Tips and Resources for Legal Research and Preparation for Land Use and Zoning Applications and Cases

Wednesday, March 1, 2017
6:00-8:30 PM
Quinnipiac Club
Special Thanks To:

Caleb Hamel, Anne Peters, Matt Ranelli, Marjorie Shansky, Ken Slater, Dominic Thomas, Joe Williams, Greg Ugalde
Your Three Musketeers, Led by...

Chuck Andres
With...

Mark Branse

Dwight Merriam
Murr v. Wisconsin

Please Confirm Subscription

Yes, subscribe me to this list.
R. Fuller, **Land Use Law & Practice, (Connecticut Practice Series, Vol. 9, 9A, 9B), Fourth Ed. 2015**

(latest Supp Dec. 2016) (available on Westlaw)

This title is currently out-of-print. This page will be updated with new information when available.

Price $0.00
Availability Out-of-Stock
Bronin and Merriam, Rathkopf’s The Law of Zoning and Planning, 4th
Merriam et al., Planning and Control of Land Development (Ninth Edition)
General Resources

Manual on Uniform Traffic Control Devices
http://mutcd.fhwa.dot.gov/kno_2009r1r2.htm

• For the non-environmental guidance, DOT’s standard road specifications are here: http://www.ct.gov/dot/cwp/view.asp?a=3609&q=430362. The Institute of Traffic Engineers publishes (must be paid for) trip generation (http://www.ite.org/tripgeneration/trippubs.asp) and parking generation (http://www.ite.org/tripgeneration/parking.asp) documents. The trip generation manual costs hundreds, but has been condensed into a handbook that only costs about $50. The parking generation manual only costs ~$200. Both are fairly easy to read.

• RCSA 20-300b (available on the state’s regulation site) sets out the standards for survey accuracy (boundary, topographical, horizontal, vertical, etc.). So if you’re ever wondering just what an A-2 survey is, you can know that it’s not just the state standard for boundary line surveys, but also that it’s a survey with an accuracy of 1:5000—the end of the surveyor’s loop is within one foot per 5,000 feet of perimeter (1/4 inch per 100 feet of perimeter) of the start of the loop.
Google Scholar
https://scholar.google.com/

"zoning estoppel"

- Articles (include patents)
- Case law
- Federal courts
- Connecticut courts

Stand on the shoulders of giants
234 Conn. 221, 662 A. 2d 1179 - Conn: Supreme Court, 1995 - Google Scholar
234 Conn. 221 (1995). ROBERT BAUER v. WASTE MANAGEMENT OF CONNECTICUT, INC.
WASTE MANAGEMENT OF CONNECTICUT, INC. v. ZONING COMMISSION OF THE TOWN
OF NEW MILFORD. (14949), (14951). Supreme Court of Connecticut...
Cited by 81  How cited  Related articles  Cite  Save

West Hartford v. Rechel
190 Conn. 114, 459 A. 2d 1015 - Conn: Supreme Court, 1983 - Google Scholar
... Corporations (3d Rev. Ed. 1976) § 25.349; 9 McQuillan, supra, § 27.56; 3 Rathkopf,
Law of Zoning and Planning (4th Ed. 1982) § 45.05[1] [b]. Lescynski puts to rest some
of the controversy surrounding zoning estoppel. Contrary to the ...
Cited by 32  How cited  Related articles  Cite  Save

Create alert
Bauer v. Waste Management of Connecticut, Inc., 234 Conn. 221 - Conn: S...

How this document has been cited

"As our Supreme Court has observed, "[i] t is the intent of building zone regulations generally that nonconforming uses should not be allowed to increase, and an extension of the space allotted to a nonconforming use is a proscribed extension of that nonconforming use and is inconsistent with the policy and comprehensive plan of the regulations."
- in Verrillo v. ZONING BD. OF APP. OF BRANFORD, 2015 and 4 similar citations

"This is not a typical case of practical confiscation wherein a regulation or regulatory decision has deprived "undeveloped land in its natural state" of all reasonable uses.
- in RURAL WATER COMPANY INC. v. Zoning Board of Appeals, 2008 and 4 similar citations

Waste Management argues that we must not interpret our state constitution to provide less protection for property owners than the "floor"established by the federal constitution"

Cited by

239 Conn. 515 - Conn: Supreme Court 1996

GREEN FALLS ASSOCIATES, LLC v. ZONING BOARD OF APPEALS OF TOWN OF MONTVILLE
Conn: Appellate Court 2012

GREEN FALLS ASSOC. v. Zoning Bd. of Appeals
53 A. 3d 273 - Conn: Appellate Court 2012

RURAL WATER v. ZONING BD. OF RIDGEFIELD
947 A. 2d 944 - Conn: Supreme Court 2008
Bauer v. Waste Management of Connecticut, Inc., 234 Conn. 221

... Jeffrey B. Sienkiewicz, with whom was Michael S. McKenna, for the appellee (substitute plaintiff). NORCOTT, J. This appeal arises out of proceedings following our remand in Bauer v. Waste Management of Connecticut, Inc., 234 Conn. 221, 662 A.2d 1179 (1995). ...

GREEN FALLS ASSOCIATES, LLC v. ZONING BOARD OF APPEALS OF TOWN OF MONTVILLE

Conn: Appellate Court, 2012 - Google Scholar

... A practical confiscation does not occur when the landowner cannot take advantage of a myriad of uses acceptable under the applicable regulations because of choices the landowner itself has made that limit its land use options. "Bauer v. Waste Management of Connecticut, Inc ...
Tomorrow's Research Today

Welcome to the new SSRN Home Page. Check out the 'New Look & Feel' link above the map icon for more information.

SSRN's eLibrary provides 718,728 research papers from 331,536 researchers across 24 disciplines.
1. **Koontz: The Very Worst Takings Decision Ever?**
   John D. Echeverna
   Vermont Law School
   Keywords: Koontz, Nollan, Dolan, Supreme Court, takings, property rights, exactions
   384 Downloads | Date posted: 27 Aug 2013 | Last revised: 09 Jan 2015 | Number of Pages in PDF File: 57

2. **Planning Milagros: Environmental Justice and Land Use Regulation**
   Craig Anthony (Tony) Arnold
   University of Louisville - Brandeis School of Law
   Keywords: environmental justice, land use, zoning, planning, racism, civil rights, environmental enforcement, ...
   313 Downloads | Date posted: 04 Dec 2007 | Number of Pages in PDF File: 154

3. **Exactions Creep**
   Lee Anne Fennell and Eduardo M. Penalver
   University of Chicago - Law School and Cornell University - Law School
   Keywords: exactions, regulatory takings, unconstitutional conditions
   257 Downloads | Date posted: 26 Oct 2013 | Last revised: 25 May 2015 | Number of Pages in PDF File: 62

4. **Note, Making it Easy to Be Green: Using Impact Fees to Encourage Green Building**
   Benjamin S. Kingsley
   New York University School of Law
   Keywords: green building, land use, impact fee, impact fees, exaction, exactions, LEED, high-performance ...
Aerial Photographs


https://www.google.com/earth/  Google Earth – Can use to get historical aerial photos (think it goes back to the 1990s).

https://www.bing.com/maps/  Map, satellite and streetview. The Bird’s eye view is particularly helpful, but dates are uncertain.

http://scrcog.mapxpress.net/  The South Central Regional Council of Governments did its own aerial photographs within the last 2 years. Has tools to allow measurements and overlays.

http://magic.lib.uconn.edu/  Aerial photos of all or parts of the state starting in 1934.

http://www.cteco.uconn.edu/  Connecticut Environmental Conditions online. Maps with info on wetlands soils, Aquifer Protection areas, erosion susceptibility sites, critical habitats and open space, Hurricane Sandy’s impact.
CT Enviro Conditions Online
UConn Magic (also Google Earth)
Google Streetview (October 2016)
Municipal Resources

Town websites: Google the town and see what is available on its website

https://www.municode.com/library/ct (Municipal ordinances and regulations for 35 towns)

http://www.vgsi.com/vision/applications/parceldata/CT/Home.aspx (Vision appraisal -- appraisal data for 87 Towns; each property listing typically shows a photo of building; can link to google maps that has satellite or street view of property, and, in some cases, Town GIS system)

http://neccog.org/gis/ Northeastern CT Council of Governments. Easy to use map overview allowing one to zoom into all individual lots of each town in the region, with a link to the assessor information on each lot.

http://crcog.org/regional-gis/ Capitol region council of governments. – operates similar to neccog site.

https://www.ordinance.com/ A paid site with some limitations, but has capacity to search all regs/ordinances in the state, and has value in doing comparative reg searches.
Welcome to the Northeastern CT Council of Governments Map Viewer

The Neccog GIS Map Viewer for HTML5 can be used to visualize data for the 16 towns of NECCOG as well as retrieve Parcel Information by GIS Id, Street Address or Owner Name. The information provided within is for general public information purposes only. Independent verification of all data should be obtained by any user of these map products or the underlying data. These map products were not intended for legal use and data may not reflect the actual status as of the retrieval date.

Owner info last updated to the following dates. A link to the VISION Property Summary is available at the bottom of the Results Panel for towns listed:

- Ashford: 3/15/16
- Brooklyn: 11/8/16 VISION Link
- Canterbury: 2/12/15
- Chaplin: 1/12/15
- Eastford: 2/12/16
- Hampton: 10/6/16 VISION Link
- Putnam: 10/15/12
- Pomfret: 12/22/15 VISION Link
- Scotland: 2/25/15
- Union: 5/2/16
- Voluntown: 1/28/15
- Woodstock: 5/25/16 VISION Link

For more Current Info contact the Assessor.

You can view parcel information, print Maps, Parcel Reports and Address Labels. The information below
# Parcel Information

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<tr>
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<td>NORTHEASTERN PROPERTIES LLC</td>
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<tr>
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<tr>
<td><strong>Mailing Address:</strong></td>
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<td><strong>Primary Structure Area:</strong></td>
<td>5,280 sq. ft.</td>
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This map is a user-generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
OLR reports provide information on a plethora of subjects often not covered by case law or treatises.

Use this site to research legislative history as well as OLR reports.

Research guide by Subject – including, for example a primer on Surface Water in Connecticut.

Summary of Connecticut Supreme and Appellate Court Advance release opinions by subject. The land use link is (Note: you can sign up to receive email alerts when the courts release an opinion in your chosen subject area.)

A compilation of links to charter and ordinances for each Connecticut municipality

Website for Judge Berger’s land use litigation docket. DEEP’s wetlands training page. Contains links to training material, including AAG’s summary of most important wetlands cases.
**Advanced Legislative Document Search**

### Bills and Related Documents
- Bill Analyses (1990 - 2015)
- Committee Vote Tally Sheets (1999 - 2015)

### Session and Committee Documents
- Committee Agendas (2000 - 2015)
- Committee Minutes (2000 - 2015)
- Session Transcripts (1988 - 2015)

### Acts, Statutes and Constitutions
- Public Act Summaries (1990 - 2015)
- Statutes - Chapter Format (1/1/15)
- Statutes - Chapter Format Supplement (1/1/15)
- Statutes - Section Text (1/1/15)
- Constitutions (1/1/15)

**Important Message from dtSearch regarding Adobe X Reader**

*Powered by dtSearch*
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<td>12</td>
<td>1999-R-0012.HTM</td>
<td>Municipal Anti-Blight Ordinances</td>
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NFPA:
Connecticut adopted NFPA 1 as the Fire Prevention Code with CT-relevant amendments. The official website for state regulations, [www.eregulations.ct.gov](http://www.eregulations.ct.gov), has a copy of the regulation adopting NFPA 1 as the Code (29-291a-8a). And it has one reg, 29-291a-9a, that lists all of the amendments to NFPA 1 (as one, 40+ page regulation without subsections).

The State Building Official's website ([http://www.ct.gov/dcs/cwp/view.asp?a=4447&q=521446](http://www.ct.gov/dcs/cwp/view.asp?a=4447&q=521446)) has a link to the NFPA's free-code website ([http://www.nfpa.org/codes-and-standards/resources/free-access](http://www.nfpa.org/codes-and-standards/resources/free-access)), and then find NFPA 1, and then find the right *edition* of NFPA 1, and view that for free, and compare *that* document to the 40+ pages of 29-291a-9a, in order to find out what the Connecticut Fire Prevention Code actually says.
Listservs and Blogs

https://listserv.uconn.edu/scripts/wa.exe?A0=CT_PLANNING_PROFESSIONALS-L
Connecticut Planners (CCAPA) Discussion list—open to all. Can sign up and see what issues planners are reviewing and contribute if interested. Can search last 3+ years of comments in archives.

http://www.cama-ct.org/main_page.html Connecticut Association of Municipal Attorneys has a listserv; must be a member.

www.inversecondemnation.com Latest property rights cases.


www.RLUIPA-Defense.com All things RLUIPA.

hbjtoday@hartfordbusiness.com Hartford Business Journal

https://www.zillow.com/ Has data on recent residential sales and current listings.

Gideon’s Trumpet - Gideon Kanner’s Blog on eminent domain, land use and related matters - http://gideonstrumpet.info

Land Use Law - Prof. Daniel Mandelker’s - http://law.wustl.edu/landuselaw/bookdpc.html

Gaining Ground - Pace Land Use Law Center - https://appsrv.pace.edu/gainingground/

Rocky Mountain Sign Law Blog - http://www.rockymountainsignlaw.com

Supreme Court of the United States - opinions, and, Marjorie’s favorite, oral arguments: https://www.supremecourt.gov/oral_arguments/argument_audio.aspx
from a municipal lawyer

Government-side

Left coast

Good, general site

Learn from our neighbors

not much in these:

http://lawprofessors.typepad.com/land_use/

http://blog.aklandlaw.com/

http://www.realestatelanduseandenvironmentallaw.com/

PATRICIA E. SALTIN is Provost of the Graduate and Professional Divisions of Touro College. She most recently served as Dean and Professor of Law of the Touro College Jacob D. Fuchsberg Law Center. She previously served as Associate Dean, Raymond & Ella Smith Distinguished Professor of Law, and Director of the Government Law Center of Albany Law School.

Saltin is a nationally recognized expert on land use law and zoning. Her land use publications include: The 4-volume 4th edition of New York Zoning Law & Practice; the 5-volume 2nd edition of American Law of Zoning; Land Use & Community Development; 5th ed. (Thomson West) (with Nelson) (2012); Land Use in a Nutshell (Thomson West) (with Nelson) (2007); Current Trends and Practical Strategies in Land Use Law and Zoning; ed. American Bar Association Press (2004); Trends in Land Use Law from A to Z: Adult Uses to Zoning; ed. American Bar Association Press (2001); the annual Zoning and Planning Law Handbook, ed. (West Group); contributing editor of the national monthly Zoning and Planning Law Report, and editor of the bimonthly New York Zoning Law and Practice Report. She is a frequent lecturer for statewide and national land use programs. Many of her dozens of law review articles, book chapters and columns can be accessed at www.governmentlaw.org or on SSRN at http://ssrn.com/author=83279. Saltin served as an appointed member of the U.S. Environmental Protection Agency's National Environmental Justice Advisory Council. She has served on the Board of Directors of the New York Planning Federation, and has been active in land use reform efforts in New York including: membership on the Land Use Advisory Committee of the Legislative Commission on Rural Resources; serving as a consultant to the State Commission on the Capital Region and its land use committee; consulting for the American Planning Association's Growing Smart Initiative; and serving on a working advisory group for the Hudson River Valley Greenway Community Council. She served as a reporter for the American Planning Association's Planning & Environmental Law (the publication was
WA Appeals Court Upholds Denial of Proposed Billboard Along Scenic Highway
Posted by: Patricia Salkin on September 28, 2016

Fed. Dist. Court in NY Finds Village Sign Law Unconstitutional
Posted by: Patricia Salkin on September 22, 2016

9th Circuit Court of Appeals Upholds Ordinances Limiting Motorized Mobile Billboards and Prohibiting Non-Motorized Mobile Billboards
Posted by: Patricia Salkin on September 13, 2016

CATEGORIES
- Access to Government (15)
- Accessory Uses (40)
- ADA (29)
- Adequate Public Facilities Ordinances (1)
- Adult Entertainment Facilities (111)
- Aesthetics (2)
- Affordable Housing (61)
- Aging (1)
- Agricultural Uses (79)
- Airports (6)
- Alcohol Sales (5)
- Alienation of parkland (1)
- Amending Zoning (18)
- Annexation (18)
- Architectural Review Board (2)
- Attorney Work Product (1)
- Authority (29)
- Authority to Zone (4)
- Big Box/Formula Retail (9)
- Book Reviews (11)
- Brownfields (1)
- Building Codes (9)
- Cemeteries (1)
- Climate Change (58)
- Collateral Estoppel (4)
- Comprehensive Plan (63)
- Condemnation/Eminent Domain (69)
- Conditions on Approval (15)
- Consent Decree (1)
- Conservation Easements (3)
- Constructive Approval (2)
- Contract Zoning (6)
- Current Case law (2,346)
- Current Case law - New York (934)
- Declaratory Relief (13)
- Definitions (32)
- Density Bonus (1)
- Development Agreements (8)
- Development Rights
Connecticut Land Use Websites

http://www.ctwetlands.org/index  Connecticut Association of Wetlands Scientists webpage

http://www.cazeo.org/  Connecticut Association of Zoning Enforcement Officials webpage


http://www.hbact.org/  Connecticut Homebuilders website. This group is an active lobbyist in land use legislation issues; website reviews past legislation. Also has links and articles about current housing activity.
Mark Branse has posted his outlines on subjects such as Public Hearing Procedures, Aggrievement and Standing in Land Use Appeal, Zoning Enforcement, an Ordinance for Citation Procedures, Attaching Conditions to Approvals, Extension, Modifications and Revocations of Approvals, Running a Meeting, Land Surveyors, FEMA and Other Flood Zone Issues.

Connecticut Fund for the Environment website. Contains its legislative agenda. Not the same as the homebuilders.

Center for Land Use Education and Research website. Includes Webinars (e.g., “Living Shorelines in Connecticut: Design Considerations and Site Suitability”; “Getting Started on your new MS4 Permit”; “Planning & Zoning in an Aging Connecticut”)

“Nonpoint Education for Municipal Officials” Information on rain gardens and stormwater management; offers “Land Use Academy” with sessions on map reading, conflict of interest, and roles and responsibilities.
2004 Stormwater Quality Manual

2002 DEEP Erosion & Sedimentation Control Guidelines:
http://www.ct.gov/deep/cwp/view.asp?a=2720&q=325660&deepNav_GID=1654%20, which gives guidance on proper E&S controls

The Army Corps of Engineers’ Compensatory Mitigation Guidance for the New England District:
http://www.nae.usace.army.mil/portals/74/docs/regulatory/Mitigation/2016_New_England_Compensatory_Mitigation_Guidance.pdf is ACE’s guidance document for mitigating impacts to wetlands and other aquatic resources. Also, ACE’s published a New England-specific supplement to their wetlands delineation manual,
http://www.usace.army.mil/Portals/2/docs/civilworks/regulatory/reg_supp/NCNE_suppV2.pdf, which is helpful for understanding the wetland mapping process.
Amphibians & Reptiles of CT & Adjacent Regions, Bulletin 112 of the DEEP’s Geological and Natural History Survey. The full document is available from the CT State Library, and has been condensed into a free publication on DEEP’s website: http://www.ct.gov/deep/cwp/view.asp?a=2723&q=325856&deepNav_GID=1655

Best Development Practices Conserving Pool-Breeding Amphibians in Residential and Commercial Development in the Northeastern U.S. (http://maineaudubon.org/wp-content/uploads/2012/08/Best-Development-Practices-Conserving-Pool-breeding-Amph.pdf), co-authored by Michael Klemens, who also wrote Bulletin 112. This doesn’t carry the imprimatur of being an official government publication, but I know it’s a respected guidance document for developing near vernal pools and may come in handy for extra reference

Also see the various DEEP Stormwater General Permits ([http://www.ct.gov/deep/cwp/view.asp?a=2721&q=325702&deepNav_GID=1654](http://www.ct.gov/deep/cwp/view.asp?a=2721&q=325702&deepNav_GID=1654)).

DEEP’s permit database ([http://www.ct.gov/deep/cwp/view.asp?a=2709&q=324224&deepNav_GID=1643%20](http://www.ct.gov/deep/cwp/view.asp?a=2709&q=324224&deepNav_GID=1643%20)) also includes a variety of other guidance documents on, for example, air pollution issues.
Questions and, we hope, some answers...