

2020 PROPERTY RIGHTS CONFERENCE PROGRAM PANELS AND PANELISTS

Panel 1: Where Theory Meets Practice: A Tribute to Henry E. Smith

From a traditional land-centric system to the bundle of sticks approach recognizing distinct sticks as interests in property and the more recent systems view focusing on the architecture of property, theorists have long debated how to justify and conceptualize property. The theory taken matters greatly to the meaning of property rights and to how attorneys practice in this field. Rules developed under a traditional system may lose their relevance under a theory disaggregating and commodifying sticks in the bundle, while a theory focusing on the architecture of property may renew interest in doctrine and concepts once thought to be outdated. As one of the nation's leading property theorists, Henry Smith has reinvigorated debate about the concepts, policies, and norms shaping the institution of property. Using Smith's work as a springboard, Panel 1 will discuss the ways theoretical approaches affect property rights and interact with the practice of property law.

Opening Remarks: Henry E. Smith, Fessenden Professor of Law and Director of the Project on the Foundations of Private Law, Harvard Law School

Panelists:

Robert C. Ellickson, Walter E. Meyer Professor Emeritus of Property and Urban Law and Professorial Lecturer in Law, Yale Law School

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

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

Steve Weise, Partner, Proskauer

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

Panel 2: The Housing Crisis

An increasing number of people in the United States are rent-burdened, facing foreclosure, or homeless. The alarming growth in the low-income and homeless populations has been compounded by Covid-19 and the economic consequences of the pandemic. Panel 2 will discuss the nature and scope of the housing crisis, focusing on legal, moral, and policy issues raised by the crisis. In addition to discussing causes and impacts of the crisis, the panel will consider different strategies and proposals for addressing the crisis. Possible topics include deregulatory strategies like zoning abolition and developer mandates, eviction laws and processes, criminalization, and inclusionary zoning.

Panelists:

Lisa T. Alexander, Professor of Law and Co-Director, Program in Real Estate and Community Development Law, Texas A&M School of Law

Ezra Rosser, Associate Dean of the Part-Time and Evening Division, American University, Washington College of Law

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

Wendie L. Kellington, Attorney, Kellington Law Group, PC

Moderator: TBD

Lunch Roundtable: Emerging Issues in Takings and Eminent Domain Law

Maureen Brady, Assistant Professor of Law, Harvard Law School

Christian Torgrimson, Partner, Parker Poe

Jeremy P. Hopkins, Partner, Cranfill Sumner & Hartzog

Moderator: Andrew Prince Brigham, Esq., Attorney and Managing Owner, Brigham Property Rights Law Firm

Panel 3: The Reach of Government's Confiscatory Powers over Exigencies and Emergencies

As government regulation of property has expanded, property owners increasingly are challenging the laws as confiscatory, unfair, and illegitimate. Panel 3 will examine the extent to which government may exercise its police or eminent domain powers to address serious threats to the public health, welfare, and safety. Recent perils have included persistent flooding, the pandemic (resulting in mandatory orders restricting or banning business operations), blight conditions, border safety, and market failures, among others.

Panelists:

David L. Callies, FAICP, Benjamin A. Kudo Professor of Law, William S. Richardson School of Law, University of Hawaii at Manoa

Nicole Stelle Garnett, John P. Murphy Foundation Professor of Law, University of Notre Dame Law School

George Homewood, FAICP, Director, City of Norfolk City Planning

Justin Hodge, Attorney, Marrs Ellis & Hodge LLP

Moderator: James E. Krier, Earl Warren DeLano Professor of Law, University of Michigan Law School

Panel 4: The Risk of Unjust Compensation

The Fifth Amendment's guarantee of just compensation has long been a subject of contention and debate. How and when condemned property is valued matters greatly in determining whether the amount of compensation is just and serves the underlying norms and purposes of the Eminent Domain Clause. Panel 4 will discuss issues affecting the meaning of just compensation, evaluating current laws and practices in light of historical perspectives, modern evidentiary rules, and the nature and extent of economic losses suffered by property owners. The discussion will examine how well theoretical considerations of efficiency and justice underlying the just compensation guarantee match current condemnation practices, experiences, and laws.

Panelists:

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

Brian Angelo Lee, Professor of Law, Brooklyn Law School

Andrew Prince Brigham, Esq., Attorney and Managing Owner, Brigham Property Rights Law Firm

Jeffrey B. Clark, Assistant Attorney General, Environment and Natural Resources Division

Moderator: Mark F. (Thor) Hearne II, Esq., Partner, Larson O'Brien LLP, St. Louis, Missouri