mary Law School
- 9:00 am – 10:30 am**      **Panel 1: *The Federalism Dimension of Constitutional Property: A Tribute to Sterk***

Courts and commentators have for years agreed that state law defines property and thus that constitutional protection of property depends on the content of a particular state's law. A number of recent Supreme Court decisions have, in the views of some, posed a serious risk to this federalism dimension of constitutional property. The work of Stewart Sterk has called upon scholars to pay more attention to this dimension. Using Sterk's work as a springboard, Panel 1 will discuss the role of federalism in takings jurisprudence.

*Opening Remarks, Stewart E. Sterk, H. Bert and Ruth Mack Professor of Real Estate Law; Director, Center for Real Estate Law & Policy at the Benjamin Cardozo School of Law of Yeshiva University*

### Panelists

Michael M. Berger, Partner, Manatt, Phelps & Phillips, LLP, Los Angeles, California

Jim Krier, Earl Warren DeLano Professor of Law, University of Michigan Law School

Maureen E. Brady, Associate Professor of Law, University of Virginia Law School

Thomas W. Merrill, Charles Evans Hughes Professor of Law, Columbia Law School

### Moderator

Lynda L. Butler, Chancellor Professor of Law and Director, Property Rights Project, William & Mary Law School

**10:30 am – 10:45 am**      **Networking Break**

**10:45 am – 12:00 noon**      **Panel 2: *Background Principles of Common Law and Constitutional Property***

Even since *Lucas v. South Carolina Coastal Council* announced the background principles exception to the categorical taking for economic loss, courts and commentators have struggled to identify and define those principles. What doctrines of nuisance law are background principles? How do custom, the public trust doctrine, and other public rights theories fit into the categorical taking exception? Panel 2 will

discuss how courts and commentators have addressed these and other related issues.

#### **Panelists**

David L. Callies, FIACP, Benjamin A. Kudo Professor of Law, William S. Richardson School of Law, University of Hawai‘i at Mānoa

Mark F. (Thor) Hearne II, Esq., Partner, Arent Fox LLP Law Firm, St. Louis, Missouri

Erin Ryan, Elizabeth C. & Clyde W. Atkinson Professor of Law, Florida State University College of Law

Christina M. Martin, Attorney, Pacific Legal Foundation, Palm Beach Gardens, Florida

#### **Moderator**

Stephen Clarke, Waldo & Lyle, P.C., Norfolk, Virginia

**12:15 pm – 1:15 pm      Lunch Roundtable:  
Other Emerging Issues  
in Constitutional  
Protection of Property**

#### **Panelists**

James W. Ely Jr., Milton R. Underwood Professor of Law, Emeritus, and Professor of History, Emeritus, Vanderbilt University

Christina M. Martin, Attorney, Pacific Legal Foundation, Palm Beach Gardens, Florida

Robert H. Thomas, Director, Damon Key Leong Kupchak Hastert; Joseph T. Waldo Visiting Chair in Property Rights Law at William & Mary Law School (Fall 2018)

#### **Moderator**

Joseph T. Waldo, Partner & President, Waldo & Lyle, P.C., Norfolk, Virginia

**1:30 pm –  
2:45 pm**

#### **Panel 3: *Property and Social Justice***

Property’s role in promoting or impeding social justice is much debated. Some commentators maintain that private property actually contributes to inequality and an unjust society. Others argue that private property is the key to stabilizing economic systems, ending wars, and addressing poverty. Panel 3 will explore issues related to this debate. Topics may include the link between property rights and social cohesion/political stability and the role of the power of eminent domain in addressing social justice issues.

#### **Panelists**

Carol M. Rose, Gordon Bradford Tweedy Professor of Law and Organization, Emerita, Yale Law School; and Ashby Lohse Professor of Water and Natural Resource Law, Emerita, University of Arizona Law College

Luis Gallardo-Rivera, Co-director for the Center for Habitat Reconstruction, Puerto Rico

Vicki L. Been, Boxer Family Professor of Law, New York University School of Law

David A. Super, Professor of Law, Georgetown Law School

#### **Moderator**

Andrew Brigham, Attorney, Brigham Property Rights Law Firm, Jacksonville, Florida

**2:45 pm – 3:00 pm      Networking Break**

**3:00 pm –  
4:15 pm**

**Panel 4: *The  
Constitutionality of  
Land Use Exactions***

Exactions play an important role in government efforts to address various environmental and social costs resulting from private land use. Since the Court's decision in *Koontz v. St. Johns River Water Management District*, however, the constitutional law principles governing exactions have become murky and confusing. Under what circumstances may a local government law-fully impose conditions on a land use applicant in exchange for approval? What type of evidence is needed to successfully defend or challenge an exaction? Panel 4 will ex-amine the meaning and legal implications of *Koontz* and other court decisions on the validity of exactions.

**Panelists**

Amy Brigham Boulris, Shareholder,  
Gunster Law Firm, Miami, Florida

John Echeverria, Professor of Law,  
Vermont Law School

James S. Burling, Vice President for  
Litigation, Pacific Legal Foundation,  
Sacramento, California

Timothy M. Mulvaney, Professor of  
Law and Associate Dean for Faculty  
Research and Development, Texas  
A&M University School of Law

**Moderator**

James Y. Stern, Associate Professor,  
William & Mary Law School

**4:15 pm – RECEPTION  
4:45 pm**

\*Schedule is subject to change.

For more information, please contact Ali  
Trivette at [mtrivette@wm.edu](mailto:mtrivette@wm.edu) or call  
(757) 221-7466.