

**Land Use in Washington Conference**  
April 13 & 14, 2009 | Seattle, Washington  
Renaissance Seattle Hotel



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- Washington State Department of Ecology

*The Tenth Annual Conference on*

# Land Use in Washington

New regulatory, legislative and legal developments

**April 13 & 14, 2009**

Seattle, Washington  
Renaissance Seattle Hotel

**Credits:** WA CLE 12.5 inc 1 ethics (call about others)

**Quick when/where:** 8:30 a.m., 515 Madison St.



8:00 Registration and Continental Breakfast

8:30 Introduction and Overview

Jay P. Derr, Esq., Program Co-Chair  
GordonDerr LLP ~ Seattle, WA

Eric S. Laschever, Esq., Program Co-Chair  
Stoel Rives LLP ~ Seattle, WA

8:45 Special Address: Accommodating Growth in a Down Economy

What is projected? What are the challenges?

The Hon. Dow Constantine, Chair  
King County Council ~ Seattle, WA

9:15 Critical Issues in Land Use and Municipal Water Supply

Update on Municipal Water Rights appeal; exempt wells and local land use regulation; adequate provision of water under subdivision and building permits statutes; avoiding relinquishment of water rights in a down economy

Adam W. Gravley, Esq.  
GordonDerr LLP ~ Seattle, WA

Thomas D. Mortimer, Jr., Esq.  
Law Office of Thomas D. Mortimer ~ Seattle, WA

10:15 Break

10:30 Shoreline Management Act/GMA Integration

Update on the landscape for shoreline regulations in light of the Supreme Court's Decision in Futurewise v. City of Anacortes; results of Ecology's requests to local governments for comments on the decision; current status of the law

Eric S. Laschever, Esq., Program Co-Chair

Perspectives on the implications of the decision and what local governments should be doing

Tom Clingman, Legislative and Policy Lead  
Washington State Department of Ecology ~ Olympia, WA

Tim Trohimovich, Esq., Planning Director  
Futurewise ~ Seattle, WA

Pete Philley, Esq., Deputy Prosecuting Attorney  
Pierce County Prosecuting Attorneys Office ~ Tacoma, WA

12:00 Lunch (on your own)

1:15 Puget Soundkeepers Alliance Decision and Implications for Low Impact Development

Update on PCHB Decision in Puget Soundkeepers Alliance case regarding stormwater runoff; prospects for applying the concept more broadly

Jan Hasselman, Esq., Staff Attorney  
Earthjustice ~ Seattle, WA

Lori Terry Gregory, Esq.  
Foster Pepper PLLC ~ Seattle, WA

Implementation: Low Impact Development and the Puget Sound initiative; what is LID and when is it feasible?

William E. Derry  
Vice-President, Water Resources Senior Consultant  
CH2M HILL ~ Bellevue, WA

Berni Johnston, Principal and Project Manager  
Team4 Engineering ~ Poulsbo, WA

2:45 Break

3:00 Update on Land Use Issues in the 2009 Legislative Session

What's been proposed; how the major players line up; what is still pending and the prospects for passage

The business perspective

Patrick J. Schneider, Esq.  
Foster Pepper PLLC ~ Seattle, WA

The environmental community perspective

Tim Trohimovich, Esq., Planning Director  
Futurewise ~ Seattle, WA

The cities' perspective

Dave Williams, Municipal Policy Associate  
Association of Washington Cities ~ Olympia, WA

4:00 Sustainable Shoreline Development

Overview of initiatives

Nicole Faghin, Esq.  
Director of Planning and Environmental Services  
Reid Middleton ~ Everett, WA

Examples of hybrid bulkhead revetment designs and implications for shoreline regulation: Lake Washington and Bainbridge Island

Jeffrey A. Layton, P.E., Founder  
Layton & Sell, Inc., P.S. ~ Kirkland, WA

5:00 Adjourn



About the Conference

LAW SEMINARS INTERNATIONAL

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Growth projections for the next ten to twenty years still propose major challenges to how people can be accommodated in a manner that does not jeopardize the resources and environmental quality of our state. With ongoing new and major commitments to protect and restore the health of Puget Sound and to reduce carbon emissions and take regulatory responsibility for climate change impacts, land use regulations are not going away, nor are they likely to be reduced or deferred.

The challenge is how to respond to these issues in a manner that recognizes economic realities and doesn't put a further damper on opportunities for economic recovery.

This two-day program provides not only a comprehensive overview of the major issues in land use regulation of real estate development, but also addresses, in-depth, the latest developments from the courts, administrative agencies and tribunals, and the legislature that will change how these issues are applied in the future.

~ Program Co-Chairs: Jay P. Derr, Esq. and Eric Laschever, Esq.,



8:00 Registration and Continental Breakfast

8:30 Introduction and Overview

Jay P. Derr, Esq., Program Co-Chair
Eric S. Laschever, Esq., Program Co-Chair

8:45 Survey of Other Key Decisions in the Land Use Arena for the Past Year

Appellate Court decisions; Land Use Petition Act appeals; Citizen's Alliance, Gebbers, Isla Verde (revisited), First Pioneer, Palermo; other recent cases and practice tips

Phil A. Olbrechts, Esq.
Ogden Murphy Wallace, P.L.L.C. ~ Seattle, WA

Board Decisions: Growth Management Hearings Boards; Pollution Control Hearings Board; Shoreline Hearings Board

Joshua C. Allen Brower, Esq.
Tupper | Mack | Brower PLLC ~ Seattle, WA

10:00 Break

10:15 Climate Change Impacts on Land Use Regulation

Update on the Climate Action Team Implementation Working Group reports (Beyond Waste; Energy Efficiency and Green Buildings; SEPA; Transportation) of particular importance to land use

Rodney L. Brown, Jr., Esq.
Cascadia Law Group PLLC ~ Seattle, WA

11:00 FEMA's Revised Flood Plain Mapping and Its Interplay with Biological Opinion for Salmon Recovery: The Impact on Future Development

An overview of the issues; time frame and steps for implementation; implications for local regulation and development in floodplains

Mark Carey, Mitigation Division Director
Federal Emergency Management Agency ~ Bothell, WA

Molly A. Lawrence, Esq.
GordonDerr LLP ~ Seattle, WA

Daniel Sokol, Shorelands & Environmental Assistance
Washington State Department of Ecology ~ Olympia, WA

12:15 Lunch (on your own)

1:30 Hanging on During the Real Estate Downturn and Preparing for Recovery

Maintaining entitled land supply: Government budget realities; landowner strategies (entitlements, anticipating environmental regulations); investing in infrastructure; expedited permit reviews; managing fee-based permit department

Setting the stage: What does the market look like?

Matthew Gardner, Principal
Gardner Johnson ~ Seattle, WA

Private sector perspective

Aaron M. Laing, Esq.
Schwabe Williamson & Wyatt ~ Seattle, WA

Public sector perspective

Stephanie Warden, Esq., Director, Development and Environmental Services
King County ~ Renton, WA

2:30 Break

2:45 New Developments in Wetlands

Federal jurisdiction: Latest update on Corps guidance

Matthew J. Bennett, Senior Scientist
Joseph W. Brock, Senior Scientist
U.S. Army Corps of Engineers ~ Seattle, WA

3:30 Ethics for Land Use

Common ethical issues and situations: Who is your client? Can you talk with staff without the municipal attorney present? Concerns or pitfalls representing groups; anticipating and identifying issue and client conflicts; obtaining advance conflict waivers

Jay P. Derr, Esq., Program Co-Chair

Peter J. Eglick, Esq.
Eglick Kiker Whited PLLC ~ Seattle, WA

4:30 Evaluations and Adjourn



Registration & Other Conference Information

To Register:

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Fax the registration form to us at: 206-567-5058

Email us at: registrar@lawseminars.com

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Walk-ins are welcome, subject to space availability.

Registration is complete when we receive payment or agree to later payment.

Tuition: Regular tuition for this program is \$995 with a group rate of \$845 each for two or more registrants from the same firm. For government employees, we offer a special rate of \$695. For students and people in their job for less than a year, our rate is \$497.50. All rates include admission to all seminar sessions, food and beverages at breaks, and all course materials. Make checks payable to Law Seminars International.

Substitution & Cancellation: You may substitute another person at any time. We will refund tuition, less a \$50 cancellation fee, if we receive your cancellation by 5:00

p.m. on Tuesday, April 7, 2009. After that time, we will credit your tuition toward attendance at another program or the purchase of a Homestudy. There is a \$25 cancellation fee for Course Materials orders and \$50 for Homestudy orders.

Seminar Location: The conference will be held at the Renaissance Seattle Hotel at 515 Madison St. in Seattle, WA 98104. Call the hotel directly at (206) 583-0300 for reservations at the special negotiated rate of \$169/night and mention that you are attending a Law Seminars International conference. Use Corporate Code L64. Rooms are on a first come, first served basis.

Continuing Education Credits: This program qualifies for 12.5 WA CLE credits including 1 ethics. AICP, Appraiser and Real Estate credits are pending. Upon request, we will apply for CLE credits in other states and other types of credits.

If You Cannot Attend: Our complete Homestudy Course, consisting of a DVD recording and the written course materials, is available for \$1005. The written course materials or searchable CDs of the course materials are available for \$100. We will ship your Homestudy order via UPS ground within two weeks after the seminar or from the date we receive payment.

## Faculty: Land Use in Washington Conference

**Jay P. Derr**, *Program Co-Chair*, managing partner at GordonDerr LLP, practices land use, environmental and real estate law for public and private sector clients and is special land use counsel for cities and counties. He is listed in *The Best Lawyers in America*.

**Eric Laschever**, *Program Co-Chair*, principal with Stoel Rives LLP in land use, environmental and hazardous waste law, focuses on compliance with GMA and helps secure project permits and approvals. He is named a "Super Lawyer".

**The Hon. Dow Constantine**, *Special Address*, Chair of the King County Council, represents West Seattle, White Center, Burien and Vashon Island, and chairs the Council's Growth Management and Unincorporated Areas Committees.

**Matthew J. Bennett**, Senior Scientist, U.S. Army Corps of Engineers, Regulatory Branch, focuses on environmental resources projects requiring a Section 404 permit of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

**Joseph W. Brock**, Senior Scientist, U.S. Army Corps of Engineers, Regulatory Branch, focuses on environmental resources projects requiring a Section 404 permit of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899.

**Joshua C. Allen Brower**, partner at Tupper | Mack | Brower PLLC, focuses on land use, development and real estate, with an emphasis on complex project permitting, appeals and litigation. He is named a "Super Lawyer".

**Rodney L. Brown, Jr.**, managing partner of Cascadia Law Group PLLC, specializes in environmental law. He served on the Governor's Climate Action Team and is involved in drafting climate change legislation for the state and for Congress.

**Mark Carey**, Mitigation Division Director at Federal Emergency Management Agency, focuses on the administration of the National Flood Insurance Program and Risk Analysis and Risk Reduction programs for northwestern states.

**Tom Clingman**, Legislative and Policy Lead for the Shoreland and Environmental Assistance Program at the Washington State Department of Ecology, focuses on the intersection of planning

conducted under the Shoreline and Growth Management Acts.

**William E. Derry**, Vice-President, Water Resources Senior Consultant at CH2M Hill, focuses on water resource project management, environmental impact assessment and management to develop feasible solutions to water issues.

**Peter J. Eglick**, partner at Eglick Kiker Whited PLLC, focuses on land use, environmental, administrative and real property law. He counsels and represents homeowners associations, property owners, citizen groups and municipalities. He is a *Washington Law & Politics* "Super Lawyer".

**Nicole Faghin**, Director of Planning and Environmental Services at Reid Middleton, manages complex shoreline master planning, environmental documentation and permitting projects.

**Matthew Gardner**, Principal with Gardner Johnson, is a land use economist and heads all litigation support assignments dealing with market evaluation and positioning, base assessment, financial feasibility and fiscal implications of real estate projects.

**Adam W. Gravley**, partner at GordonDerr LLP, focuses on water law and infrastructure needs of local governments, business and individual clients, including permitting, transactions, litigation, governance and regulatory matters. He is listed in *The Best Lawyers In America*.

**Jan Hasselman**, Staff Attorney with Earthjustice, litigates under the Endangered Species Act and Clean Water Act. He was lead counsel for the environmental appellants in the challenges to the Phase I and Phase II municipal stormwater permits.

**Berni Johnston**, Principal and Project Manager at Team4 Engineering, conducts feasibility analyses, designs site layouts and infrastructure, facilitates project approvals, implements project construction and ensures project compliance.

**Aaron M. Laing**, shareholder at Schwabe Williamson & Wyatt, focuses on land use and litigation, assisting owners and developers on vesting, boundary disputes, SEPA mitigation, rezones and regulatory takings.

**Molly A. Lawrence**, partner at GordonDerr LLP, focuses on land use law, advising clients on federal,

state and local requirements, drafting development regulations and agreements, and advising through the legislative process.

**Jeffrey A. Layton, P.E.**, is President of Layton & Sell Inc., P.S., a consulting coastal and civil engineering firm. He focuses on planning, design and permitting of marinas and other waterfront facilities.

**Thomas "Tom" D. Mortimer, Jr.**, Law Office of Thomas D. Mortimer, focuses on water law. He serves as special legal counsel to numerous western municipalities, special districts and private sector development firms.

**Phil A. Olbrechts**, member in the Municipal Practice Area at Ogden Murphy Wallace, P.L.L.C. focuses on land use law, providing specialized services for municipalities and private applicants. He is the Hearing Examiner for several municipalities.

**Pete Philley**, Pierce County Prosecuting Attorney's Office, is a deputy prosecuting attorney and the initial attorney member of the Central Puget Sound Growth Management Hearings Board.

**Patrick J. Schneider**, partner at Foster Pepper PLLC, practices land use and municipal law, including SEPA, shorelines permitting and GMA. He is one of the drafters of the Land Use Petition Act.

**Daniel Sokol** of the Washington State Department of Ecology is the National Flood Insurance Program State Coordinator and leader of the Flood Team.

**Lori Terry Gregory**, Chair of the Environmental Practice Group at Foster Pepper PLLC, advises clients on environmental permitting and litigation matters. She is listed in *The Best Lawyers in America* and is named a "Super Lawyer".

**Tim Trohimovich** is Planning Director for Futurewise, a citizens' group that promotes healthy communities and cities while protecting working farms and forests.

**Stephanie Warden**, Director of the King County Office of Development and Environmental Services, oversees King County's building and land use permitting and implementation of the GMA.

**Dave Williams**, a Municipal Policy Associate at the Association of Washington Cities, is responsible for issues in the legislature and among client cities.

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### Who Should Attend:

*Attorneys, real estate licensees, landowners, developers, governmental officials, planners, consultants and engineers*

### You Will Learn About:

- Accommodating growth in a down economy
- Critical issues in land use and municipal water supply
- Current status of shoreline regulations in light of the Supreme Court decision
- Impacts of decision in Puget Soundkeepers Alliance case on stormwater runoff
- Initiatives for sustainable shoreline development
- Key decisions from the courts and boards
- Climate change impacts on land use regulation
- FEMA's flood plain mapping revisions and impact on development
- Update on Corps' wetlands guidelines
- Ethics for land use

### To Register:

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