



**LAW SEMINARS
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The 28th Annual Comprehensive Conference on

GMA and Land Use

*Current topics of heightened interest including the impact of
the Covid-19 pandemic, the 2020 election, and changing life style preferences*

November 19 & 20, 2020

Interactive Online Broadcast

Agenda—Day 1

9:00 Introduction & Overview

Tadas A. Kisielius, Esq., *Program Co-Chair*
Van Ness Feldman ~ Seattle, WA
Duana T. Kolouskova, Esq., *Program Co-Chair*
Johns Monroe Mitsunaga Kolouskova
Bellevue, WA

9:15 Covid-19 as a Stress Test for Land Use Planning Processes and Practitioners: What Have We Learned?

The pandemic's impact on the way we conduct public meetings, application hearings, appeals and other components of the public process; new challenges for practice of law by public and private practitioners

Duana T. Kolouskova, Esq., *Program Co-Chair,*
Moderator
Laura C. Kisielius, Esq.,
Lead Deputy Prosecuting Attorney
Snohomish County Prosecutor's Office ~ Everett, WA
Kim Adams Pratt, Esq.
Madrona Law Group ~ Bellevue, WA

10:45 Break

11:00 Updating Washington's Growth Policy Framework

Last year's Road Map to Washington's Future identified needed reforms to Washington's planning laws, this University of Washington project is crafting implementing legislation for action in the 2021 legislative session

Joseph Tovar, FAICP, MUP,
Affiliate Associate Professor
University of Washington College of Built Environments ~ Seattle, WA

12:00 Lunch Break

Gather in our Virtual Hotel Lobby space to mingle with colleagues and meet new people

1:15 Legislative Developments in Land Use and Growth Management

Impacts of state and federal and state elections on land use policy: 2020 session recap; interim committee and task force work; the likely role of growth management issues as the state grapples with budget shortfalls and the need to restart the economy

Bill Clarke, Esq., Moderator
Attorney at Law & Government Affairs
Olympia, WA

Leonard Bauer,
Director of Community Planning & Development
City of Olympia ~ Olympia, WA

The Hon. Joe Fitzgibbon, (D) 34th District
Washington State House of Representatives
Olympia, WA

The Hon. Shelly Short, (R) 7th District
Washington State Senate ~ Olympia, WA

2:45 Break

3:00 GMA and Land Use Case Law Developments

Land use judicial case law update: Review of recent reported court decisions

James D. Howsley, Esq.
Jordan Ramis ~ Vancouver, WA

Growth management case law update: Trends in recent administrative decisions

Nina L. Carter, Director
Environmental & Land Use Hearings Office ~ Olympia, WA

4:30 Development Agreements: Effective Use of an Old Tool

Evaluating project-specific pros and cons; tips for effective negotiation, drafting, and implementation of Development Agreements

Heather Burgess, Esq.
Phillips Burgess ~ Olympia, WA

5:00 Virtual Reception for Faculty and Attendees

Open mic: Grab your favorite beverage and snack for a moment of camaraderie and a less structured discussion of what is happening in the GMA world

Agenda—Day 2

9:00 Regulatory Takings and Substantive Due Process: Developments in the Law

Yim I and Yim II: How the Supreme Court's decisions in these cases clarify Washington's regulatory takings and substantive due process jurisprudence

Roger Wynne, Esq., Director, Land Use Section
Seattle City Attorney's Office ~ Seattle, WA

9:45 LUPA Procedural Considerations

Tribal jurisdiction: Update on Confederated Tribes & Bands of the Yakama Nation v. Yakima County and other developments

Markham A. Quehrn, Esq.
Perkins Coie ~ Bellevue, WA
Julie A. Wilson-Mcnerney, Esq.
Perkins Coie ~ Seattle, WA

10:30 Break

10:45 Special Day 2 Address by King County Executive Dow Constantine

Dow Constantine, Executive
King County ~ Seattle, WA

11:15 Covid-19 as a Stress Test for Local Governments: Impacts on Budgets and the Region's Economy

Expected deep budget cuts and their impact on local governments and the public process; how the economic recession is impacting land use policy and development pressures; how to use the economic development component of GMA as an effective tool

Dan Eernisse, *Economic Development Director*
City of Everett ~ Everett, WA

The Hon. Brian Holtzclaw, Esq., *Mayor*
City of Mill Creek ~ Mill Creek, WA

12:15 Lunch Break

Virtual Hotel Lobby space opens again

1:30 Review of Impacts of Greenhouse Gas Emissions Pursuant to SEPA and Growth Management Development Regulations

Summary of projects undergoing SEPA review of GHG emissions and local legislative developments.

Sara A. Leverette, Esq.
Van Ness Feldman ~ Seattle, WA

2:15 GMA and Water

Update on Hirst-fix implementation: What has been working well and where are the problems?

Tadas A. Kisielius, Esq., *Program Co-Chair*
Bennett Weinstein, Esq.
Streamflow Section Manager
Washington State Department of Ecology
Bellevue, WA

3:15 Break

3:30 Current Ethical Issues for Land Use Practitioners

Special issues arising in practice before administrative regulatory bodies

Gary N. McLean, Esq., *President*
Hearing Examiners Association of Washington
Seattle, WA

4:30 Evaluations and Adjourn

Who Should Attend

Attorneys, planners, real estate, land use, and environmental professionals, Tribal, city and county officials, corporate executives, and anyone else involved in managing growth and development in Washington

About the Conference

This year the Covid-19 pandemic and the attendant impact permeates everything in our society and land use is no exception. It has been a stress test for local governments due to the demands on their budgets and the region's overall economy. It also been a stress test for land use planning processes and practitioners due to the need to maintain social distancing during public meetings, hearings, and appeals.

The pandemic also has changed how we work and live. Those who can work from home are doing that and many will want to skip the commute and continue working from home. The urban core has become a less desirable place to live and people are wanting more space both inside and outside. We will take a look at those trends, including the University of Washington's progress towards updating Washington's growth policy framework.

Substantive developments continue apace. Our legislative update will include the role of land use policy for restarting the state's economy. You will hear case law developments in both the boards and the courts. These will

include LUPA procedural considerations, regulatory takings and substantive due process, and review of GHG emissions under SEPA.

Other key presentations will focus on use of development agreements, Hirst fix implementation, and ethical considerations for land use practitioners.

We hope you will join us for what promises to be an interesting and informative two days and for the virtual reception at the end of the first day. It will be a good opportunity to virtually connect with your colleagues.

~ **Tadas A. Kisielius, Esq.** of Van Ness Feldman and
Duana T. Kolouskova, Esq. of Johns Monroe Mitsunaga Kolouskova,
Program Co-Chairs

Registration & Other Conference Information

Tuition: Regular tuition for this program is \$895 with a group rate of \$805 each for two or more registrants from the same firm. For government employees and Tribal members, we offer a special rate of \$670. For students, people in their job for less than a year, and public interest NGO's, our rate is \$447.50. All rates include admission to all program sessions and course materials. Make checks payable to Law Seminars International.

Covid-19 discount: We recognize that being in the same Zoom isn't the same as being in the same room. When you register, we will deduct \$200.00 from the price you otherwise would pay. And as an added value bonus, you'll receive access to audio and video recordings of the program at no extra charge.

Financial aid is available to those who qualify. Contact our office for more information.

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 Friday, November 13, 2020. After that time, we will credit your tuition toward attendance at another program or the purchase of an audio or video replay.

Continuing Education Credit: Live credits: This program qualifies for 11.75 (inc 1 ethics) WA MCLE, 11.75 AICP planner, and 11.75 ABCEP environmental professional credits. Upon request, we will help you apply for CLE credits in other states and other types of credits.

Time Shift Your Content: Audio and video replay files, with course materials, are available for download or on a flash drive at the same price as live attendance. Files are available for downloading five business days after the program or from the date we receive payment. Flashdrive orders are sent via First Class mail within seven business days after the program or from the date we receive payment. The course materials alone are available for \$100.

Faculty

Tadas A. Kisielius, Program Co-Chair, is a partner at Van Ness Feldman. He helps public and private sector clients secure and defend state and federal environmental permits and local land use approvals for controversial or complex development projects.

Duana T. Kolouskova, Program Co-Chair, is a partner at Johns Monroe Mitsunaga Kolouskova. She has worked on a range of development projects, including small and large-scale residential, master plans, mixed use, small-scale commercial, light industrial, and natural resource projects.

Dow Constantine, Special Address, is the King County Executive. He leads one of the largest regional governments in the United States. He is focused on meeting two of the greatest generational challenges of our time: building equity and opportunity, and confronting climate change.

Bill Clarke, Moderator and Attorney at Law & Government Affairs, focuses on lobbying the Washington State Legislature and state agencies on a variety of policy and budget matters. His law practice emphasizes water and natural resources, utility, and local government issues.

Leonard Bauer is the City of Olympia's Director of Community Planning and Development. He previously served as the Managing Director of Growth Management Services for the State of Washington and as a planner and planning director at various local and regional governments in Oregon and Washington.

Heather Burgess, Phillips Burgess, represents property owners and developers in all phases of real estate development, from pre-acquisition due diligence through local permitting and appeals.

Nina L. Carter is the Director of Washington's Environmental & Land Use Hearings Office. She initially was appointed to the Growth Management Hearings Board in 2009.

Dan Eernisse is the Economic Development Director for the City of Everett. He previously served at the City of Shoreline and worked in the private sector as project lead on over \$300 million of residential, retail, and mixed-use development.

The Hon. Joe Fitzgibbon, (D) 34th District, has served in the Washington State House of Representatives since 2010. He chairs the House Environment & Energy Committee and sits on the Appropriations Committee, the Rural Development, Agriculture & Natural Resources Committee, and the Joint Committee on Energy Supply & Energy Conservation.

The Hon. Brian Holtzclaw is the Mayor of the City of Mill Creek. He also is in-house legal counsel for a home building and land development company focusing on land use and real estate development issues.

James D. Howsley is a shareholder at Jordan Ramis focusing on land use law. He understands the evolution of the regulatory environment surrounding land development and is known for finding creative, cost-effective solutions to challenges that could hamper a project.

Laura C. Kisielius is Lead Deputy Prosecuting Attorney in the Environmental and Land Use Unit of the Civil Division, Snohomish County Prosecuting Attorney's Office.

Sara A. Leverette is a partner at Van Ness Feldman. She advises clients on permitting and litigation related to energy infrastructure development, clean-up sites and dangerous waste permitting.

Gary N. McLean is President of the Hearing Examiners Association of Washington. He has worked as a Hearing Examiner for local governments including the College Place, City of Bellevue, and San Juan County.

Kim Adams Pratt, Madrona Law Group, focuses on municipal, land use, and real estate law. She serves as Assistant City Attorney for the City of Kent and Deputy City Attorney for the City of Sammamish. She also has handled special land use projects for the cities of Tukwila, Covington, North Bend, Burien and others.

Markham A. Quehrn is a partner at Perkins Coie. He assists clients in the development of all types of energy facilities and infrastructure projects and transactions, including energy projects, water supply and water resource projects and port and terminal facility developments in the United States and internationally, electric transmission lines and water supply projects and facilities.

Alan Reichman, *Senior Counsel*, is an Assistant Attorney General for the Ecology Division of the Washington State Attorney General's Office. He serves as Section Manager of the Water Resources Section.

The Hon. Shelly Short, (R) 7th District, serves as Ranking Member of the Washington State Senate's Local Government Committee, sits on the Agriculture, Water, Natural Resources & Parks, Environment, Energy & Technology and Rules Committees. She also serves on the newly formed Special Committee on Economic Recovery which was created due to the pandemic.

Joseph Tovar is an Affiliate Associate Professor in the College of Built Environments at the University of Washington. In 2020, he began working in the College's Northwest Center for Livable Communities as the project manager for "Updating Washington's Growth Policy Framework."

Bennett Weinstein is Streamflow Section Manager at the Washington State Department of Ecology.

Julie A. Wilson-Mcnerney is of counsel at Perkins Coie. She assists clients with project development, permitting, and regulatory compliance matters under local land use and state and federal environmental laws, including the National and State Environmental Policy Acts (NEPA/SEPA), the Clean Water Act (CWA), and the National Historic Preservation Act (NHPA).

Roger Wynne is the Director of the Land Use Section in the Seattle City Attorney's Office.