

NICOLE STELLE GARNETT
John P. Murphy Foundation Professor of law
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ACADEMIC APPOINTMENTS

1999-Present University of Notre Dame, Notre Dame, Indiana

John P. Murphy Foundation Professor of Law, since 2014; Professor of Law, 2008-present; John Cardinal O'Hara, C.S.C. Associate Professor (tenured), 2005-2008; Associate Professor, 2003-2005; Assistant Professor, 1999-2003

Courses: Property, Land Use Planning, Local Government Law, Urban Development, Education Law, Higher Education Law.

Fellow: Notre Dame Research Program on Law and Market Behavior, Notre Dame Law and Economics Program

Policy Coordinator, Alliance for Catholic Education (2010-present)

Fellow, Notre Dame Institute for Educational Initiatives, 2001-present
- Faculty Executive Committee (2010-present)

Provost Fellow, 2008-2010 (part-time faculty appointment as member of Provost's staff)

Winter/Spring 2007 University of Chicago Law School, Chicago, Illinois.
Visiting Professor of Law
Courses: Land Use Planning and Law of Education

Spring 2004 Northwestern University School of Law, Chicago, Illinois
Visiting Scholar

Distinguished Visiting Professor of Law, USC Gould School of Law, October 1-5, 2007

Visiting Scholar, Hoover Institution, Stanford University, May 10-14, 2010, June 2-6, 2008, May 9-13, 2005.

JUDICIAL CLERKSHIPS

Associate Justice Clarence Thomas, Supreme Court of the United States, 1998-99

Judge Morris S. Arnold, U.S. Court of Appeals for the Eighth Circuit, 1995-96

EDUCATION

Yale Law School, New Haven, Connecticut. J.D. 1995

Olin Fellow for Law, Economics and Public Policy; *Yale Journal on Regulation*; Co-Director, Street Law volunteer teaching program (1993-94).

Stanford University, Stanford, California. B.A., with distinction and departmental honors in Political Science, 1992. *Phi Beta Kappa*.

LAW PRACTICE

Institute for Justice, Washington, D.C., *Staff Attorney* (1996-1998)

Participated in defense of Ohio and Wisconsin school choice programs. Represented parents challenging the exclusion of religious schools from Maine's state-wide private-school "tuitioning" program. Assisted low-income clients in efforts to eliminate regulatory impediments to entrepreneurial ventures.

BOOKS

LOST CLASSROOMS, LOST COMMUNITY: CATHOLIC SCHOOLS' IMPORTANCE IN URBAN AMERICA (with Margaret Brinig) (University of Chicago Press, 2014)

ORDERING THE CITY: LAND USE, POLICING, AND THE RESTORATION OF URBAN AMERICA (Yale University Press, 2010)

SCHOLARLY PAPERS

Old Suburbs Meet New Urbanism (in progress)

The Rise of Sector Agnosticism and the Radical Transformation of Education Law (in progress)

Disparate Impact, Public-School Closures and Parental Choice, 2014 CHICAGO LEGAL FORUM 289 (2014)

Accessory Dwelling Unit Reforms: Death by Thousand Paper Cuts? ZONING & PLANNING LAW REPORT, April 2014

A Room of One's Own? Accessory-Dwelling-Unit Reforms and Local Parochialism (with Margaret Brinig), 45 URBAN LAWYER 519 (2013)

Redeeming Transect Zoning? 78 BROOKLYN LAW REVIEW 571 (2013)

SCHOLARLY PAPERS, CONT.

Managing the Urban Commons, 160 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 1995 (2012)

Are Charters Enough Choice? School Choice and the Future of Catholic Schools, 87 NOTRE DAME LAW REVIEW 1892 (2012)

Catholic Schools and Broken Windows, with Margaret Brinig, 9 JOURNAL OF EMPIRICAL LEGAL STUDIES 347 (2012)

Catholic Schools, Charter Schools, and Crime, with Margaret Brinig, 79 UNIVERSITY OF CHICAGO LAW REVIEW 31 (2012)

The People Paradox, 2012 UNIVERSITY OF ILLINOIS LAW REVIEW 43

A Winn for Educational Pluralism, 121 YALE L.J. ONLINE 31 (2011),
<http://yalelawjournal.org/2011/05/26/garnett.html>

2010 William J. Brennan Lecture—Restoring Lost Connections: Land Use, Policing, and Urban Vitality, 36 OKLAHOMA CITY LAW REVIEW 253 (2011)

Land Use Regulation, Innovation, and Growth, book chapter, in RULES FOR GROWTH: PROMOTING INNOVATION AND GROWTH THROUGH LEGAL REFORM (Kauffman Foundation on Entrepreneurship 2011)

Unbundling Homeownership: Regional Reforms from the Inside Out, 119 YALE LAW JOURNAL 1904 (2010) (reviewing Lee Anne Fennell, *The Unbounded Home: Property Values Beyond Property Lines*, Yale U.P., 2009).

Affordable Private Education and the Middle Class City, 77 UNIVERSITY OF CHICAGO LAW REVIEW 205 (2010)

Catholic Schools, Urban Neighborhoods, and Education Reform (with Margaret Brinig), 85 NOTRE DAME LAW REVIEW 887 (2010)

Governing? Gentrifying? Seceding? Real-Time Answers to Questions about BIDS, 3 DREXEL L. REV. 35 (2010)

The Order Maintenance Agenda as Land Use Policy, 24 NOTRE DAME JOURNAL OF LAW, ETHICS, AND PUBLIC POLICY 131 (2010)

Mercantilism, American Style, book chapter, in HERNANDO DE SOTO AND PROPERTY IN A MARKET ECONOMY (Ashgate, 2010)

SCHOLARLY PAPERS, CONT.

“But for the Grace of God, There Go I”: Justice Thomas and the Little Guy, 4 NYU JOURNAL OF LAW & LIBERTY 626 (2010)

Private Norms and Public Spaces, 18 WILLIAM & MARY BILL OF RIGHTS JOURNAL 183 (2009)
SCHOLARLY PAPERS, CONT.

“No Taking without a Touching?” Reflections of an Armchair Originalist, 45 SAN DIEGO LAW REVIEW 761 (2008)

Property In-Laws, 156 U. PA. L. REV. PENNUMBRA 279 (2007),
<http://www.pennumbra.com/issues/articles/155-5/Garnett.pdf> (response to Eduardo Moisés Peñalver & Sonia N. Katyal, *Property Outlaws*, 155 U. PA. L. REV. 1095 (2007))

Suburbs as Exit, Suburbs as Entrance, 106 MICHIGAN LAW REVIEW 277 (2007)

Planning as Public Use, 34 ECOLOGY LAW QUARTERLY 443 (2007)

- Selected as one of the five best land use articles published in 2007 and reprinted in the LAND USE AND ENVIRONMENTAL LAW REVIEW
- Selected as one of the most important land use articles published in 2007 and reprinted in 2008 ZONING AND PLANNING LAW HANDBOOK

Save the Cities, Stop the Suburbs?, 117 YALE LAW JOURNAL 599 (2006) (reviewing Robert Bruegmann, *Sprawl: A Compact History* (Univ. of Chicago Press 2005) and Joel Kotkin, *The City: A Global History* (Modern Library Chronicles 2005))

Save the Cities, Stop the Suburbs?, 116 YALE L.J. POCKET PART 192 (2006),
<http://thepocketpart.org/2006/12/11/garnett.html>

The Neglected Political Economy of Eminent Domain, 105 MICHIGAN LAW REVIEW 101 (2006)

Unsubsidizing Suburbia, 90 MINNESOTA LAW REVIEW 459 (2005) (reviewing Richardson Dilworth, *The Urban Origins of Suburban Autonomy*, Harvard University Press 2005)

Relocating Disorder, 91 VIRGINIA LAW REVIEW 1075 (2005)

- Selected as one of the most important land use articles in 2005 and reprinted in WEST'S 2006 ZONING AND PLANNING LAW HANDBOOK

Ordering (and Order in) the City, 57 STANFORD LAW REVIEW 1 (2004)

SCHOLARLY PAPERS, CONT.

The Public Use Question as a Takings Problem, 71 GEORGE WASHINGTON LAW REVIEW 934 (2003)

Trouble Preserving Paradise? 87 CORNELL LAW REVIEW 158 (2001)

On Castles and Commerce: Zoning Law and the Home Business Dilemma, 42 WILLIAM & MARY LAW REVIEW 1191 (2001)

- Selected as one of the most important land use articles in 2001 and reprinted in WEST'S 2002 ZONING AND PLANNING LAW HANDBOOK

The Road from Welfare to Work: Informal Transportation and the Urban Poor, 38 HARVARD JOURNAL ON LEGISLATION 173 (2001)

School Choice, the Constitution, and Justice, 4 TEXAS J. OF LAW AND PUBLIC POLICY 303 (2000) (with Richard Garnett)

INVITED LECTURES, PRESENTATIONS, AND CONFERENCES

The Future of K-12 Catholic Education: National and Milwaukee Perspectives, Marquette Law School, November 19, 2014 (conference built around *Lost Classroom, Lost Community*)

A Crisis of Community: Catholic School Closures and Urban Neighborhoods (book events)

- University Club of Chicago, June 26, 2014
- Metropolitan Club of Washington D.C., September 17, 2014
- University of Pennsylvania, September 18, 2014
- Chicago History Museum, November 20, 2014
- Archdiocese of Baltimore, December 16, 2014 (moderated by Archbishop Lori)
- Archdiocese of Washington, D.C., December 16, 2014

Presented *Converging Urban-Suburban Land Use Regulations*, at the AALS Annual Meeting, Joint Session of the Property and Real Estate Sections, January, 4, 2014

Presented *Was Jane Jacobs Wrong? Confronting the Paradoxes of Mixing Land Uses*, Distinguished Gifford Lecture in Real Property, William S. Richardson School of Law, University of Hawaii, November 18, 2013

Invited to present *Disparate Impact, Public-School Closures and Parental Choice* at the University of Chicago Legal Forum's symposium on the "Civil Rights Act at 50 Years"

Presented *Public-School Closures as a Land-Use Problem*, Yale Law, Economics and Organization Workshop, Yale Law School, March 28, 2012

INVITED LECTURES, PRESENTATIONS, AND CONFERENCES, CONT.

Red Mass Lecture, Archdiocese of Houston, October 25, 2012

Presented *School Closures and Urban Neighborhoods: Lessons from Chicago's Catholic Schools*, 2012 Gage Lecture, ABA Section on State and Local Government Law Annual Keynote Address, UMKC School of Law, October 4, 2012

Presented *Redeeming Transect Zoning?* at Brooklyn Law School, Trager Symposium, February 10, 2012.

Presented *Managing the Urban Commons* at

- University of Pennsylvania Law School, November 6, 2011
- George Washington University Law School, February 13, 2012

Presented *Are Charters Enough Choice? School Choice and the Future of Catholic Schools*, at Notre Dame Law School symposium on "Law and Educational Innovation," November 18, 2011.

Presented *Catholic Schools, Charter Schools, and Urban Neighborhoods*, at the University of Chicago Law School, June 18, 2011.

Invited discussant at *State and Municipal Default Workshop*, Hoover Institution, Stanford University, June 14-16, 2011.

Presented *Catholic Schools and Broken Windows* at the 2010 Conference on Empirical Legal Studies, Yale Law School, November 6, 2010.

Presented *Land Use Planning, Innovation, and Growth* at the Kauffman Foundation Summer Legal Institute, Dana Point, California, July 7-11, 2010.

William J. Brennan Distinguished Lecture, "Restoring Lost Connections: Land Use, Policing, and Urban Vitality," Oklahoma City University School of Law, April 8, 2010.

Participated in a panel discussion (with Gerald Frug, Richard Briffault, and Richard Schragger) at a symposium on "Business Improvement Districts and the Evolution of Urban Governance," Drexel University School of Law, January 22, 2010

Presented *Catholic Schools, Urban Neighborhoods, and Education Reform*, at

- Midwest Law and Economics Association, Annual Meeting, October 9, 2010
- American Law and Economics Association, Annual Meeting, May 15, 2009

INVITED LECTURES, PRESENTATIONS, AND CONFERENCES, CONT.

Presented *Affordable Education and the Middle Class City*, at symposium on “Reassessing the State and Local Government Law Toolkit,” University of Chicago Law School, June 19, 2009

Presented, *Justice Thomas and the Little Guy*, at symposium on “The Unknown Justice Thomas,” NYU Law School, March 2, 2009

Presented, *Reordering the City*, at the Association of American Law Schools, Annual Conference, State and Local Government Law Section, January 8, 2009

Presented, *Mercantilism, American Style*, at the Association of American Law Schools, Annual Conference, Property Law Section, January 7, 2009

Presented, *The Legal and Cultural Landscape of Religious Property Disputes*, at the 11th Annual Conference on Litigating Takings and Other Challenges to Land Use and Environmental Regulation, Stanford Law School, November 7, 2008

Presented *Private Norms and Public Spaces*, at the 2008 Brigham-Kanner Property Rights Conference (honoring Robert Ellickson), William & Mary Law School, October 17, 2008

Presented *The Order-Maintenance Agenda as Land Use Policy* (draft book chapter) at

- University of Minnesota Law School, Faculty Workshop Series, October 23, 2008
- Seton Hall Law School, Faculty Workshop Series, September 8, 2008
- 2008 Property Works in Progress Conference, University of Colorado Law School, June 14, 2008
- Emory Law School, Faculty Workshop Series, February 12, 2008

Presented, *No Taking without a Touching? Reflections of an Armchair Originalist*, at the Bernard Siegan Memorial Conference on Economic Liberties, University of San Diego School of Law, November 16, 2007

Presented *The Neglected Political Economy of Eminent Domain* at University of Michigan Law School, March 20, 2007. (Invited by the Michigan Law Review to deliver annual featured-author lecture.)

Presented *Suburbs as Exit, Suburbs as Entrance*, at

- USC Gould School of Law, October 5, 2007
- The University of Chicago Law School, Works-in-Progress Workshop series, March 1, 2007
- Social Science History Association, Minneapolis, Minnesota, Nov. 3, 2006

Presented *A Four Category Taxonomy of Disorder* (draft book chapter) at the Colloquium on the Law, Economics, and Politics of Urban Affairs, NYU School of Law, February 7, 2007

INVITED LECTURES, PRESENTATIONS, AND CONFERENCES, CONT.

Presented *Planning as Public Use* at the 9th Annual Conference on Litigating Regulatory Takings Claims (sponsored by the Georgetown Environmental Law & Policy Institute and the California Center for Environmental Law & Policy), Boalt Hall School of Law, October 26, 2006

Presented *The Neglected Political Economy of Eminent Domain*, at:

- Northwestern University School of Law, April 18, 2006
- UCLA School of Law, February 13, 2006
- University of Florida, Levin College of Law, Nelson Symposium on Local Government, November 18, 2005
- J. Reuben Clark Law School, Brigham Young University, September 7, 2005

Presented *Eminent Domain Reform: Is More Money The Answer?* at the AALS Annual Meeting, Joint Session of the Property and Local Government Law Sections, January 6, 2006

Debated eminent domain reform with Tom Merrill (Columbia Law School), Yale Law School, September 21, 2005

Presented *Relocating Disorder* at

- University of Alabama School of Law, April 18, 2005
- Wake Forest University School of Law, October 28, 2004
- University of St. Thomas School of Law (Minneapolis), October 18, 2004

Presented *Ordering (and Order in) the City* at

- University of Illinois College of Law, October 5, 2004
- Northwestern University School of Law, March 9, 2004

Presented *Property Regulation and the Public Order* at

- University of San Diego School of Law, September 19, 2003
- The College of Law at Arizona State University, September 15, 2003
- Georgetown University Law Center, Environmental Law Workshop, September 11, 2003
- University of Virginia School of Law, July 22, 2003

Invited discussant at conference on *Property, Race, and Poverty*, NYU Law School, Villa la Pietra, Florence, Italy, July 13-16, 2003

GRANTS & AWARDS

Faculty recognition award, Notre Dame v. Navy football game, November 2, 2013

2009 Paul M. Bator Award (honoring outstanding legal academic under 40)

Article *Planning as Public Use* selected by Land Use and Environmental Law Review as one of five best scholarly articles on land use planning published in 2007

Article *Planning as Public Use* selected for publication in 2008 ZONING AND PLANNING LAW HANDBOOK (annual compilation of most influential legal scholarship on zoning and planning)

Article *Relocating Disorder* elected for publication in 2006 ZONING AND PLANNING LAW HANDBOOK (annual compilation of most influential legal scholarship on zoning and planning)

Article *On Castles and Commerce: Zoning Law and the Home Business Dilemma* selected for publication in 2002 ZONING AND PLANNING LAW HANDBOOK (annual compilation of most influential legal scholarship on zoning and planning)

UNIVERSITY SERVICE

- Institute for Educational Initiatives, Executive Committee, 2010-present
- Provost Review Committee, Fall 2014 (appointed by President John Jenkins)
- Laetare Medal Selection Committee (Notre Dame's highest honor), 2008-2014
- Central Campus Development Project, Academic Uses Subcommittee, 2013
- External Review of Graduate School (internal member of review committee), 2011
- Notre Dame Forum, Steering Committee, Co-Chair, 2011-2012
- Academic Council (University's academic governing body), 2006-2009
 - o Executive Committee, 2007-2009
 - o Chair, Faculty Affairs Subcommittee, 2007-2009
- Chair, Notre Dame Task Force on Collaborative Hiring, 2008-2009
- Chair, Academic Articles Working Group, 2007-2009 (spearheaded decennial review of the University's Academic Articles)
- Notre Dame Task Force on the Future of K-12 Catholic Schools, 2005-2006

LAW SCHOOL SERVICE

- Promotions Committee, 2013-15 (chair, 2013-14), 2011
- Faculty Colloquium Committee, 2014-15; 2001-2005
- Curriculum Committee, 2009-2012 (chair, 2010-2011), 2004-2006
- Dean Search Committee, 2008-2009
- Strategic Planning Committee, 2007-2008
- Judicial Clerkships Committee, 2000-2009
- Law Librarian Search Committee, 2005-2006
- ABA Self-Study Committee, 2002-2003
- Admissions Committee, 2000-2003, 2012-13

OTHER PROFESSIONAL SERVICE

- Peer Reviewer, Yale University Press, University of Chicago Press, Oxford University Press, *Land Use And Environmental Law Review*
- Board of Policy Advisors, EdChoice Illinois
- Circle of Scholars, Lumen Christi Institute, Chicago, Illinois, since 2006
- National Prison Rape Elimination Commission, 2004-2006
- Officer, American Association of Law Schools, Constitutional Law Section, 2002-2003 and 2007-2008

COMMUNITY SERVICE

- St. Joseph Parish, South Bend, Indiana, Capital Campaign, Strategic Gifts Committee (2012)
- St. Joseph Grade School, Parent Volunteer (since 2005)