

## Author Profile--Brian W. Blaesser



Brian W. Blaesser is a partner in the Boston, Massachusetts, office of Robinson & Cole LLP. Mr. Blaesser is a nationally recognized practitioner in the areas of land use and real estate development, including sustainable development and public-private partnerships. Mr. Blaesser is the author of *Discretionary Land Use Controls: Avoiding Invitations to Abuse of Discretion*, 2013 Edition, and the co-author with Alan W. Weinstein of *Federal Land Use Law & Litigation*, 2013 Edition. As a lecturer at the Harvard Graduate School of Design, with an appointment at the Kennedy School of Government, Mr. Blaesser has taught courses on planning and environmental law and public-private partnerships. He has also taught negotiation of

development agreements at the MIT Center for Real Estate. Mr. Blaesser is a LEED Accredited Professional (LEED AP BD + C).

Mr. Blaesser recently spoke with senior attorney editor Patrick Fong.

### **PF: How did you become interested in writing?**

BWB: After I graduated law school I moved to Chicago to join the law firm of Ross, Hardies, O’Keefe, Babcock & Parsons, a firm known nationally for its land use practice. At the time, it was one of the few firms in the country whose attorneys were publishing books and articles on land use and real estate issues from the “practitioner” perspective. Richard Babcock, author of the popular book *The Zoning Game*, and his partner, Fred Bosselman, a co-author of the seminal work *The Taking Issue*, were prominent in the firm’s land use practice. My working with them encouraged me to incorporate writing and speaking on land use and real estate issues into my own practice.

### **PF: So land use law is your practice specialty?**

BWB: To be more specific, I would say my specialties are commercial real estate development and redevelopment, environmental law, land use litigation and condemnation law.

### **PF: How did you develop the interests that became the bases of your practice?**

BWB: I had a strong interest in urban housing and land use issues prior to attending law school. I taught for two years at the first bilingual school in the Southeast Bronx, in an old converted warehouse, and witnessed urban problems firsthand. After that, I went to South America on a Fulbright fellowship to study market-based affordable housing alternatives to government housing programs. The research I did laid the foundation for my master’s thesis in city planning at MIT, which I completed while also attending law school. Upon graduating with a joint degree in law and city planning, the logical next step for me was to work in a law firm with a major practice in land use and real estate development.

### **PF: What are some of the “hot topics” in your practice areas?**

BWB: The hottest topic, spawned by the recession, is a concept being considered by municipalities that still have areas where homeowners are underwater with their mortgages. As proposed by a private investment entity, the idea is for a municipality to use its power of eminent domain to take underwater, but performing mortgages, and re-secure the loans at values that are less than the current market values of the homes. Private investors provide the private capital to enable the local government to purchase the underwater mortgages from bond investors at “fair market value” and rewrite the loans typically down to 80-85% of the current property value, and then refinance them into new loans to be sold to large, private sector investors as FHA Ginnie Mae securities.

This proposal has caused real concern in the mortgage finance industry and at the federal level (Federal Housing Finance Agency). Unilateral action by individual municipalities around the country to seize mortgages would create great uncertainty and risk for lenders and investors in the mortgage markets and result in increased costs of credit to borrowers seeking to become homeowners, a contraction of credit in communities that take mortgages by eminent domain, and a reduced demand for housing—artificially depressing the value of homes and lowering the tax base for communities. I have been preparing state legislation on behalf of national real estate organizations to prohibit this use of eminent domain and have been testifying on the issue before state legislatures around the country.

Public-private partnerships is another hot area in my practice. In the wake of the recession, these so-called P3 deal structures provide a means to address infrastructure requirements for redevelopment and to overcome the lack of private financing in the real estate market.

**PF: How did you become a Thomson Reuters author?**

BWB: In 1995, I joined the firm of Robinson & Cole to head up its land use and development practice in the firm's Boston office. In addition to my local practice, I was doing a lot of private and public consulting work around the country and was fairly well known by that point. I was invited to write a proposal for what would become the *Discretionary Land Use Controls* book. The first edition was published in 1997.

**PF: How did the Federal Land Use Law & Litigation title come about?**

BWB: That title was originally authored by Professor Daniel R. Mandelker, one of the leading professors of land use and planning law in the country. He teaches at the Washington University in Saint Louis. In 2005, he invited Alan Weinstein and me to join him as co-authors. Dan is a prolific author who publishes a case book and other treatises. After that first year with the three of us as co-authors, Dan suggested that Alan and I take full responsibility for the treatise.

**PF: Do you have any advice for legal practitioners who also aspire to be authors?**

BWB: Well, you must enjoy writing and see it as part of your professional practice. You can build writing into your practice if you make it a habit, even if it means writing outside normal business hours. Writing makes you think and strengthens your professional practice. By thinking beyond the immediate legal task for a client and analyzing and writing about issues in more depth, you are likely to be better prepared to solve difficult legal issues for your clients.