

# BRIGHAM-KANNER PROPERTY RIGHTS JOURNAL

---

VOLUME 9

AUGUST 2020

---

## THE STATE OF REGULATORY TAKINGS OCTOBER 3–4, 2019

SIXTEENTH ANNUAL BRIGHAM-KANNER PRIZE PRESENTATION  
DINNER AWARD RECIPIENT SPEECH  
*Steven J. Eagle* 1

### PANEL 1: THE STATE OF REGULATORY TAKINGS JURISPRUDENCE: A TRIBUTE TO EAGLE

OPENING REMARKS: THE STATE OF REGULATORY TAKINGS  
JURISPRUDENCE—A TRIBUTE TO EAGLE  
*Steven J. Eagle* 5

THE EAGLE THEORY  
*Thomas W. Merrill* 17

STEVEN EAGLE AND THE FUTURE OF REGULATORY TAKINGS  
*David Callies*  
*Casey Hutnick* 45

IS THE DOCTRINE OF REGULATORY TAKINGS CONSTITUTIONAL?  
A REVIEW OF THE ACADEMIC DEBATE OVER ORIGINALISM  
AND TAKINGS  
*James S. Burling* 105

### PANEL 2: PUBLIC RESOURCES AND PRIVATE RIGHTS

THE ECOLOGY OF THE COMMON LAW  
*Henry E. Smith* 153

PANEL 3: NATURAL GAS AND OTHER ENERGY TAKINGS:  
PROTECTING PRIVATE PROPERTY RIGHTS WHEN THE PUBLIC  
INTEREST IS PROMOTED BY A NON-GOVERNMENTAL ENTITY

THE CONTROVERSY OVER ENERGY TAKINGS: A TALE OF  
PIPELINES AND EMINENT DOMAIN

*James W. Ely, Jr.* 173

THE ROLES OF STATE AND FEDERAL LAW IN ENERGY  
CONDEMNATIONS

*Stewart E. Sterk* 205

**PANEL 4: PROPERTY AND POVERTY**

IN SEARCH OF AFFORDABLE HOUSING: HOW DEREGULATORY  
STRATEGIES FAIL THE POOR

*Laura S. Underkuffler* 227

**FEATURED AUTHOR**

TAKINGS AS COMPULSORY PURCHASE OF  
COMMERCIAL UNITS

*Steven J. Eagle* 249