

A BRIEF REBUTTAL FROM CALLIES

PANELIST

David L. Callies, *FAICP, Benjamin A. Kudo Professor of Law, William S. Richardson School of Law, University of Hawai'i at Mānoa*

CALLIES. I learned the hard way not to rebut early in my career, when I was opposite an assistant attorney for a city. He got a really “rough going” by the three-judge panel. What I should have done (and what I learned to do several years later in Hawai'i) was get up, introduce myself, ask the court if they had any questions, and then *sit down*. I didn't do that. I decided to guild the lily, and the result was that the judges took pity on my opponent. They really dragged me over the coals for thirty-five minutes for so obviously winning, and then getting up there and making things worse. I'm not going to do that, except to say I agree with everything that was said.

But since this is about the future of land use, I would like to mention to everybody, and maybe to alert some of you, that something extremely important is going on right now in another part of the country, in Philadelphia. The American Law Institute (“ALI”) has taken upon itself a Restatement Fourth of the law of property. It's going to be a ten-year operation; the project is in its third year. There's going to be six volumes, which is a pretty big Restatement. And there's going to be an entire volume on land use. So, seven years from now, that makes it about 2025, the ALI will be done with its work. Judges tend to pay some attention to Restatements. It's likely to have a huge impact on the law of property. Now some of us will be hopefully, or not so hopefully, retired and out of the business. But a lot of folks out there are going to still be in the business of property, property rights, litigation, and teaching, and the Restatement is going to be an important piece of work when it's done. So watch carefully seven years from now when the ALI finally disgorges the Restatement of Property Fourth, which is likely to have a lot of influence on the law of property, generally. And with that, I suggest that it is likely to have as much impact as anything we will say about property rights here at the Conference, and probably in the next six to seven years.

Thanks very much.