

Eminent Domain

Current Developments in Condemnation, Valuation & Challenges



JUNE 6 & 7, 2019

WORLD TRADE
CENTER

Portland, OR

ACCREDITATION

**OR CLE, WA MCLE, CA
CLE, IRMI,
OR Real Estate Broker,
OR Real Estate Appraisers**

(see inside for details)

THE SEMINAR GROUP ~ RAISING THE BAR OF CONTINUING LEGAL AND PROFESSIONAL EDUCATION

Seminar Overview

This seminar will include an overview and update of Oregon and Federal eminent domain and land valuation litigation, with emphasis on special appraisal problems in eminent domain cases and recent court decisions impacting state and federal eminent domain.

This program is a must for anyone involved in the governmental land acquisition process, whether as an attorney, appraiser, government official, or owner. You will hear firsthand from leading attorneys, appraisers and other experts with extensive practical experience in eminent domain.

Our Keynote speakers this year are **Robert Thomas**, past Chair of the American Bar Association's Section of State & Local Government Law, Eminent Domain Law Committee and **Lori Hathaway, SR/WA, RW-RAC**, a Project Manager & Senior Right of Way Agent for Universal Field Services, Inc.

Who Should Attend:

Attorneys
Land Planners
Right of Way Professionals
Real Estate Appraisers
Real Estate Brokers
Government Employees

8:00 Optional Session – Overview of the Condemnation Process

This presentation provides historical background on the power of eminent domain and its source, the procedural framework for condemnation cases, including, but not limited to an overview of ORS Chapter 35 and condemnation basics related to the stages of a condemnation proceeding.

Jennifer C. Paul
Saalfeld Griggs PC

8:45 Break

9:00 Introduction and Overview – Day One

Jill S. Gelineau, Program Co-Chair
Schwabe Williamson & Wyatt PC
Paul J. Sundermier, Program Co-Chair
Saalfeld Griggs PC

9:10 Direct Condemnation Law Update

The latest in new legislation, new Oregon cases and cases of interest from around the country

Jill S. Gelineau
Schwabe Williamson & Wyatt PC

10:15 Break

10:30 The “Three Unities” – Still a Problem?

A discussion of larger parcel issues, including (1) pre-and post-offer planning and procedural issues, valuation impacts, and evidentiary questions; (2) seminal and recent case law; and (3) application of the three unities of physical contiguity, unity of ownership, and unity of use to particular scenarios.

David E. Balfour, MAI
R.P. Herman & Associates LLC
Neil N. Olsen
Olsen Barton LLC

11:45 Midday Break

**1:00 SPECIAL PRESENTATION:
Is the U.S. Supreme Court Likely to
Change Direction on Us?**

The “new” Supreme Court - property rights friendly, and might that “trickle down” to lower courts? Just compensation - the final frontier? Regulatory takings and federal jurisdiction (*Knick v. Township of Scott*)

Robert H. Thomas
Damon Key Leong Kupchak Hastert; Honolulu, HI

1:45 Latest Inverse Condemnation Developments

Kelly M. Walsh
Schwabe Williamson & Wyatt PC

2:30 Break

2:45 Problematic Jury Instructions and How to Educate the Jury

Plaintiff’s right to possession; compensation for partial taking; highest and best use versus future plans and intentions; items of damage; cost to cure versus diminution in value; date of valuation; speculative profits, losses and future expenditures

Paul J. Sundermier, Moderator
Saalfeld Griggs PC

Paul H. Trincherro
Garvey Schubert Barer PC

D. Joe Willis
Schwabe Williamson & Wyatt PC

4:00 Ethical Issues When Litigating Multiple Cases in the Same Courthouse

Many condemnation practitioners routinely handle multiple cases in the same courthouse because (a) the projects involved (like a highway or light rail project) typically generate multiple cases and (b) Oregon condemnation venue provisions generally require that eminent domain cases be filed in the county where the property involved is located. This attribute of condemnation practice creates a relatively unique set of concerns including: “Issue” conflicts; “Affidaviting” judges; Ex Parte contacts.

Mark J. Fucile
Fucile & Reising LLP

5:00 Adjourn and Reception ~ Sponsored by:



9:00 Welcome and Overview – Day Two

Jill S. Gelineau, Program Co-Chair
Schwabe Williamson & Wyatt PC

Paul J. Sundermier, Program Co-Chair
Saalfeld Griggs PC

9:05 Considerations in Negotiating and Closing Acquisitions

ORS 35.510 and imported federal acquisition policies; relocation benefit issues; identifying the owner; other interested parties; defining the taking and conforming the appraisal; making adjustments (the condemner's willingness to re-write easements, etc.); special property interests and impacts that may affect the transaction; understanding the owner (elderly owners; military members; non-English speakers; reverse mortgage family dynamics)

Charles F. "Chip" Hudson
Lane Powell PC

10:00 Obeying the Law – What Must be in a Defensible Condemnation Appraisal?

Justin E. Kidd, Assistant Attorney General
Oregon Department of Justice

11:00 Break

11:15 Electronic Discovery in an Age of Mounting Documentation

A discussion of the rules regarding eDiscovery, eDiscovery strategy and best practices, proportionality, authenticity and use at trial, litigation holds and compliance, sanctions for failure to preserve and produce electronic records, and impact on public records requirements in condemnation actions.

Bruce H. Cahn
Lane Powell PC

J. Nicole DeFever, Asst. Atty. In-Charge
Trial Division, Oregon Department of Justice

**12:15 SPECIAL PRESENTATION:
Perspectives of Right of Way Agents**

What property owners' lawyers do wrong

Jill S. Gelineau
Schwabe Williamson & Wyatt PC

Lori Hathaway, SR/WA, RW-RAC
Project Manager & Sr. Relocation Specialist
Universal Field Services, Inc.

1:00 Midday Break

2:15 Preparing Experts for Trial Testimony

Cynthia M. Fraser
Garvey Schubert Barer PC

3:00 Selected Challenges in Condemnation Appraisals

War stories from trials

Owen E. Bartels, MAI, Sr. Managing Director
BBG Inc.

Donald R. Palmer, MAI
Appraisal & Consulting Group LLC

4:00 Adjourn

Faculty - Eminent Domain



Jill S. Gelineau, Program Co-Chair, is a shareholder at Schwabe Williamson & Wyatt PC who focuses on eminent domain cases. In over 30 years of practice, she has been involved in many of the most complex and high-profile public projects in the Pacific Northwest.



J. Nicole DeFever is an Assistant Attorney In-Charge with the Oregon Department of Justice, Trial Division. She leads the litigation group for eminent domain and inverse condemnation actions. She also represents state agencies on a broad range of civil issues.



Paul J. Sundermier, Program Co-Chair, is of counsel to Saalfeld Griggs PC, in Salem. He practices in condemnation and takings litigation. He makes sure his private clients' Constitutional rights are protected in the specialized area of eminent domain.



Cynthia M. Fraser, a principal of Garvey Schubert Barer PC, has focused her 30-year career in the area of real estate, condemnation and property tax litigation. She represents individuals, governments, and corporate clients in litigation and using dispute resolution.



David E. Balfour, MAI, is a certified general appraiser with R.P. Herman & Associates LLC. Since joining the firm in 2012, he has focused his appraisal practice upon public acquisition and eminent domain work. He is a licensed appraiser in both OR and WA.



Mark J. Fucile of Fucile & Reising LLP handles professional responsibility, regulatory and attorney-client privilege issues for lawyers, law firms and corporate/governmental legal departments. He is a former member of the Oregon State Bar Legal Ethics Committee.



Owen E. Bartels, MAI, is a senior managing director with BBG Inc. and a member of the Appraisal Institute. His appraisal work includes industrial, retail, office, mixed-use, commercial and residential condominium conversions, and subdivisions.



Lori Hathaway, SR/WA, RW-RAC, is a Project Manager and Sr. Relocation Specialist for Universal Field Services, Inc. With 13 years of experience, she offers thorough understanding of the right-of-way acquisition and relocation assistance processes.



Bruce H. Cahn is a partner with Lane Powell PC. He regularly advises clients on real estate, eminent domain, property tax, construction, commercial and business matters. He represents both property owners and governmental entities in condemnation matters.



Charles F. "Chip" Hudson is a shareholder with Lane Powell PC. He represents individual and corporate clients in a broad range of litigation and administrative proceedings, including real estate and eminent domain matters. He has been with Lane Powell since 1983.



Justin E. Kidd is an Assistant Attorney General for the State of Oregon, Department of Justice. He represents the State in direct and inverse condemnation cases. His practice also includes administrative law cases, civil rights matters, and complex tort actions.



Paul H. Trinchero is a principal with Garvey Schubert Barer PC. He focuses on helping clients resolve complex business and real estate disputes, including assisting local governments and property owners in litigating and resolving eminent domain cases.



Neil N. Olsen is an attorney with Olsen Barton LLC. In addition to his well-established eminent domain and real estate litigation practice, he advises clients on real estate and business transactions, as well as business and valuation-related litigation.



Kelly M. Walsh is a shareholder with Schwabe Williamson & Wyatt PC in the firm's condemnation group. Her primary focus is on eminent domain/condemnation cases, including private property rights litigation, first amendment issues, and regulatory takings.



Donald R. Palmer, MAI, is a partner with Appraisal & Consulting Group LLC. He appraises rural property (farmland, timberland, etc) and urban properties (apartments, retail, office, industrial). He is a qualified expert witness in several jurisdictions.



D. Joe Willis is a shareholder in Schwabe Williamson & Wyatt PC and has been with the firm since 1971. The bulk of his experience has been in condemnation and inverse condemnation cases for landowners. He has tried many condemnation cases to courts and juries.



Jennifer C. Paul is a partner in the business litigation practice of Saalfeld Griggs PC. She represents owners in lease disputes, adverse possession or prescriptive easement actions, reformation claims, actions to quiet title or proceedings in eminent domain.



Robert H. Thomas, a director with Damon Key Leong Kupchak Hastert, is a land use and appellate lawyer, focusing on regulatory takings, eminent domain and water rights cases. He has tried cases and appeals in Hawaii, California, and the federal courts.

Eminent Domain

Credits

OR CLE

This course has been approved by the Oregon State Bar for 11.25 general and 1.0 ethics CLE credits. This includes .75 general CLE credits for the optional session. Note that if you do not attend the optional session you will earn 10.5 general and 1.0 ethics CLE credits.

WA MCLE

This course has been approved for 11.25 hours of law and legal credit and 1.0 hours of ethics CLE credit by the Washington MCLE board. This includes .75 law and legal CLE credit for the optional session. Note that if you do not attend the optional session you will earn 10.5 hours of law and legal credit and 1.0 hours of ethics CLE credit. Self-Study credit will be available, specific credit amount to be determined.

The Seminar Group is an accredited sponsor with the Washington State Bar

CA CLE

The Seminar Group is a State Bar of California approved MCLE provider; therefore, this course is approved for 11.5 general and 1.0 ethics CLE credits. This includes .75 general CLE credit for the optional session. Note that if you do not attend the optional session you will earn 10.75 general and 1.0 ethics CLE credits.

OR Real Estate Broker

The Seminar Group is an approved CE provider by the Oregon Real Estate Agency, #201212896. This course has been approved for 15.0 CE credits. This includes 1.0 CE credits for the optional session. Note that if you do not attend the optional session you will earn 14.0 CE credits.

OR Real Estate Appraisers

This course has been approved by the Oregon Appraiser Certification and Licensure Board for 12.0 hours of continuing education. This optional session is not approved for OR Real Estate Appraisers. Credits for recorded courses not available.

IRMI

This course has been approved by the IRMI for 6.0 hours of CRIS reaccreditation credits. Credits for recorded courses not available.

IRWA

This course may qualify for 12.5 CEUs through the International Right of Way Association. This may include .75 CEUs for the optional session. Note that if you do not attend the optional session you may earn 11.75 CEUs. Credits for recorded courses not available.

Contractors & Engineers

Contractors and engineers may qualify for continuing education hours through the American Institute of Constructors or the Construction Management Association of America.

Location

World Trade Center

121 SW Salmon St
Two World Trade Center Building
Portland, OR 97204

Phone: 503-464-8688

The Seminar is located in the Mezzanine room. Please call the venue for directions/questions

PARKING

There is a parking garage right below the WTC building off of Taylor Street.

Fees

Live Seminar:

Attorney	\$729.00
Government / Tribal / Non-Profit	\$579.00
Other Professionals	\$579.00
Student / Professor	\$429.00
Day One	\$520.71
Day Two	\$390.54

Pre Order On Demand:

All Sessions	\$729.00
Single Session	\$99.00

Pre Order MP3 Download:

All Sessions	\$729.00
Single Session	\$99.00

Pre Order DVD Homestudy:

All Sessions	\$779.00
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Pre Order CD Homestudy:

All Sessions	\$779.00
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Pre Order Materials Download:

All Sessions	\$229.00
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Pre Order Printed Materials:

All Sessions	\$259.00
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www.TheSeminarGroup.net or call our office at
800-574-4852 or 206-463-4400. You can also
contact us at info@theseminar.com or by
mail to The Seminar Group, P.O. Box 523,
Vashon, WA 90870.

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Register at

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