



## **URBDP 580A: Legal and Administrative Framework for Planning**

SPRING 2021

**Lecture:** Monday & Wednesday | 8:30 – 9:50 am | Online via Zoom

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### **Class Objectives**

Like many professions, local, state, and federal laws affect the work that planners do. This course is designed to provide the practicing planner with a background in the essentials of land use and environmental law, with an emphasis on recent Washington State developments and lessons from other states.

This class has five goals.

1. After completing the class, the students will understand the source of laws, regulations, and legal principles and how they are applied to the specific situations planners face in their profession.
2. After completing the class, the students will be able to spot legal issues as they come up in their work. The students will know what issues require further consultation with lawyers.
3. Both historically and currently, the law has not treated all equally. After completing the class, the students will be able to help to address current injustices in the laws affecting the practice of planning and to contribute to the adoption and implementation of laws and regulations that advance the principle of equal justice for all.
4. After completing the class, the students will learn that the law changes. The students will also learn that planners can contribute to positive change in the law through the development of new planning techniques and practices. This is particularly important as new classes of planners will experience dramatic change in their professional lives due to changes in technology, society, institutions, and the environment.
5. To learn from the other students. Graduate students bring their life experiences and technical expertise to class. By discussing laws and cases in class and working together in a team, we can all benefit from the student experiences and expertise.

### **Readings**

The class has one required textbook:

Daniel R. Mandelker, et al., *Planning and Control of Land Development: Cases and Materials* (Tenth Edition: 2020, Carolina Academic Press).

*The textbook is available at the University Bookstore and elsewhere. Be sure to purchase or rent the correct edition, the Tenth Edition from 2020. Additional assigned readings will be available in PDF format on the class canvas website. Specific reading assignments are indicated on the schedule below; you are expected to complete each reading before the class for which it is assigned.*

## Assignments and Grading

The following will determine your grade for the class:

Midterm Project:	40%
Final Exam:	45%
Case Briefs:	10%
Class Contribution:	5 %

### Midterm Project

The midterm is a group project including a written report and a Zoom presentation. Team assignments and project instructions will be given in class during Week 3. Before then, you will be asked to complete a brief survey of skills and experiences to help the instructors create balanced teams. The project will require the creation of a deliverable document and a presentation to the instructors. Your work will be based on concepts and cases discussed in class through Week 5. Teams will present their work during Week 6 class periods. Documents from all teams will be due at midnight on Sunday, May 2.

### Final Examination

The final exam will be on Tuesday, June 8 , 8:30 – 10:30 am. During the examination, you will be allowed to refer to your textbook, class handouts including PowerPoint presentations, and case briefs that you have produced. Additional details on the final format will be provided in May.

### Case Briefs

All students are required to submit three case briefs. A case brief is a short (1-page) summary of the key issues and implications of a court case. Specific guidance on the format and expectations for case briefs will be provided in class. You may not brief Penn Central or Pennsylvania Coal v. Mahon, and you may not brief cases from reading assignments marked “skim.” Otherwise, you may choose any case from the readings assigned within the date ranges specified for each of the three briefs:

Case Brief #1, from cases assigned for April 5 – April 14 (other than Pennsylvania Coal v. Mahon).

Case Brief #2, from cases assigned for April 19 – April 28.

Case Brief #3, from cases assigned for May 10 – May 26.

**Due dates:** Case briefs are due at midnight on the evening before the class in which the case is assigned. Briefs submitted for cases that have already been discussed in class will not be accepted.

## **Additional Policies**

### **Remote Learning**

The instructors understand that remote learning is different and creates challenges for students that are both common to all students and unique to each student. The U of W has resources available to help students during this period of remote learning classes. The instructors also want to help all students learn during this time of remote learning. If you have any questions or need assistance, please contact the instructors.

The class sessions will be recorded. While attending the class sessions in real time is preferred, if you cannot attend a session please review the recorded version of the class.

### **Class Contribution**

Class contribution will be evaluated based on your active engagement in class: listening attentively to instructors, guest speakers, and your peers; participating in discussions; demonstrating your understanding of readings; asking for clarification; raising relevant issues; etc. Although our class is being held remotely, you are still encouraged and expected to participate.

In classes without a panel or guest speaker, there will be small group breakout sessions to discuss a question related to the class topics. Everyone is requested to participate in the small group breakout.

### **Class Attendance, Readings, and Discussion**

We expect class attendance and participation in class discussion to the extent permitted by remotely conducted classes. We also expect you to complete assigned readings on time. In comparison to other course work, the readings may seem substantial from time to time, and it will be wise to plan your study schedule accordingly.

We highly encourage forming a study group with a few other people in order to discuss the readings, share different points of view on the cases, and/or proof each other's case briefs before turning them in. Remember that aside from the midterm project, you are responsible for submitting your own individual work, and using only the work that you have produced (in addition to class handouts and the textbook) during the final examination.

### **Academic Conduct**

The University of Washington has a set of guidelines on how to respond to suspected cases of academic dishonesty, or "cheating." These cases include plagiarism in written assignments (copying directly from texts or another student's work) and referring to contraband or getting help from someone else in testing situations. You should familiarize yourself with these guidelines. If you have any questions about the boundary about what is or is not acceptable, ask the instructor or the TA to clarify.

As a student at the University of Washington you are held to "high standards of academic and professional honesty and integrity" by the Student Conduct Code. The Student Conduct Code can be read on the University's homepage at: <https://www.washington.edu/cssc/for-students/student-code-of-conduct/>

The University has a license agreement with Turnitin, an educational tool that helps prevent or identify plagiarism from Internet resources. Your instructor may use the service in this class by requiring that assignments must be submitted electronically to be checked by Turnitin. The Turnitin Originality Report will indicate the amount of original text in your work and whether all material that you quoted, paraphrased, summarized, or used from another source is appropriately referenced.

## **Students with Disabilities**

Students that believe that they may have any form of a disability should speak with the instructor as early as possible and consult the University's resources for students with disabilities: <http://www.washington.edu/students/drs/>

## **Readings and Schedule**

This class schedule and assigned readings may be amended from time to time; please check the class website for updates. Textbook pages refer to Mandelker, et al., Planning and Control of Land Development (10th ed).

### **Week 1**

#### ***Monday:***

#### ***Class Overview & Big Themes:***

The Role of Law and its Evolution;  
Property Rights vs. Police Power;  
The Role of Courts and Other Dispute Resolution Methods;  
The Consistency Requirement in Planning Enabling Acts and Modern Planning Laws;  
"Urbanism;" and  
Environmental Justice and Equity, and Is American Zoning a Segregating Tool and How Should It Be Reformed?

#### ***Topics:***

Sources of Law: Constitutions, Laws, Court Decisions, Regulations, Local Ordinances, Administrative Decisions, and How They Are Made.

#### ***Readings:***

"How Laws Are Made and How to Research Them" (available at this link, in the class Canvas website in the Files/Readings subdirectory) or <https://www.usa.gov/how-laws-are-made>

Skim Textbook pp. 3–15 & pp. 27–31 (available on the class website at this link or in the Files/Readings subdirectory).

#### ***Wednesday***

#### ***Topics:***

Reading and briefing cases using the Penn Central v. City of New York case as an example.

**Readings:**

“Reading Cases” (available on the class Canvas website at this link or in the Files/Readings subdirectory).

“Writing Case Briefs” (available on the class Canvas website at this link or in the Files/Readings subdirectory).

Textbook pp. 72–87 (Penn Central v. City of New York) (available on the class website at this link or in the Files/Readings subdirectory).

**Week 2**

**Monday**

**Topics:**

The Police Power.

Nuisances.

Property Rights Topics including the “bundle of sticks.”

The evolution of Takings law and substantive due process in the United States. Small group briefing exercise using Pennsylvania Coal v. Mahon.

**Readings:**

Textbook pp. 15–27 (Bove v. Donner-Hanna), pp. 45–57 (Pennsylvania Coal v. Mahon), 58 – 71 (Village of Euclid v. Ambler Realty Co.), pp. 131–42, (Lucas v. South Carolina Coastal Council). Lingle v. Chevron (available on the class Canvas website at this link or in the Files/Readings subdirectory).

**Wednesday**

**Topics:**

U.S. and Washington Takings Law.

Eminent Domain.

Substantive Due Process and Other Constitutional Constraints.

Takings Remedies including Section 1983 and limitations.

**Readings:**

Chong Yim v. City of Seattle 8–19 (available on the class Canvas website at this link or in the Files/Readings subdirectory).

Textbook pp. 34–45 (Kelo v. New London), pp. 152–92 (Murr v. Wisconsin, George Washington University v. District of Columbia, Willowbrook v. Olech).

**Assignment:** Complete student survey online.

**Week 3**

**Monday**

**Topics:**

The Doctrine of Unconstitutional Conditions.

Remedies.  
History and Zoning Enabling Legislation.  
Structure of Zoning.

**Readings:**

Textbook pp. 90–111 (Nollan v. California Coastal Commission, Dolan v. Tigard), Textbook pp. 227 – 35 (City of Richmond v. Randall).

**Wednesday**

**Topics:**

Large Lot, Agricultural, and Residential Zoning Issues.

**Readings:**

Textbook pp. 241 – 93 (Johnson v. Town of Edgartown, Gardner v. New Jersey Pinelands Commission, Village of Belle Terre v. Boraas, Cleburne v. Cleburne Living Center).

**Assignments:** Last chance to turn in Case Brief #1 (due midnight the evening before the class for which the case is assigned).

Midterm groups announced, assignment posted.

**Week 4**

**Monday**

**Topics:**

Commercial, Industrial, Nonconforming, and Special Uses. Uses Given Special Protection including religious institutions.

**Readings:**

Textbook pp. 293–54 (Loreto Development Co., Inc. v. Village of Chardon, Hernandez v. City of Hanford, Conforti v. City of Manchester, City of Los Angeles v. Gage, City of Renton v. Playtime Theatres, Inc., Adam Community Center v. City of Troy).

**Wednesday**

**Topics:**

Mixed Use Zoning, Form-Based Zoning, and Transit-Oriented Development.  
Zoning Changes, Moratoria, Variances.  
Conditional Use Permits, Special Exceptions, and Special Use Permits.

**Readings:**

Textbook pp. 354–64, pp. 433–82 (Ecogen, LLC v. Town of Italy, Puritan-Greenfield Improvement Association v. Leo, Ziervogel v. Washington County Board of Adjustment, Fairfax County v. Southland Corp., Crooked Creek Conservation Gun Club, Inc. v. Hamilton County North Board of Zoning Appeals).

## **Week 5**

### **Monday**

#### **Topics:**

Vesting in Washington and Other States.  
Rezoning.  
Downzoning.  
Floating zones and contract rezones.

#### **Readings:**

Textbook pp. 482–545, (Western Land Equities, Inc. v. City of Logan, Kuehne v. Town of East Hartford, Board of Commissioners of Brevard County v. Snyder, Stone v. City of Wilton, Collard v. Incorporated Village of Flower Hill).

### **Wednesday**

#### **Topics:**

Site Plan review.  
The Role of the Comprehensive Plan.  
Initiative and Referendum.  
Strategic Lawsuits Against Public Participation (SLAPP Suits).

#### **Readings:**

Textbook pp. 546–66 (Charisma Holding Corp. v. Zoning Board of Appeals of the Town of Lewisboro, Haines v. City of Phoenix), pp. 570–96 (Township of Sparta v. Spillane, City of Eastlake v. Forest City Enterprises, Inc., TriCounty Concrete Company v. Uffman-Kirsch).

**Assignment:** Last chance to turn in Case Brief #2 (due midnight the evening before the class for which the case is assigned)

## **Week 6**

### **Monday**

*Mid-Term Presentations*

### **Wednesday**

*Mid-Term Presentations*

## **Week 7**

### **Monday**

#### **Topics:**

Exclusionary Zoning.  
Inclusionary Zoning.  
Fair Housing.  
Being Unhoused and the Law.

**Readings:**

Does urban sprawl hold down upward mobility? Pages 80—82 (you may stop reading at the end of Section 2.1) (available on the class Canvas website at this link or in the Files/Readings subdirectory).

Textbook pp. 365 – 421 (Southern Burlington County NAACP v. Township of Mount Laurel [I & II], Village of Arlington Heights v. Metropolitan Housing Development Corp., Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.), pp. 427 – 31. Textbook pp. 597–612.

**Wednesday**

**Topics:**

Subdivisions, Planned Unit Developments, Cluster and Conservation Subdivisions, Dedications and Exactions.

Impact Fees and Connection Charges.

Brownfields, CERCLA (Superfund), Model Toxics Control Act.

Liability for planning decisions or nondecisions.

**Readings:**

Textbook pp. 614–42 (Sparks v. Douglas County, Homebuilders Association of Tularea/Kings Counties, Inc. v. City of Lemoore) pp. 649–59 , (Sinkler v. County of Charleston). State of Washington Department of Ecology Model Toxics Control Act webpage (available on the class Canvas website at this link or in Files/Readings subdirectory).

Brownfields Planning and Process Primer (available on the Canvas website at this link or in the Files/Readings subdirectory).

**Week 8**

**Monday**

**Topics:**

Growth Management in Washington.

Growth Management in Other States.

**Readings:**

Growth Management Act Legal Primer for Planners pp. 4-41 (available on the class website at this link or in the Files/Readings subdirectory).

Textbook pp. 681 – 734 (Construction Industry Association of Sonoma County v. City of Petaluma, Golden v. Ramapo Planning Board, Maryland National Capital Park and Planning Commission v. Rosenberg, Land Watch of Lane County v. Lane County).

**Wednesday**

**Topics:**

Critical Areas Ordinances.

Planning and Regulating Coastal Areas and Shorelines.

Sea Level Rise.

Drafting Land Use regulations and ordinances.



**Readings:**

Critical Areas Ordinance Updates (available on the class Canvas website at this link or in the Files/Readings subdirectory).

Textbook pp. 673 – 681.

California Coastal Commission Sea Level Rise Policy Guidance Executive Summary pp. 14 – 23 (available on the class Canvas website at this link or in the Files/Readings subdirectory).

“Drafting Defensible Regulations” (available on the class Canvas website at this link or in Files/Readings subdirectory).

**Week 9**

**Monday**

**Topics:**

Aesthetics: Design Review, Sign Regulation, and Historic Preservation.

**Readings:**

Textbook pp. 735–740, pp. 746–775 (Metromedia, Inc. v. City of San Diego (the U.S. Supreme Court decision) State Ex Rel. Stoyanoff v. Berkeley) 778 – 809, (Figarsky v. Historic District Commission). Cougar Mtn. Associates v. King County (will primarily be relevant for the next class and available at the class Canvas website at this link or in Files/Readings subdirectory).

**Guests: *Planning Law in Practice Panel***

Catherine Beam, Principal Planner, City of Redmond

Karen Wolf, Senior Policy Analyst, King County

John Owen, Partner, Makers Architecture & Urban Design

**Wednesday**

**Topics:**

Environmental Review (SEPA/NEPA).

Hearing Examiners, Negotiation, Mediation, and Other Types of Alternative Dispute Resolution. Judicial Review.

**Readings:**

Textbook pp. 566–70, pp. 183–92 (Kink v. Township of Scott), pp. 195-- 223 (Center Bay Gardens v. City of Tempe, Ben Lomond, Inc. Municipality of Anchorage).

City of Seattle Hearing Examiner Rules of Practice and Procedure (available on the class Canvas website at this link or in the Files/Readings subdirectory).

**Assignment:** Last chance to turn in Case Brief #3 (due midnight the evening before the class for which the case is assigned).

**Guests: *A Judge’s Perspective on Land Use Law***

The Honorable David Mann, Judge State of Washington Court of Appeals.

**Week 10**

***Monday***

Memorial Day, no class.

***Wednesday***

***Topics:***

Evolving Areas of Planning Law: Mobility as a Service, Self-Driving Cars, E-commerce, the Sharing Economy, Data Privacy, Global Warming.

**Finals Week, Week 11**

***Tuesday***

***Final Examination Open***