

Association for Law, Property and Society

Fourth Annual Meeting

APRIL 26-27, 2013 University of Minnesota Law School Minneapolis, MN

Co-sponsored by
Syracuse University College of Law & University of Minnesota Law School
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SAVE THE DATE FOR THE FIFTH ANNUAL MEETING: May 2-3, 2014, University of British Columbia Faculty Of Law, Vancouver, BC

2013 Recognition for Excellence Presented to:

Carol M. Rose University of Arizona Rogers College of Law

Keynote Speaker and Honoree

Carol M. Rose is the Ashby Lohse Professor of Water and Natural Resource Law at the University of Arizona Rogers College of Law, and the Gordon Bradford Tweedy Emeritus Professor of Law and Organization at Yale Law School. Professor Rose's research focuses on history and theory of property, and on the relationships between property, environmental law, and institutional development. Her writings include three books, Property and Persuasion (1994), Perspectives on Property Law (3rd ed. 2002, with R.C. Ellickson and B. A. Ackerman), and Saving the Neighborhood (2013, with Richard R.W. Brooks), and numerous articles on traditional and modern property regimes, environmental law, natural resource law and intellectual property. Her work has appeared in journals and anthologies in other countries, and has been translated into other languages, including Italian, Spanish and Chinese. She has degrees from Antioch College (BA Philosophy), the University of Chicago (MA Political Science, JD Law), and Cornell University (Ph.D. History), and an Honorary Degree from the Chicago Kent College of Law. She is on the Board of Editors of the Foundation Press and a member of the American Academy of Arts and Sciences.

Professor Rose earns our Annual Excellence Award for her tremendous intellectual contributions to our understanding of property law and for the important mentoring role she has played for so many in the field.

Name	Affiliation	Session
Alexander, Lisa T.	University of Wisconsin Law School	4.2 (moderator), 7.2
Anderson, Courtney		
Laure	Georgia State University College of Law	2.3
Appel, Peter Aaron	University of Georgia School of Law	6.1
Barros, Ben	Widener University School of Law	3.3 (moderator)
Belinfanti, Tamara	New York Law School	2.3
Bell, Abraham	Barr Ilan University	3.3
Blandy, Sarah	University of Sheffield	Block Session I, 6.4
Blomley, Nicholas	Simon Fraser University, Dept. of Geography	Block Session I, 4.4
Bray,Zachary Andrew	University of Houston Law Center	7.2
Bright,Susan	Oxford University	Block Session 1 (moderator)
Brown, Eleanor	George Washington University School of Law	2.1, 4.4 (moderator)
Carbone, June	UMKC School of Law	2.1 (moderator), 6.1
Carstens, Anne-Marie	Oxford University	4.4
Claeys, Eric	George Mason University School of Law	5.1
Clowney, Stephen	University of Kentucky College of Law	6.4
Dixon, Martin	Cambridge University	Block Session I, 5.1(moderator)
Du Bois, Mikhalien	University of South Africa	4.2
Dyal-Chand, Rashmi	Northeastern University School of Law	4.3, 6.3 (moderator)
Eagle, Steven J.	George Mason University School of Law	5.2
Edwards, Mark A.	William Mitchell College of Law	7.3 (moderator)
	University of Wisconsin Madison, Dept. of	
Ela, Nate	Sociology	3.2
Eppinger, Monica	Saint Louis University School of Law	2.1
	North-West University (Potchefstroom	
Erlank, Wian	Campus)	4.4
Fagnundes, David	Southwestern Law School	4.2
Festa, Mathew	South Texas College of Law	3
Fox O'Mahony, Lorna	Durham University	3.3, 7.2 (moderator)
Frefogle, Eric	University of Illinois College of Law	3.3
	University of Michigan, Dept. Of Nat.	
Hardin, Rebecca	Resources & Env and Dept of Anthropology	6.4 (moderator), Block Session VIII
Harris, Douglas	University of British Columbia Faculty of Law	3.1
Hasday, Jill	University of Minnesota Law School	2.1, 6.1 (moderator)
Hickey, Robin	Durham University	3.3
Huber, Bruce	Notre Dame Law School	2.2
Iglesias,Tim	University of San Francisco School of Law	6.3
	Furman Center for Real Estate and Urban	
Infranca, John	Policy, New York Law School	6.3
Jones, Bernie	Suffolk University Law School	6.1
Kaplinsky, Eran	University of Alberta	2.3
Kelly, Daniel Bruce	Notre Dame Law School	5.1
Kelly, James	Notre Dame Law School	6.3
Klass, Alexandra	University of Minnesota Law School	5.2

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Name	Affiliation	Session
Korngold, Gerald	New York Law School	3.1
Leslie, Jason	Cailano University	
Light, Sarah	Brooklyn Law School	6.2
Long, Jerrold	University of Idaho College of Law	2.2
Macey, Gregg	Brooklyn Law School	4.1 (moderator)
Malloy, Robin Paul	Syracuse University College of Law	Block Session I, 3.1 (moderator)
McLaughlin, Nancy A.	University of Utah SJ Quinney College of Law	3.1
Miller, Stephen R.	University of Idaho College of Law	7.1
Miranda, Lillian		
Aponte	Florida International University College of Law	7.3
Mitchell, Thomas W	University of Wisconsin Law School	6.1
Mulvaney, Timothy	Texan Wesleyan University School of Law	5.2 (moderator)
Nield, Sarah	University of Southampton	6.3
		6.2, Block Session VIII
Osofsky, Hari	University of Minnesota Law School	(moderator)
Ostler, Duane	University of Queensland	7.3
Owley, Jessica	SUNY Buffalo Law School	7.1
Pagano, Celeste B.	Oklahoma City University School of Law	5.3
Page, John	Bond University	4.1
Pindell, Ngai,	William S. Boyd School of Law at UNLV	5.3, 6.2 (moderator)
Render, Meredith	University of Alabama School of Law	5.1
Rendleman, Doug	Washington and Lee Law School	4.3
Richardson, Sally	Tulane University Law School	5.2
Roark, Marc	Savannah Law School	4.3
		Keynote Speaker and Honoree
Rose, Carol	University of Arizona Rogers College of Law	(Friday Lunch), 3.2 (moderator)
Rosenbloom, Jonathan	Drake University Law School	7.1
Ryan,Erin	Lewis & Clark Law School	3.2, 4.3 (moderator)
Saxer, Shelley Ross	Pepperdine University School of Law	2.2 (moderator)
Schindler, Sarah	University of Maine School of Law	3.2
Serkin, Christopher	Brooklyn Law School	5.2
Shay, Richard Michael	University of South Africa	4.2
Shoemaker, Jessica	University of Nebraska Law College	
Shoked, Nadav	Northwestern University School of Law	5.3
Smith, Jim	University of Georgia School of Law	3.2, 5.3 (moderator)
Spivack, Carla	Oklahoma City University School of Law	2.1
Stahl, Kenneth	Chapman University School of Law	2.3
Stavang, Endre	University of Oslo	2.2
Stern, James Y.	University of Virginia School of Law	5.1
Trisolini, Katherine	Loyola Law School Los Angeles	7.1 (moderator)
Turner, Christian	University of Georgia School of Law	5.3
Tweedy, Ann	Hamline University School of Law	7.3

Name	Affiliation	Session
Underkuffler, Laura S.	Cornell University Law School	Block Session I, 2.3 (moderator)
Waldeck, Sarah	Seton Hall Law School	6.4
Wang, Peipei	University of British Columbia	2.2
Yuille, Lua K.	University of Wisconsin Law School	6.4
Yzenbaard, Caryl	Northern Kentucky University	
Zale, Kellen	University of Houston Law Center	6.2
Ziff, Bruce Hartley	University of Alberta Law School	4.1

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Friday April 26, 2013

8:00 - 8:30 a.m.: Registration & Breakfast - Hallway Outside Room 20, SubPlaza Level

8:30 – 8:45: Opening Remarks and Welcome - Room 20, SubPlaza Level

- Dean David Wippman, University of Minnesota Law School
- Hari Osofsky, University of Minnesota Law School

BLOCK SESSION I, Opening Plenary Panel, 8:45 a.m. – 10:45 a.m.

Approaches to Property Law Research: A Panel Discussion and Presentation of Survey Results – Room 20, Subplaza Level

Moderator: Susan Bright: Oxford University

• Laura S. Underkuffler: Cornell University Law School

A Property Theory Approach: the Emerging School of Progressive Property

• Martin Dixon: Cambridge University

A Doctrinal Approach

• Sarah Blandy: University of Sheffield

A Socio-Legal Approach

• Susan Bright, Oxford University

An Empirical Approach

• Kali Murray: Marquette University Law School

A Law, History, and Culture Approach

• Robin Paul Malloy: Syracuse University College of Law

An Applied Approach

• Nicholas Blomley: Simon Fraser University, Geography Department

A Law and Geography Approach

Morning Coffee and Networking Break, 10:45 – 11:15 a.m. Hallway Outside Room 20, SubPlaza Level

BLOCK SESSION II, 11:15 am – 12:55 p.m.

2.1 - Property, Family, Reproduction, and Markets - Room 20, Subplaza Level

Moderator: June Carbone: UMKC School of Law

• Monica Eppinger: Saint Louis University School of Law

Securing the Population: Sovereignty, Scarcity, and the Politics of Provision in the Bread-Basket of Europe

• Jill Hasday: University of Minnesota Law School

Family Law Reimagined: Recasting the Canon

• Carla Spivack: Oklahoma City University School of Law

Is Sperm Property?

• Eleanor Brown: George Washington University School of Law

Some Preliminary Thoughts About Property Theory And Selling Sex Across Borders As An Asset Building Mechanism

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2.2 – Environment and Public Lands – Room 25, Subplaza Level

Moderator: Shelley Ross Saxer: Pepperdine University School of Law

• Endre Stavang: University of Oslo

On Real Property ("The Law of Immovable Things") in the Natural Resources Management and Environmental Protection Setting: Nuisance, Servitudes, Co-ownership

• Bruce Huber: Notre Dame Law School

The Durability of Private Claims to State Property

• Peipei Wang: University of British Columbia

Quenching the Thirsty Dragon: The Water Rights Reforms in North and South China

• Jerrold Long: University of Idaho College of Law

Synthesizing a "Landscape Law" for the Contemporary American West

2.3 - Land-Use Planning, Segregation, and Access to Education and Financing – Room 65, Subplaza Level

Moderator: Laura Underkuffler: Cornell University Law School

• Tamara Belinfanti: New York Law School *A2C: Undoing the Ghettoization of the Capital*

• Courtney Laure Anderson: Georgia State University College of Law

Restrict, Remove, Reduce

• Eran Kaplinsky: University of Alberta

Do School Boards Have the Power To Be Urban Planners?

• Kenneth Stahl: Chapman University School of Law

The Significance of Reliance in Land Use Law

Lunch, 1:00 - 2:30 p.m.

Keynote Speaker and Honoree:

Carol M. Rose

Ashby Lohse Professor of Water and Natural Resource Law, University of Arizona Rogers College of Law

Gordon Bradford Tweedy Emeritus Professor of Law and Organization, Yale Law School

Property Futures

Room 25, Subplaza Level (Lunch Available Outside Room 25)

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BLOCK SESSION III, 2:30 -4:10 p.m.

3.1 – Constraints on and Structures for Land Use, Sale, and Development – Room 20, Subplaza Level

Moderator: Robin Paul Malloy: Syracuse University College of Law

• Mathew Festa: South Texas College of Law

Property Rights and the Public Trust

• Douglas Harris: University of Britich Columbia Faculty of Law

Title Registration, the Distribution of Risk, and the Abolition of Notice

• Gerald Korngold: New York Law School

Governmental Conservation Easements: Balancing Perpetuity with Democracy

• Nancy A. McLaughlin: University of Utah SJ Quinney College of Law

Perpetual Conservation Easements: Contemporary Issues and Challenges

3.2 - Reshaping and "Greening" the Urban Landscape - Room 30, Subplaza Level

Moderator: Carol Rose, University of Arizona Rogers College of Law

• Nate Ela: University of Wisconsin Madison, Department of Sociology

Cultivating a Commons? Urban Farming and Emerging Property Norms in Chicago, 1909-1917

• Erin Ryan: Lewis & Clark Law School

Wifi Without Potable Water: Environmental Regulation and Public Health in Urban China

• Sarah Schindler: University of Maine School of Law

Banning Lawns

• Jim Smith: University of Georgia School of Law

The Green Home Movement: How Should We Define and Regulate "Green Homes," Encourage Their Production, and Protect Purchasers and Residents?

3.3 – Theorizing Ownership – Room 50, Subplaza Level

Moderator: Ben Barros: Widener University School of Law

• Abraham Bell: Barr Ilan University

Toward a Theory of State-Owned Property Rights/ Co-authored with Horacio Spector

• Eric Frefogle: University of Illinois College of Law

Private Property and Human Flourishing

• Lorna Fox O'Mahony: Durham University

The Meanings of Ownership and the Impact of Housing Equity Transactions

• Robin Hickey: Durham University

Justifying Relativity of Title

Afternoon Coffee and Networking Break, 4:10 – 4:40 p.m. Hallway Outside Room 20, SubPlaza Level

BLOCK SESSION IV, 4:40 – 5:55 p.m.

4.1 – Subsurface Property Rights and Energy Exploration: Caves, Coal Seam Gas, and Hydraulic Fracturing – Room 20, Subplaza Level

Moderator: Gregg Macey: Brooklyn Law School

• John Page: Bond University

The Implications of Property Diversity for Community

• David Spence: McCombs School of Business, University of Texas at Austin

The Challenge of Fracking for Property Theory

• Bruce Hartley Ziff: University of Alberta Law School

The Great Onyx Cave Cases --- A Micro-History

4.2 – Comparative Perspectives on Intellectual Property – Room 30, Subplaza Level

Moderator: Lisa T. Alexander: University of Wisconsin Law School

• Richard Michael Shay: University of South Africa

The Limitation Of Intellectual Property Rights In The South African Constitutional Context

• Mikhalien Du Bois: University of South Africa

Constitutional Aspects of Tobacco Trademark Restrictions: A Comparative View

• David Fagnundes: Southwestern Law School

The End of Copies

4.3 – Social Environment and the Cathedral – Room 50, Subplaza Level

Moderator: Erin Ryan: Lewis & Clark Law School

• Rashmi Dyal-Chand: Northeastern University School Of Law

Sharing the Cathedral

• Doug Rendleman: Washington and Lee Law School

Rejecting Property Rules-Liability Rules for Boomer's Nuisance Remedy: The Last Tour You Need of Calabresi and Melamed's Cathedral.

• Marc Roark: Savannah Law School

Shuffling the Art on the Cathedral Walls: Disabling Property Rights as a Means of Shaping Collective Norms

4.4 – Transnational and International Property Concerns – Room 65, Subplaza Level

Moderator: Eleanor Brown: George Washington University School of Law

• Nicholas Blomley: Simon Fraser University, Department of Geography

The Ties That Blind: Making Fee Simple in the British Columbia Treaty Process

• Anne-Marie Carstens: Oxford University

The Hostilities-Occupation Dichotomy: What It Means for the Protection of Cultural Property during International and Non-International Armed Conflicts

• Wian Erlank: North-West University (Potchefstroom Campus)

Ownership and Property in Space

Saturday April 27, 2013

7:30 – 8:30 a.m.: Board of Directors Meeting, Room N204 (breakfast will be served)

8:30 – 9:00 a.m.: Breakfast – Hallway Outside Room 20, SubPlaza Level

BLOCK SESSION V, 9:00 - 10:40 a.m.

5.1 - Theorizing Property Law - Room 20, Subplaza Level

Moderator: Martin Dixon: Cambridge University

• Eric Claeys: George Mason University School of Law

Productive Use in Acquisition, Accession, and Labour Theory

• Daniel Bruce Kelly: Notre Dame Law School

The Right to Include

• Meredith Render: University of Alabama School of Law

Numerus Clausus: Complexity Slayer

• James Y. Stern: University of Virginia School of Law

Property, Exclusivity, and Jurisdiction

5.2 – The Evolution of Takings – Room 30, Subplaza Level

Moderator: Timothy Mulvaney: Texan Wesleyan University School of Law

• Steven J. Eagle: George Mason University School of Law

The Ptolemaic Evolution of Penn Central

• Alexandra Klass: University of Minnesota Law School

Takings and Transmission

• Sally Richardson: Tulane University Law School

Adverse Possession, an Ex-Ante Perspective

• Christopher Serkin: Brooklyn Law School

Passive Takings: Government Inaction and the Duty to Protect Property

5.3 – Mechanisms for Reshaping Urban Space – Room 50, Subplaza Level

Moderator: Jim Smith: University of Georgia School of Law

• Celeste B. Pagano: Oklahoma City University School of Law

Do-It-Yourself Urbanism: A Progressive Property View Of Grassroots City Building

• Ngai Pindell: William S. Boyd School of Law at UNLV

Eminent Domain and Local Governments

• Nadav Shoked: Northwestern University School of Law *Quasi-Cities*

• Christian Turner: University of Georgia School of Law

Private Property and Human Flourishing

Morning Coffee and Networking Break, 10:40 – 11:10 a.m. Hallway Outside Room 20, SubPlaza Level

BLOCK SESSION VI, 11:10 a.m. – 12:50 p.m.

6.1 - The Intersection of Property and Family Law - Room 20, Subplaza Level

Moderator: Jill Hasday: University of Minnesota Law School

• June Carbone: UMKC School of Law

What is the Significance of Marital Property Rights in an Era of Class Division/ Co-author Naomi Cahn

• Bernie Jones: Suffolk University Law School

Reconsidering Federally Funded Pai Family Leave Policies: Envisioning Private Pension Plans

• Thomas W. Mitchell: University of Wisconsin Law School

The Uniform Partition of Heirs Property Act: Re-Envisioning Partition Law In Some Novel Ways

• Peter Aaron Appel: University of Georgia School of Law

A Funhouse Mirror of Law: The Entailment in Jane Austen's Pride and Prejudice

6.2 - Land Use and Environmental Governance Challenges - Room 30, Subplaza Level

Moderator: Ngai Pindell: William S. Boyd School of Law at UNLV

• Sarah Light: Brooklyn Law School

The Military-Environmental Complex: Rethinking the National Security Exception to Sustainability

• Hari Osofsky: University of Minnesota Law School

Scales of Law: Rethinking Climate Change Governance and the Transition to Cleaner Energy

• Kellen Zale: University of Houston Law Center

Changing the Plan: The Challenge of Applying Environment Review to Land Use Initiatives

6.3 - Real Estate Markets, Homes, and Inequality - Room 50, Subplaza Level

Moderator: Rashmi Dyal-Chand: Northeastern University School Of Law

• John Infranca: Furman Center for Real Estate and Urban Policy, New York University Housing Policy, Distributive Jusice, and Property Theory

Trousing Toucy, Distributive Jusice, and Troperty Theo

• James Kelly: Notre Dame Law School

A Continuum In Rememdies: Reconnecting Abandoned Houses to the Market by Linking Code Enforcement and Land Banking

• Sarah Nield: University of Southampton

Mortgage Market Review: Hard Wired Common Sense?

• Tim Iglesias: University of San Francisco School of Law

Housing Opportunites and Housing Rights

6.4 – Community Norms, Collective Ownership, Localities, and Harmful Choices – Room 55, Subplaza Level

Moderator: Rebecca Hardin: University of Michigan, School of Natural Resources &

Environment and Department of Anthropology

• Sarah Blandy: University of Sheffield

Collective Property: Owning and Sharing Residential Space

• Stephen Clowney: University of Kentucky College of Law

The Dark Side of Social Norms: An Analysis of the Role of Violence in Systems of Private Ordering

Sarah Waldeck: Seton Hall Law School

Community Indentity and Vestigial Bans on Sale Signs

• Lua K Yuille: University of Wisconsin Law School

Trespassers Will be Shot, Or The Right to Exclude as the Right to Kill

Mentoring and Networking Lunch, 1:00 – 2:00 p.m., Subplaza Commons, Ground Level Please make an effort to sit with people you do not already know.

If you're post tonure, sook out pro tonure scholars in your areas of interest.

If you're post-tenure, seek out pre-tenure scholars in your areas of interest. If you're pre-tenure, seek out post-tenure scholars in your areas of interest.

BLOCK SESSION VII, 2:15 – 3:30 p.m.

7.1 - Protecting the Urban Environment - Room 20, Subplaza Level

Moderator: Katherine Trisolini: Loyola Law School Los Angeles

• Jessica Owley: SUNY Buffalo Law School

The Perils of Neoliberal Land Conservation

• Jonathan Rosenbloom: Drake University Law School

Local Governments as Independent, Rational, Free-Enterprisers

• Stephen R. Miller: University of Idaho College of Law

Climate Change Impact Fees and Assessment

7.2 - Property Law, Culture, and Social Change - Room 30, Subplaza Level

Moderator: Lorna Fox O'Mahony: Durham University

• Lisa T. Alexander: University of Wisconsin Law School

Law. Culture and Social Movements 2.0

• Zachary Andrew Bray: University of Houston Law Center

The Edges of Development: Progressive Property and the Present and Future of Colonias

• Marc R. Poirier: Seton Hall Law School

Why the Boy Scouts Can't Jump: Cultural Property, Localism, and the Governance of an Anti-Gay Brand

7.3 – Property Seizures and Protections in Domestic and International Law – Room 50, Subplaza Level

Moderator: Mark A. Edwards: William Mitchell College of Law

• Ann Tweedy: Hamline University School of Law

Unjustifiable Expectations: Laying to Rest the Ghosts of Allotment-Era Settlers

• Duane Ostler: University of Queensland

When Legislature Acts Judicially: Bills of Attainders Since the Civil War

• Lillian Aponte Miranda: Florida International University College of Law

The Human Right to Property under International Law: Toward Peoples-Based Development?

Afternoon Coffee and Networking Break, 3:30 – 4:00 p.m. Hallway Outside Room 20, SubPlaza Level

BLOCK SESSION VIII, Closing Plenary Panel and Closing Remarks, 4:00 – 5:30 p.m.

Elinor Ostrom's Contributions to Understanding and Reenvisioning Property – Room 20, Subplaza Level

Moderator: Hari Osofsky: University of Minnesota Law School

- Arun Agrawal, University of Michigan, School of Natural Resources & Environment
- Daniel H. Cole, Indiana University Maurer School of Law
- Rebecca Hardin: University of Michigan, School of Natural Resources & Environment and Department of Anthropology

Closing Reception 5:30 – 7:00 PM

Auerbach Commons, Ground Level

Additional Participants:

• Jason Leslie: Cailano University

• Jessica Shoemaker: University of Nebraska Law College

• Caryl Yzenbaard: Northern Kentucky University