

Curriculum Vitae

BRIAN W. BLAESSER

PROFESSIONAL EMPLOYMENT

Dinsmore & Shohl LLP) dinsmore.com
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EDUCATION AND ACCREDITATIONS

B.A., 1965, Brown University (*cum laude*)
J.D., 1979, Boston College Law School (editor of the *Law Review*)
M.C.P., 1979, Massachusetts Institute of Technology
U.S. Green Building Council LEED Accredited Professional (2009 to present) (LEED AP BD+C)
Counselor of Real Estate (CRE®) (2016 to present)

TEACHING

- Adjunct Professor, Columbia Business School, Milstein Center for Real Estate: Taught course on Real Estate Development
- Adjunct Professor, Fordham University Real Estate Institute at Lincoln Center: Taught course on Land Use Law (Fall 2018)
- Instructor in Ventures Course at MIT Real Estate Center for sessions on Negotiating Development Agreements (2013 to present)
- Lecturer, Harvard Graduate School of Design (Spring and Fall Semesters 2007 through 2010; Fall 2019 Semester) Taught Land Use & Environmental Law course and Public and Private Development course.

PUBLICATIONS

BOOKS

- *Reinventing Development Regulations* (Lincoln Institute of Land Policy: 2017) (co-author)
- *Discretionary Land Use Controls: Avoiding Invitations to Abuse of Discretion* (Thomson-Reuters: 22nd ed. 2019) (author)
- *Federal Land Use Law & Litigation* (Thomson-Reuters: 2019) (co-author)
- *Redevelopment: Planning, Law and Project Implementation* (ABA Publishing: 2008) (co-author and co-editor)
- *Condemnation of Property: Practice and Strategies for Winning Just Compensation* (Wiley Law Publications: 1994) (co-author)
- *Land Use and the Constitution* (Planners Press: 1989) (co-author; co-editor)

CHAPTERS IN BOOKS

- Chapter 6: “Putting Plans to Work: *Design Review*” in *Local Planning: Contemporary Principles and Practice* (The “Green Book”) (ICMA Press: 2009)
- Chapter 7: “Zoning Freezes” in the *Massachusetts Zoning Manual* (MCLE: 6th Edition 2010, with 2013, 2015 and 2019 Supplements);

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- Chapter 8: "Smart Growth: Legal Assumptions and Market Realities," in *Smart Growth: Form and Consequences* (Lincoln Institute of Land Policy: 2002);
- Chapter 4: "The Abuse of Discretionary Power," in *Design Review: Challenging Urban Aesthetic Control* (Brenda C. Scheer & Wolfgang F. E. Preiser, eds. Chapman & Hall: New York, N.Y. 1994)
- Chapter 2: "The Problem in the 1980's and 1990's: The Meaning and Scope of Wipeouts" in *Wipeouts and Their Mitigation: The Changing Context for Land Use and Environmental Law* (Lincoln Institute of Land Policy: 1990)

ARTICLES

- "Dr. BoxBox: Backfilling Large Vacancies with New Concepts," 2020 *ICSC Shopping Center Law Conference* (October 2020)
- "Does Reed Require New Restrictions on Retail Signs?" *Retail Shopping Center Law & Strategy* (Spring 2018)
- "Green Guidance for Retailers: Avoiding FTC Claims of Unfair or Deceptive Marketing" in *ICSC Retail Law Strategist* (Spring 2013)
- "The Greening of the Litigation Landscape," *ICSC Retail Law Strategist* (Vol.10, Issue 1 March 2010)
- "Kelo-Provoked Changes to the Rules of Eminent Domain," *ICSC Retail Law Strategist* (Vol. 8, Issues 6, 7 & 8 June, July & August 2008) (co-author)
- "Helping Communities Make Their Regulations Work for Mixed Use," *ICSC Retail Law Strategist* (Vol. 7, Issue 12 December 2007; Vol. 8, Issue 1 January 2008) (co-author)
- "Retail Space for Lease? Chain Stores Need Not Apply," *Retail Law Strategist* (Part II: January 2007: Vol. 1 Issue 1) (co-author)
- "Retail Space for Lease? Chain Stores Need Not Apply," *Retail Law Strategist* (Part I: December 2006: Vol. 6 Issue 12) (co-author)
- "Retail Property Values and Land Use Regulation," in *Commercial Leasing Law & Strategy* (Vol. 18, No. 6: November 2005)
- "Eminent Domain for Private Gain? The *Kelo v. City of New London* Decision and Aftermath," *Planning & Environmental Law* (Sept. 2005: Vol. 87. No. 9)
- "Impact Fee Methodology and Legal Issues" (*NAHB Lands Roundtable*: 2004);
- "The Inclusionary Housing Debate: Who Really Pays for Affordable Housing?" in *On Common Ground* (Winter 2003)
- "Inclusionary Zoning: There's a Better Way," in *Inclusionary Zoning: Lessons Learned in Massachusetts* (National Housing Conference Affordable Housing Policy Review: Vol. 2, Issue 1, January 2002)
- "Substantive Due Process Protections at the Outer Margins of Municipal Behavior," 3 *Wash. U. J.L. & Policy* 583 (2000)
- "Primer on Open Space Preservation Techniques," in *On Common Ground* (NAR: 2001);
- "The Importance of 'Process' in Smart Growth Initiatives: Ballot Box Versus Streamlining," in *Land Use Law & Zoning Digest* (Vol. 52, No. 6, June, 2000)
- "Growth Management: A Developer's Perspective," in *Development* (Vol.: XXIX, No. 3: 1998);
- "Overregulation of Land Development," in *Urban Land* (November, 1997)
- "Computerized Zoning: The Future is Now," *Land Use Law & Zoning Digest* (Vol. 48 No.4; April, 1996).
- "New Federal Wetlands Policy: The Landowner's Perspective," in *Land Use Law & Zoning Digest* (Vol. 46, No. 1, January, 1994)
- "Negotiating Entitlements," in *Urban Land* (December 1991)
- "Impact Fees: The Second Generation," 38 *Journal of Urban and Contemporary Law* 401 (1990);
- "Practical Concerns of the Private Developer in Public/Private Real Estate Ventures," in *Developing Real Estate through Public/Private Ventures* (ABA National Institute: 1990)

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- "Constitutional Constraints on Fees, Takings and Inspections," in *Proceedings of the 1990 Institute on Planning and Zoning* (University of Illinois at Urbana-Champaign: 1990)
- "Official Maps" in *Modernizing State Planning Statutes (The Growing Smart Working Papers), Planners Advisory Service (PAS) Report No. 480/481* (September: 1998)
- "Special Use Permits: The 'Wait-and-See' Weapon of Local Communities," 21 *Zoning & Plan. L. Rep.* 69 (1998)
- "Applying Development Design Review in the Downtown," in *Zoning Bonuses in Central Cities* (APA Planning Advisory Service Report No. 410; September, 1988)
- "Applying the Ripeness Doctrine in Federal Land Use Litigation," 11 *Zoning Law and Planning Report* 49 (July-August 1988)
- "Closing the Federal Courthouse Door on Property Owners: The Ripeness and Abstention Doctrines in Section 1983 Land Use Cases," 2 *Hofstra Property Law Journal* 73 (Spring 1989)
- "Municipal Liability Under the Fair Housing Act: An Update," *Land Use Law & Zoning Digest* (Vol. 40 No.10; October, 1988)
- "A *Miranda* Card for Planners," *Hofstra Property Law Journal* (Winter, 1987)
- "Local Government Liability Under the Fair Housing Act and Under State Anti-Exclusionary Zoning Doctrines: Parts I and II," *Land Use Law & Zoning Digest* (Vol. 36 Nos. 1 & 2; January & February, 1984)
- "Legal Implications of Computerized Zoning" in *Zoning News* (October, 1984)

LECTURES, CONFERENCE PRESENTATIONS AND WEBINARS 2005-2020

- ICSC 2020 Shopping Center Law Conference: Workshop on Backfilling Large Vacancies
- Lincoln Institute of Land Policy Conference on my book, *Reinventing Development Regulations: Principal* • Lincoln Institute of Land Policy Conference on my book, *Reinventing Development Regulations: Principal Presenter* along with book co-author
- Webinar on *Blockchain Technology and Real Estate* for National Association of Realtors® (NAR)
- NAHB LANDS Conference: Presentation on Sign Regulations after U.S. Supreme Court decision in *Reed v. Town of Gilbert*
- NAHB LANDS Conference: Presentation on Inclusionary Zoning
- NAR National Conference: Presentation on Short-Term Rental Regulations
- Webinar on Stormwater Regulations in New England
- NAR National Conference: Presentation on Private Transfer Fees
- Build Boston Convention: Presentation: "Casino Gaming Around the Country and in Massachusetts"
- Professional Education Broadcast Network (State Bar Associations Telecast): "Green Law: Regulation, Real Estate and Environmentally Friendly Projects."
- ICSC U.S. Shopping Center Law Conference: "Brown Maze / Green Daze" — Making Sense of the Current Environmental Law Landscape."
- Boston Bar Association: Seminar on Implementation of the Permitting/Appeals Reform Act, Chapter 205 of the Acts of 2006
- American Council of Engineering Companies (ACEC): Livable Communities and the Massachusetts Zoning Reform Act"
- National Brownfields Conference: Recent Developments in the Exercise of Eminent Domain Power: Methods and Tools to Creatively Resolve Planned Condemnations without Resort to Litigation
- ICSC U.S. Shopping Center Law Conference: Practical Tips and Strategies for Retail Developers and Owners in Eminent Domain
- NAHB International Builders Conference: Impact Fees
- NAHB International Builders Conference: Mixed Use Development
- American Planning Association (Bettman Symposium): *Kelo* Case and Eminent Domain
- ICSC U.S. Shopping Center Law Conference: *Kelo* Case and Eminent Domain as it Affects Retail Development

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- ALI-ABA Program on Inverse Condemnation and Related Liability: Substantive Due Process Protections after *Lingle*.
- ICSC – NAIOP Program on Economic Development and Retail: District Improvement Financing (DIF) in Massachusetts

PROFESSIONAL ACTIVITIES – HONORS, AWARDS AND APPOINTMENTS

- Ranked in the *Chambers USA: America's Leading Lawyers for Business* in the Commonwealth of Massachusetts in the area of Real Estate: Zoning/Land Use (2013 to present)
- Listed in *The Best Lawyers in America*® in the area of Real Estate Law (2010 to present)
- Appointed International Council of Shopping Centers (ICSC) Eastern Division Government Relations Chair (2013 – 2017)
- Appointed member of ICSC National Environmental Subcommittee (1998 to present)
- Appointed to Editorial Board, ICSC publication: *Retail Shopping Center Law & Strategy* (2002 to 2018)
- Chair, ICSC New England Idea Exchange Conference (2011)
- Elected member of National Redevelopment Forum of Commercial Real Estate Development Association (NAIOP) (2003 - 2018)
- Public Affairs Award – (NAIOP) (2005)
- Appointed member, NAIOP National State & Local Subcommittee (2002 - 2006)
- Elected member of MA Abstract Club (2005 – present)
- Appointed member of Commonwealth Housing Task Force (2004 to present)
- Appointed Chair, NAIOP National Environmental Committee (2002 -2004)
- Chaired NAIOP National Task Force on Growth Management (consultant to Task Force was Tony Downs, Brookings Institute) -- Produced NAIOP publication entitled *Growing to Greatness* (1999)
- Member, Urban Land Institute (ULI) (1991 - present)
- Elected Chair, Planning & Law Division of the American Planning Association (APA) (1986-1990)
- Appointed member of APA National *Amicus Curiae* Committee (1986-1990)
- Elected to Lambda Alpha International (LAI) - honorary land economics society (1984 - present)
- Fulbright Scholar (1974 -1975)

CONSULTATIONS

Private Entity-Sponsored

- Partner in charge of national consulting contract with the National Association of Realtors® (NAR) in preparing analyses and legislation for NAR on behalf of state and local Realtor® associations on issues such as zoning code revisions, impact fees, sustainable development regulations, historic preservation, short-term rental regulations, subdivision regulations, inclusionary housing, urban design, open space/land conservation, vacant property regulations, wetlands and other environmental regulations
- *Blockchain Technology and Real Estate* (Guidance Paper for NAR: 2018)
- *Analysis of Inclusionary Zoning (IZ) Incentives* (National Association of Homebuilders, Washington, D.C.: 2017-2018)
- *National Study on Short-Term Rental Regulations* (NAR: Washington D.C. 2015)
- Prepared White Paper on *Thermal Imaging of Private Property without Owner Consent* for Massachusetts Association of Realtors® (2013)
- Consultant to U.S. Green Building Council re LEED Certification Process and Legal Issues (2007)
- *National Study of Blight Statutes* (NAR: Washington, D.C.: 2007)
- *National Study of Tax Increment Financing (TIF)* (NAR: Washington, D.C.: 2003)

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- *White Paper on Infill Development* (NAR: Washington, D.C.: 2002)
- *Study of the Impact of the Ripeness Doctrine on Fifth Amendment Takings Claims in State Courts* (NAR: Washington, D.C.: 2000)
- *Growing to Greatness* (National Task Force Report on Growth Management for Commercial Real Estate Development Association (NAIOP) (1999)

Government Agency- Sponsored

- *Study of Incentive-Based Inclusionary Zoning Programs – Best Practices* (District of Columbia Planning Dept, Washington, D.C.: 2005)
- *Environmental Law and Transportation* (National Cooperative Highway Research Program: Transportation Research Board (TRB), Washington, D.C.: 2003)
- *Joint Development in Highway and Public Transit Projects* (Federal Highway Administration (FHWA):1995-96)
- *Corridor Preservation – Legal and Institutional Barriers* (Federal Highway Administration (FHWA): 1992-94)

Assistance to Local Governments on Planning and Development Regulations

- Omaha, Nebraska – Master Plan Urban Design Element and Implementation Measures
- Maryland National Capital Park and Planning Commission (M-NCPPC) – Analysis of Prince George’s County Zoning Ordinance
- Wildwood, Missouri – Preparation of zoning, subdivision and environmental regulations for newly incorporated city
- Annapolis, Maryland – Zoning Ordinance Revision
- City of Houston, Texas – Preparation of First Zoning Ordinance
- City of Norfolk, Virginia – Comprehensive Revision of Zoning Ordinance; Sign Provisions
- City of Salt Lake City, Utah – Comprehensive Rewrite of Zoning Ordinance
- City of Evanston, Illinois – Comprehensive Revision of Zoning Ordinance
- Village of Indian Hill, Ohio – Land Use Plan; Open Space Preservation; Subdivision; Zoning
- Hamilton County, Ohio – Subdivision Ordinance Revision
- City of Chicago – Zoning Bonus Reform Study
- City of Cincinnati, Ohio – Revision of Zoning for Central Business District
- City of New Orleans – Special Regulations for French Quarter and CBD
- City of Louisville, Kentucky – Implementation of New Downtown Development Plan
- City of Clayton, Missouri – Implementation of Business Districts Master Plan
- City and County of Honolulu, Hawaii – Development Plans/Sequencing of Public Facilities
- Citrus County, Florida – Fiscal Impact Analysis and Impact Fees

PREPARATION/TESTIMONY RE LAND USE AND REAL ESTATE-RELATED LEGISLATION

- Prepared State Legislation on First Time Home Buyer Savings Accounts for sponsorship by State Associations of Realtors® of Alabama and Louisiana (2018)
- Prepared State Legislation on Short Term Vacation Rentals for sponsorship by Hawai’i Realtors® (2017)
- Presented to New Mexico Governor’s Task Force on Eminent Domain (2006)
- Prepared and testified on State Legislation Prohibiting Use of Eminent Domain to Take Underwater Mortgages sponsored by State Associations of Realtors® of Alabama, Louisiana, Maryland, Nevada, New York and South Carolina (2014)

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- Prepared State Legislation Prohibiting Private Transfer Fees in Real Estate P&S Transactions for sponsoring by State Associations of Realtors® of Alabama, California, Colorado, Connecticut, Delaware, Georgia, Hawai'i, Kentucky, Louisiana (testified), Maryland (testified), Nebraska, Nevada, New York, Mississippi, North Dakota, Pennsylvania, South Carolina, Texas, Virginia, and Washington (2010-2012)
- Prepared and presented testimony on historic preservation legislation, Virgin Islands, sponsored by Virgin Island Territorial Association of Realtors® (2011)
- Prepared New York State legislation re Mortgage Forgiveness Debt Relief Act for sponsoring by NY State Association of Realtors® (2014)
- Presented to New Mexico Governor's Task Force on Eminent Domain (2006)
- Testimony to House Civil Law Committee, Louisiana Legislature re Proposed Eminent Domain Legislation (2006)
- Testimony to Massachusetts Department of Housing and Community Affairs (DHCD) on proposed Chapter 40R Regulations (2005)
- Presented to New Mexico Attorney General's Office regarding Comprehensive Planning and Lot Merger Legislation (2003)
- Presented to Committee of British Parliament on Impact Fees (1998)

LITIGATION

- Special Assistant Attorney General for eminent domain actions brought by the Illinois Departments of Transportation and Conservation
- Litigation counsel for developers of housing projects in appeals under Massachusetts Chapter 40B affordable housing statute
- Litigation counsel for developers in state and federal court cases on issues involving inverse condemnation, eminent domain, impact fees, vested rights, coastal erosion, short term rental regulations, appeals of denials of variances and special permits, U.S. EPA enforcement actions, and violations of Section 1983 of the Civil Rights Act.

ADMITTANCE TO BAR MEMBERSHIPS

STATE

Connecticut
Illinois
Massachusetts
New Hampshire

FEDERAL

U.S. Supreme Court
U.S. Court of Federal Claims
U.S. Court of Appeals for 7th Circuit
U.S. Court of Appeals for 9th Circuit
U.S. Court of Appeals for 11th Circuit
Federal District Court for the District of Massachusetts
Federal District Court for Northern District of Illinois
Federal District Court for Northern District of California
Federal District Court for Eastern District of New York (*pro hac vice*)