

*the improvement of the legal profession  
through legal education*

WORKSHOP ON  
**Property**

June 10-12, 2010

New York, New York

For more information visit  
[www.aals.org/midyear2010/](http://www.aals.org/midyear2010/)



A A L S

---

## Workshop on Property

### Why Attend?

Two major crises in the last few years have exposed deep tensions and pressures on our understanding of property law. The foreclosure of more than 2 million homes, and the anticipated default of another 6 million mortgages has shaken common notions about the ability of consumers to understand real estate transactions and the terms of their mortgage contracts, posed stark questions about the failure of the law to limit the ability of the market to produce property transactions that created significant principal/agent costs, moral hazards, and externalities, and presented challenging questions about racial disparities in access to prime credit and in the underwriting of troublesome new mortgage products. Similarly, vigorous debates over the responsibility of industrialized countries to control global warming, the need to protect future generations from the effects of global warming, and the fair allocation of the burdens of reducing greenhouse gases similarly have posed challenging questions about the regulation of risk from activities on private property, the nature of property owners' obligations to future generations, and the failure of regulation to control externalities from the use of property. Both crises raise serious theoretical and practical challenges to traditional notions about the comparative advantages of the free market, our ability to craft property laws that limit systematic risk without unduly discouraging innovation, and the continuing inability of the law to prevent racial discrimination, exclusion and exploitation.

### ~Planning Committee for AALS Workshop on Property

Vicki L. Been, New York University School of Law, **Chair**

Carol N. Brown, University of North Carolina School of Law

Eduardo Moises M. Penalver, Cornell Law School

Joseph W. Singer, Harvard Law School

Alfred Chueh-Chin Yen, Boston College Law School

## Workshop on Property

The crises also have shown that property conundrums are hardest when they fall at the intersections of state and federal law; constitutional, statutory, regulatory and common law; and substantive environmental, international, financial instruments and risk regulation fields. Property law professors increasingly must come to terms with these intersections as they struggle to distinguish property from other subjects. At the same time, property law professors must master and incorporate into their scholarship and teaching the considerable insights into normative theory, theories about race, gender and inequality, scholarship on law and economics (especially behavioral law and economics) and political economy.

To address these issues, the Workshop will begin substantively on Friday, June 11<sup>th</sup> with an opening plenary focused on identifying the core of property that must be taught in the introductory property course. As the credits allotted to introductory property courses shrink in schools across the country, and as the crises of the last few years show just how fundamental property law is to our legal and financial systems, senior, mid-level, and junior professors will debate what is critical to include in the basic property course. A second plenary will launch sessions on the mortgage and housing crises, focusing first on "Property in Dangerous Packages: Subprime and Skin in the Game." The luncheon keynote will feature a discussion of federal efforts to address the need for reform in the regulation of the financial and mortgage sectors.

The afternoon sessions will then feature breakout sessions on what behavioral law and economics tells us about the mortgage crisis; what norms underpin the mortgage crisis; what the crisis tell us about the regulation of risk; and what we can learn from the political economy of homeownership. We will then reconvene in a third plenary session to talk about inequality and the subprime market.

## Workshop on Property

The morning of Saturday, June 12<sup>th</sup> will feature breakout sessions organized around works in progress selected through a request for proposals. A fourth plenary session will then focus on what the global warming crisis tells us about property law. Breakout sessions will follow, again to allow examination of the global warming crisis through the perspective of various normative theories and theories of equality and fairness, as well as from a political economy and risk regulation vantage point. The day will end with very early works in progress roundtables, at which scholars with very preliminary ideas will be given ten minutes to outline their ideas and receive feedback on the viability of the topic.

### **Who Should Attend?**

This workshop should be of interest to teachers of Property Law, Real Estate Transactions, Land Use Law, Environmental Law, Natural Resources, Indian Nations and Indigenous Peoples, Regulation, Financial Instruments, and Law and Economics. The workshop is designed to benefit property law teachers at all levels of experience. The speakers and group leaders will include many of the most prominent and established people in the field, and also a substantial number of newer voices.

### **When is this Workshop?**

The workshop will be held at the Sheraton New York Hotel in New York City, June 10-12, 2010. The workshop will begin on Thursday, June 10, with a reception at 6:00 p.m., followed by two full days (June 11-12) of plenary and concurrent sessions as well as small group discussions. In addition to the conference sessions, another reception will be held on Friday evening and luncheons will be held on Friday and Saturday.

## Workshop on Property

### Where is this Workshop?

The workshop sessions and sleeping accommodations will be at the Sheraton New York Hotel, 811 Seventh Avenue at 53<sup>rd</sup> Street, New York, NY 10019. The room rate is \$259 for single or double occupancy. This rate is subject to a 14.25% tax plus \$3.50 per room per night. Children staying in the same room with their parent(s) are free of charge.

### ~2010 Committee on Professional Development

Steven Bender, University of Oregon  
School of Law

Devon Wayne Carbado, University of  
California, Los Angeles School of Law,  
**Chair**

Laura Hines, University of Kansas School  
of Law

Frederick M. Lawrence, The George  
Washington University Law School

Donna M. Nagy, Indiana University Maurer  
School of Law

Reva B. Siegel, Yale Law School

Charles D. Weisselberg, University of  
California, Berkeley School of Law

Stephanie M. Wildman, Santa Clara  
University School of Law

## Workshop on Property

# PROGRAM

**Thursday, June 10, 2010**

5:00 – 8:00 p.m.

### **AALS Registration**

6:00 – 8:00 p.m.

**AALS Joint Reception for Workshop on Property,  
Workshop on Civil Procedure and Workshop on “Post  
Racial” Civil Rights Law, Politics and Legal Education**

**Friday, June 11, 2010**

7:45 a.m. – 5:30 p.m.

### **AALS Registration**

8:45 – 9:00 a.m.

### **Welcome**

Susan Westerberg Prager, AALS Executive Director ,  
Chief Executive Officer

### **Introduction**

Vicki L. Been, New York University School of Law, **Chair**,  
Planning Committee for AALS Workshop on Property

9:00 – 10:30 a.m.

### **Plenary Session - The Core of Property: What is Essential in the First Year**

Alfred L. Brophy, University of North Carolina School of Law  
Henry E. Smith, Harvard Law School  
Stewart E. Sterk, Benjamin N. Cardozo School of Law  
Molly S. Van Houweling, University of California, Berkeley,  
School of Law

## Workshop on Property

Friday, June 11 continued

10:30 – 10:45 a.m.

Refreshment Break

10:45 a.m. – 12:00 p.m.

### **Plenary Session - Property in Dangerous Packages: Subprime and Skin in the Game**

Adam B. Ashcraft, Assistant Vice President Financial  
Intermediation Function, Federal Reserve Bank of New York,  
New York, New York

Lee Anne Fennell, The University of Chicago Law School

Patricia A. Mc Coy, University of Connecticut School of Law

12:00 – 1:45 p.m.

### **AALS Luncheon**

Speaker to be announced

2:00 – 3:30 p.m.

### **Breakout Sessions**

- **What Does Behavioral Law & Economics Tell Us About the Mortgage Crisis?**

Paige Skiba, Vanderbilt University Law School

Brent White, The University of Arizona James E. Rogers  
College of Law

Joshua Wright, George Mason University School of Law

- **What Are the Norms Underlying the Mortgage Crisis?**

Jedediah S. Purdy, Duke University School of Law

#### **Commentators:**

Martha Mahoney, University of Miami School of Law

Laura S. Underkuffler, Cornell Law School

## Workshop on Property

Friday, June 11 continued

- **What Does the Mortgage Crisis Teach Us About Regulating Risk?**

Gerald Rosenfeld, Clinical Professor, Leonard N. Stern School of Business, New York University

### **Commentators:**

Robert C. Hockett, Cornell Law School  
Additional commentator to be announced

- **What Does the Mortgage Crisis Teach Us About the Political Economy of Home Ownership?**

Stephanie M. Stern, Loyola University Chicago School of Law

### **Commentators:**

D. Benjamin Barros, Widener University School of Law  
William A. Fischel, Professor of Economics, Dartmouth College Department of Economics, Hanover, New Hampshire  
Tim Iglesias, University of San Francisco School of Law

3:30 – 3:45 p.m.

Refreshment Break

3:45 – 5:15 p.m.

### **Plenary Session - Inequality and the Subprime Mortgage Crisis**

Ray Brescia, Albany Law School  
Emma C. Jordan, Georgetown University Law Center

5:15 – 7:00 p.m.

### **AALS Joint Reception for Workshop on Property and Workshop on Civil Procedure**

# Workshop on Property

Saturday, June 12, 2010

8:00 a.m. – 5:00 p.m.

## **AALS Registration**

9:00 – 10:15 a.m.

## **Breakout Sessions**

- **The Mortgage Crisis #1**

Lessons from the Mortgage Markets: Property Law's Continuing Recognition of Limits to Self-Protection

Vincent Di Lorenzo, St. John's University School of Law

Applying Bounded Rationality to the Origination of Residential Mortgages: A Defense of Increased Transaction Costs via the Use of Attorneys

Alex M. Johnson, Jr., University of Virginia School of Law

The Limits of Property Law: Lessons from Hurricane Katrina and the Global Financial Crisis

John A. Lovett, Loyola University New Orleans College of Law

- **The Mortgage Crisis #2**

Destabilizing Instability: The Implications of Alienability, Markets and Racialized Geography For Property Doctrine

Audrey G. McFarlane, University of Baltimore School of Law

The Temporal Commons

Annelise Riles, Cornell Law School

Tenants and the Foreclosure Crisis

Florence Wagman Roisman, Indiana University, Indianapolis School of Law

## Workshop on Property

*Saturday, June 12 continued*

- **Global Warming #1**

Barriers to Alternative Energy Sharing Among Neighbors

Sara Bronin, University of Connecticut School of Law

Water Law and Global Climate Disruption

Joseph W. Dellapenna, Villanova University School of Law

Rethinking Resources: Defining New Categories of Property to Meet the Climate Challenge

Keith H. Hirokawa, Albany Law School

- **Global Warming #2**

Property Rights, Climate Change, and Technology: Blurring the Lines between Public and Private

Alexandra B. Klass, University of Minnesota Law School

Tradable Environmental-Degradation Permits and the Takings Clause

Jonathan R. Nash, Emory University School of Law

Intergovernmental Bargaining in the Shadow of Actionable Climate Change Nuisance

Erin Ryan, College of William and Mary Marshall-Wythe School of Law

10:15 – 10:30 a.m.

Refreshment Break

10:30 a.m. – 12:00 p.m.

### **Plenary Session – The Global Warming Crisis: Property Law**

Jonathan H. Adler, Case Western Reserve University School of Law

Eric T. Freyfogle, University of Illinois College of Law

Hari Michele Osofsky, Washington and Lee University School of Law

# Workshop on Property

*Saturday, June 12 continued*

12:00 – 1:30 p.m.

## **AALS Luncheon**

1:30 – 3:00 p.m.

## **Breakout Sessions**

- **Global Warming Crisis: Thinking Holistically**

Ann E. Carlson, University of California, Los Angeles School of Law

Michael B. Gerrard, Columbia University School of Law

J.B. Ruhl, Florida State University College of Law

- **The Global Warming Crisis: Fairness**

Sheila R. Foster, Fordham University School of Law

Mark Sagoff, Senior Research Scholar, University of

Maryland School of Public Policy, College Park, Maryland

Maria Savasta-Kennedy, University of North Carolina School of Law

- **The Global Warming Crisis: Regulating Risk**

Daniel A. Farber, University of California, Berkeley School of Law

Douglas A. Kysar, Yale Law School

Additional speaker to be announced

3:00 – 5:00 p.m.

## **Works-In-Progress Roundtable**

Participants:

David Fagundes, Southwestern Law School

Matthew J. Festa, South Texas College of Law

Elizabeth M. Glazer, Hofstra University School of Law

Jeffrey D. Jones, Lewis and Clark Law School

James J. Kelly Jr., University of Baltimore School of Law

Melinda Molina, St. John's University School of Law

Timothy M. Mulvaney, Texas Wesleyan University School of Law

Alina Ng, Mississippi College School of Law

Jessica Owley Lippmann, Pace University School of Law

Erin Ryan, College of William and Mary Marshall-Wythe School of Law

Kenneth A. Stahl, Chapman University School of Law

# AALS Mid-Year Meeting

## How Do I Register?

### 1) Register Online

For those in the *AALS Directory of Law Teachers*, go to [www.aals.org/midyear/](http://www.aals.org/midyear/). You can pay the registration fee by using American Express, Visa or MasterCard.

### 2) Fax or Mail this form

You can register using the form in this brochure, or download the registration form at [www.aals.org/midyear/](http://www.aals.org/midyear/). The registration form can be faxed if paying by American Express, MasterCard or Visa to (202) 872-1829 or mailed with payment directly to AALS at 1201 Connecticut Avenue, NW, Suite 800, Washington, DC 20036

Please note that payment is necessary for admission to the Mid-Year Meeting. A confirmation for your paid registration will be e-mailed. If you have not received a confirmation e-mail, call AALS Registration at (202) 296-1662 or e-mail [registration@aals.org](mailto:registration@aals.org) to verify your registration. If your form with payment has not arrived at AALS by **May 27, 2010** it will be necessary for you to register on-site. **There is an additional charge of \$25.00 to register on-site.** AALS accepts cash, personal or school checks, American Express, MasterCard and Visa on-site payments for the Mid-Year Meeting.

**Refund Policy:** The registration fee will be refunded in full for cancellations through April 23; a refund less \$50, which covers administrative costs, will be given for cancellations received April 24 through April 29; 50% of the registration fee will be refunded for cancellations received April 30 through May 6; and **no refunds will be given after May 6.** Contact AALS Registration at (202) 296-1662 or e-mail [registration@aals.org](mailto:registration@aals.org).

**Disability Related Accommodations:** If you require a disability-related assistance in attending sessions, please contact the Meetings Department at AALS by April 21, 2010 at (202) 296-8851 or by e-mail to [disability@aals.org](mailto:disability@aals.org).

# AALS 2010 Mid-Year Meeting Registration Form

Last Name

First Name

Middle Initial

Badge Name

Law School/Organization

Address

City

State

ZIP

Telephone Number

Fax Number

E-mail Address (Required)

Years Teaching

## Type of Registration

Received by  
May 21

Received  
After May 21

Amount

### Workshop on "Post Racial" Civil Rights June 8-10, 2010

Faculty of Member and Fee-Paid Schools

\$495

\$545

Faculty of Non Fee-Paid Law Schools

\$585

\$645

### Workshops on Property AND/OR Workshop on Civil Procedure

June 10-12, 2010

Faculty of Member and Fee-Paid Schools

\$495

\$545

Faculty of Non Fee-Paid Law Schools

\$585

\$645

### All Three Workshops

June 8-10, 2010

Faculty of Member and Fee-Paid Schools

\$750

\$835

Faculty of Non Fee-Paid Law Schools

\$835

\$930

## Complete this section only if registering for the Workshop on Property and/or Workshop on Civil Procedure

Primary workshop attendance interest:

Property

Civil Procedure

Luncheon Attendance

Property

Civil Procedure

Friday, June 11

Saturday, June 12

Vegan meal (no dairy; no animal products)

## Payment Information

Check (made payable to AALS in U.S. dollars). Mail form and payment to

AALS, 1201 Connecticut Avenue, Suite 800, Washington, DC 20036

American Express  Mastercard  Visa Fax to (202) 872-1829

Print Name on Card: \_\_\_\_\_

Credit Card # \_\_\_\_\_

Exp. Date: \_\_\_\_ / \_\_\_\_

I authorize this charge on my credit card:

Signature of Cardholder

Date

## AALS Mid-Year Meeting

### Reservation Request

The Sheraton New York Hotel & Towers is pleased you have chosen it for your upcoming visit.

In guaranteeing your reservation for late arrival (arrival after 6:00 p.m.) the Sheraton New York requires that you either:

1. Make your hotel reservations online. Visit [www.aals.org/midyear2010/](http://www.aals.org/midyear2010/) and click 'housing'.
2. Send the Hotel Reservation Request Form, with check or money order covering the first night's room and tax.
3. Call (212) 841-6400 or fax (212) 841-6789 with your reservation, along with the entire number of one of the following credit cards: American Express, Carte Blanche, Discover, Diners Club, Enroute, JCB, MasterCard or Visa. If faxing the form, don't forget the expiration date and your signature, and be sure that you receive a confirmation from the hotel.

The Sheraton New York will not hold your reservation after 6:00 p.m. on the day of arrival without guaranteeing the reservation with one of the above methods. AALS encourages you to guarantee your room because an unexpected arrival after 6:00 p.m. will result in a cancellation of the reservation. Deposits will be refunded only if cancellation notification is received by the hotel by 6:00 p.m. on the day of arrival.

**Single/Double:** \$259 for single or double occupancy; plus 14.75% sales tax, plus \$3.50 per room per night

**CUT-OFF DATE: May 18, 2010**

Check-in time is 3:00 p.m. and check-out time is 12:00 p.m.

**Making a reservation prior to the cut-off date does not guarantee availability of the AALS rate. To ensure accommodations, please make your hotel reservation early.**

## AALS Mid-Year Meeting

### Hotel Reservation Request

Sheraton New York Hotel & Towers

811 7<sup>th</sup> Avenue

New York, New York, 10019

Call (212) 841-6400 or Fax (212) 841-6789

Guest Name \_\_\_\_\_

School \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

Arrival Date and Time \_\_\_\_\_

Departure Date and Time \_\_\_\_\_

I will arrive at the hotel after 12:00 midnight

Number of people in room:  1  2  3  4

Share With: \_\_\_\_\_

Bed Type Preference:  King  Double (2 beds)

Remarks/special needs:

\_\_\_\_\_

If anyone in the room has a disability, please indicate the nature of the disability and any special accommodations needed: \_\_\_\_\_

\_\_\_\_\_

**Single/Double:** \$259 for single or double occupancy; plus 14.75% sales tax, plus \$3.50 per room per night

### **CUT-OFF DATE: May 18, 2010**

I would like to guarantee for arrival after 6 p.m.

Deposit Enclosed:  Check or Money Order

American Express  Diners Club  Carte Blanche

Discover  JCB  MasterCard  Visa

Number: \_\_\_\_\_

Exp. Date: \_\_\_ \_\_\_ / \_\_\_ \_\_\_

Authorized Signature:

\_\_\_\_\_



Association of American Law Schools

---

1201 Connecticut Avenue, NW, Suite 800  
Washington, DC 20036

## **Future Annual Meeting Dates and Locations**

- JANUARY 4-8, 2011, SAN FRANCISCO
- JANUARY 4-8, 2012, WASHINGTON, D.C.
- JANUARY 4-8, 2013, NEW ORLEANS

Non Profit Org.  
U.S. Postage  
PAID  
Permit #418  
Merrifield, VA