

The Public's Health and the Law in the 21<sup>st</sup> Century  
5<sup>th</sup> Annual Partnership Conference

Concurrent Session

**Land Use Laws and Access to Tobacco, Alcohol,  
and Fast Food**

Tuesday, June 13  
10:30-12:00 pm

Moderator: Montrece McNeill Ransom, JD, Public Health Analyst, Public Health Law Program, CDC, Atlanta, GA

Panel: Marice Ashe, JD, MPH, Director, Public Health Law Program, Public Health Institute, Oakland, CA

Lisa M. Feldstein, JD, Policy Director, Land Use and Health Program, Public Health Law Program, Oakland, CA

Mary M. Lee, JD, Attorney at Law, Los Angeles, CA

Session Purpose:

The built environment has a powerful impact on health choices and outcomes. As early as 1926, the US Supreme Court, in *Village of Euclid, Ohio v. Ambler Realty Co.*, recognized zoning ordinances as a proper exercise of the state's police power in that they protect the health and safety of the community. Today, there is both substantial public health experience in, and a strong legal basis for, using zoning and land use law to limit the availability of consumer products that contribute to ill health. Tobacco, alcohol, and poor diet are the top three "actual causes of death" in the United States. This session will focus on the application of traditional city planning tools including zoning and Conditional Use Permits (CUP's) to these issues of public health. The goals of this session are to: provide an overview of the historic and contemporary application of zoning, conditional use permits, and other land use law; present evidence-based examples of, and strategies for, using zoning laws and regulations as tools to limit access to tobacco, alcohol, and fast food; and, highlight resources public health and community advocates may use as they assess the impact of land use laws on community health.

Marice Ashe will provide an overview of land use and health, and will discuss the use of zoning tools to limit the location and number of tobacco retail outlets. Lisa Feldstein will discuss and provide examples of the use of land use laws to increase the availability of nutritious food and limit the proliferation of fast food restaurants. Mary Lee will provide an overview of her work with the Community Coalition in South Los Angeles to prevent the rebuilding of over 150 problem liquor stores with the use land use strategies, including conditional use permits.

Learning Objectives:

By the close of this session, conference participants will be able to:

- Describe innovations in land use and zoning law that have been used to regulate retailing of tobacco, alcohol, and fast food
- Explain the implications of relevant court rulings; and
- Identify resources communities, public health professionals, and city planners can use in identifying ways in which zoning and other land use laws may be used for better public health.

Session Co-Convener:

The Public Health Law Program, Public Health Institute and the National Center for Environmental Health, CDC

Resource Materials:

The Public Health Institute <http://www.phi.org/>

The Use of Zoning to Restrict Fast Food Outlets: A Potential Strategy to Combat Obesity by Julie S. Mair, Matthew Pierce, and Steve Teret, The Center for Law and the Public's Health <http://www.publichealthlaw.net/Zoning%20Fast%20Food%20Outlets.pdf>.

How to Use Local Regulatory and Land Use Powers to Prevent Underage Drinking US Dept. of Justice, Office of Juvenile Justice and Delinquency Prevention <http://www.udetc.org/documents/regulatory.pdf>.

Local Land Use Regulation for the Location and Operation of Tobacco Retailers, by Randolph Kline [www.wmitchell.edu/tobaccolaw/resources/Kline.pdf](http://www.wmitchell.edu/tobaccolaw/resources/Kline.pdf).

Marice Ashe, David Jernigan, Randolph Kline and Rhonda Galaz, "Land Use Planning and the Control of Alcohol, Tobacco, Firearms, and Fast Food Restaurants," *American Journal of Public Health*, Sept 2003; 93: 1404-8.

Lisa Feldstein, *General Plans and Zoning: A Toolkit on Land Use and Health* (California Department of Health Services, 2006). <http://www.healthyplanning.org/toolkits.html>.

Scribner RA, Dwyer JH, MacKinnon, The Risk of Assaultive Violence Associated with Alcohol Outlets in LA County, *American Journal of Public Health* 85:335-340, 1995.

Scribner RA, Cohen DA, Kaplan S, Allen SH, Alcohol Availability and Homicide in New Orleans: Conceptual Considerations for Small Area Analysis, *Journal Studies on Alcohol* 60:310-316, 1999.