

THE BROUGH LAW FIRM, PLLC

Chapel Hill and Concord, North Carolina

1526 E. Franklin Street, Suite 200

Chapel Hill, North Carolina 27514

Chapel Hill Tel: (919) 929-3905

Concord Tel: (980) 622-6440

Website: www.broughlawfirm.com

G. Nicholas (Nick) Herman

Robert E. Hornik, Jr.

T.C. Morphis, Jr.

Albert M. Benshoff

Lori Stuart (Office Administrator)

herman@broughlawfirm.com

hornik@broughlawfirm.com

morphis@broughlawfirm.com

benshoff@broughlawfirm.com

office@broughlawfirm.com

The Brough Law Firm, PLLC was founded by Michael B. Brough in 1988 in Chapel Hill, North Carolina. The firm has four lawyers and supporting administrative staff in Chapel Hill and Concord, North Carolina. The firm's practice is primarily devoted to representing local governments in state and federal court in areas of land use law, civil rights defense, employment law, general representation, and litigation and appeals. In addition, the firm also assists numerous individuals and corporations in a broad range of municipal and land use matters, such as seeking development permits or engaging in litigation at the trial and appellate levels.

The Brough Law Firm, PLLC has been named a Tier 1 firm in the areas of Land Use and Zoning Law by *US News and World Report* for 2016.

The firm serves as general counsel for the Towns of Aberdeen, Cameron, Carrboro, Carthage, Hillsborough, Hoffman, Hope Mills, Oakboro, Pinebluff, Robbins, Stem, and Vass; the Cities of Hamlet, Roxboro and Trinity; and the Villages of Foxfire Village and Whispering Pines. The firm also provides litigation services for the Town of Cary, and regularly assists numerous other cities and counties throughout the State in matters ranging from ordinance drafting to litigation.

The firm's private clients include individuals, citizen groups, businesses and corporations, and commercial and residential developers. We advise and represent these clients on a broad range of planning, zoning and land use related issues such as rezonings, variances, special and conditional use permits, annexations, condemnations, vested rights, subdivision development, historic district designations, and the N.C. Coastal Area Management Act, as well as other land use and environmental laws.

The members of the firm have extensive experience in litigation and appellate matters, and have argued over 120 cases in the N.C. Supreme Court, N.C. Court of Appeals, and the United States Court of Appeals for the Fourth Circuit. In addition, various members of the firm have taught on the adjunct faculties at the University of North Carolina School of Law, North Carolina Central University School of Law, Duke University School of Law, Campbell University School of Law, Elon University, National Institute for Trial Advocacy, and at the Institute of Government in Chapel Hill. Collectively, the members of the firm have published 12 books and monographs, and over 80 articles (including Continuing Legal Education papers) on various areas of law in which the firm practices.

G. NICHOLAS (NICK) HERMAN

G. Nicholas Herman received his Bachelor of Arts degree in 1977 from the University of North Carolina at Chapel Hill as a Morehead-Cain Scholar. He received his law degree from Duke University School of Law in 1981. He was formerly a partner in the firm of Coleman, Bernholz, Bernholz, Gledhill, Hargrave & Herman, where his practice concentrated in general, civil and criminal litigation and appeals. He has extensive litigation experience in state and federal court in a wide variety of areas of law, including municipal and county defense, zoning issues, personal injury, civil rights, eminent domain, and employment law. He has also argued over 35 cases in the North Carolina Supreme Court, North Carolina Court of Appeals, and the United States Court of Appeals for the Fourth District.

Mr. Herman is an Adjunct Professor at North Carolina Central University School of Law, and he has also taught on the adjunct faculties at Duke Law School, UNC-CH Law School, Campbell Law School, and Elon University (Department of Philosophy). He teaches courses in trial practice, the law of evidence, legal counseling and negotiating, appellate advocacy, civil procedure, alternative dispute resolution, and pretrial litigation. He has also taught on the faculty of the National Institute of Trial Advocacy in trial practice, negotiation and mediation, and deposition-taking skills. He is the author of five books: North Carolina Civil Trial Practice (Juris Publishing, Inc. 2012); Practical Evidence: The Law, Foundations, and Trial Techniques (2d ed. West Group 1999); Plea Bargaining (2d ed. Juris Publishing Inc. 2004); Legal Counseling, Negotiating & Mediating: A Practical Approach (Lexis/Nexis 2009); and A Practical Approach to Client Interviewing, Counseling, and Decision-Making: For Clinical Programs and Practical-skills Courses (Lexis/Nexis-Matthew Bender & Co. 2009). He has also written over 40 articles on various subjects of civil litigation.

Mr. Herman has been a lecturer at numerous Continuing Legal Education programs on topics such as land-use regulation powers, the law of damages, witness preparation, legal aspects of drug testing, and ethical considerations in civil litigation and appellate practice. He now serves as general counsel to the Town of Carrboro and the Cities of Roxboro and Trinity. He has served as special litigation counsel for Cabarrus County, Rockingham County, Chatham County, Currituck County, the City of Concord, the City of Wilmington, the Town of Unionville, and the Town of Garner. His practice is otherwise primarily devoted to litigation and appeals involving areas such as county and municipal defense, zoning issues, land use regulation, condemnation cases, nuisance abatement, employment law issues, business litigation and personal injury.

ROBERT E. HORNIK, JR.

Robert E. Hornik, Jr. received his Bachelor of Arts degree, with honors, in Political Science from LeMoyne College in Syracuse, New York in 1981. He received his law degree from The Washington & Lee University School of Law in Lexington, Virginia, in 1984. Thereafter, he was admitted to practice in New York, where he engaged in the private practice of law in Syracuse, New York from 1984 through September 1998.

Mr. Hornik's practice emphasizes municipal law, zoning and land use law and litigation. He joined the Firm in October 1998 after 14 years of private practice in Syracuse, New York, where he also represented local governments and real estate developers. Mr. Hornik serves as general counsel to the Towns of Hillsborough, Hoffman, Pinebluff, and Stem, and supports others in the Firm in their capacities as counsel for the Firm's other municipal clients. Mr. Hornik has represented and advised municipalities in New York and North Carolina on issues including local finance, employment, annexation, zoning, planning and environmental law, and private developers in administrative and judicial proceedings at the State and Federal levels.

Mr. Hornik's experience includes extensive litigation experience in municipal land use and annexation matters in trial and appellate courts, including the North Carolina Supreme Court and the United States Supreme Court. He has also counseled clients in various commercial real estate transactions, including site acquisition, leasing and financing of multi-million dollar commercial, retail and office ventures, and large scale residential subdivisions. Mr. Hornik's practice has included representation of several regional and national wireless telecommunication providers in the site acquisition and permitting processes for wireless telecommunications facilities, including State and Federal court actions brought under the Telecommunications Act of 1996.

Mr. Hornik is admitted to practice in North Carolina (1997) and New York (1985). He is also admitted to practice in the federal courts in the Northern and Western Districts of New York, in the Eastern, Middle and Western Districts of North Carolina, in the United States Circuit Court for the Fourth Circuit, and in the United States Supreme Court. He is a member of the North Carolina, New York and American Bar Associations. Mr. Hornik is active in the North Carolina Bar Association's Zoning, Planning and Land Use Section, having served as a member of the Section's first Section Council. He served two terms as Chairman of the Section's Continuing Legal Education Committee, and has presented continuing legal education programs for municipal attorneys and newly admitted attorneys on several occasions.

T.C. MORPHIS, JR.

T.C. Morphis grew up in Hickory, North Carolina. He received a Bachelor of Arts in Philosophy and History from UNC-Chapel Hill in 1997 and both a Law Degree and a Master's Degree in City and Regional Planning from UNC-Chapel Hill in 2002.

Mr. Morphis has been with the Brough Law Firm, PLLC since the fall of 2002. His primary practice areas include municipal, zoning, land use, environmental and coastal area management law. He provides general legal counsel for the City of Hamlet and the Towns of Aberdeen, Carthage, Hope Mills, Robbins and Vass. He also works extensively with the Towns of Carrboro, Hillsborough and Pinebluff, and regularly represents citizen groups and other private clients in land use litigation throughout North Carolina. Mr. Morphis has experience at all stages of litigation, from quasi-judicial hearings before local boards to trial court work and appellate advocacy before the North Carolina Court of Appeal and North Carolina Supreme Court.

While in law school, Mr. Morphis worked as an intern with the Conservation Trust for North Carolina; as a regional planning intern with the Triangle J Council of Governments; as a clerk with the City Attorney's office in Charlotte, North Carolina; as an extern for the Honorable Judge Linda McGee of the North Carolina Court of Appeals; and as a co-instructor for a course in cultural diversity at UNC-Chapel Hill. Mr. Morphis' Masters Project compared land trusts and resource conservation efforts in North Carolina with forest conservation in India, and he was a recipient of a U.S. Department of Education Foreign Language Area Studies scholarship for the study of Hindi and Urdu in 2000. Mr. Morphis received the Gressman-Pollitt Award for Oral Advocacy in 1999, won the Best Overall award in the UNC Environmental Negotiation Competition in 1999, and was a finalist in the Merhige National Environmental Negotiation Competition in 2002.

Mr. Morphis is admitted to practice in the State courts in North Carolina and in the United States District Court, Middle District of North Carolina. Mr. Morphis is a member of the North Carolina Bar Association and currently serves as Secretary for the North Carolina Bar Association's Zoning, Planning and Land Use Section Council. He has previously served as the Treasurer of the Zoning, Planning and Land Use Law Section and as the Co-Editor of the North Carolina Bar Association's Land Use Law Quarterly. He also previously served on the Triangle Land Conservancy's Land Protection Committee and as the Chairman of the Advisory Committee to the City of Durham's Community and Family Life Center at Lyon Park.

ALBERT M. BENSHOFF

Albert M. Benshoff moved from his family's home in central Pennsylvania to Michigan, where he graduated from the University of Michigan with a Bachelor of Science in Natural Resources in 1976. He briefly worked as a contractor for the U.S. Department of the Interior, Bureau of Outdoor Recreation (now the National Park Service) before working in environmental compliance for National Steel Corp. In 1982, he received a Master's in Regional Planning from the University of Michigan.

For the next 12 years he worked as a planner, first for the Beaufort County, S.C. Planning Commission, then beginning in 1985 for Cary, N.C. where he was in charge of the adoption of the first Unified Development Ordinance, the construction of the first five miles of greenway and several comprehensive plans. While working in Cary, he attended the evening law program at N.C. Central University, in Durham, NC.

Mr. Benshoff was licensed as an attorney in 1994. After that he became the City Attorney for Lumberton, N.C. until 2003 when he became the Concord, N.C. City Attorney. Some of his accomplishments in Concord include litigating a zoning challenge to the new Cabarrus County jail, the 2005 edition of the Concord Development Ordinance, obtaining and defending the Inter-basin Transfer Permits from the Yadkin and Catawba Rivers to Concord and Kannapolis, the redevelopment of "Brownfield" sites, community development and the construction of the joint Albemarle-Concord- Kannapolis water pipeline. Mr. Benshoff retired from the City of Concord in 2014.

Today, Mr. Benshoff provides general legal counsel to the Town of Oakboro and has worked with other local government clients, including the Towns of Aberdeen, Carthage, Hamlet, Holly Springs, Hope Mills, Pinebluff, Robbins, the Lumberton Convention and Visitors Bureau, the City of Trinity and the Village of Pinehurst. Mr. Benshoff practices in the areas of real estate development, contracts, economic development, annexation, land use and zoning, eminent domain, housing authorities, code enforcement and community development, including US Housing and Urban Development programs.

Mr. Benshoff is licensed in the North Carolina state courts and U.S. District Courts of the Eastern, Middle and Western Districts of North Carolina, as well as the U.S. Fourth Circuit Court of Appeals. He is a member of the American and North Carolina Bar Associations, where he serves as co-chair of the legislative section of the Zoning, Planning and Land Use section. He also serves on the Board of Directors of two non-profit corporations located in Cabarrus County providing housing to low income seniors.

MICHAEL B. BROUGH
RETIRED

Michael B. Brough received his Bachelor of Arts degree, with highest honors, from Georgetown University in Washington, D.C. in 1969. He received his law degree, with honors, from the University of Michigan Law School in 1973, and holds a Master's Degree in Public Administration from the Maxwell School of Citizenship and Public Affairs at Syracuse University, where he was a Governor Herbert H. Lehman Fellow.

Mr. Brough founded The Brough Law Firm in 1988. Before that, he practiced as a sole practitioner, then as a partner in Faison, Brown, Fletcher & Brough, and served as President of Adjunct Services, Inc., a firm providing ordinance codification and legal research services to local governments. He has held a variety of teaching positions, including Assistant Professor of Public Law and Government at the Institute of Government, University of North Carolina at Chapel Hill (1974-1976); Adjunct Assistant Professor of Law & Administration, UNC-CH (1978-1979); and Visiting Lecturer, University of North Carolina School of Law (1979-1980, and 1991). At these institutions, and at numerous Continuing Legal Education programs, he has taught courses in state and local government law and land use law.

Mr. Brough is the author of two books: *Selected Major Issues in North Carolina Zoning and Land Use Law* (1986), and *A Unified Development Ordinance* (American Planning Association 1985). He has also authored three monographs: *The Zoning Board of Adjustment in North Carolina* (with Philip P. Green, Jr.) (Institute of Government 1984), *Preparing Ordinances Regulating Mobile Homes and Mobile Home Parks in North Carolina: A Guidebook* (Institute of Government 1976), and *The Nonconforming Use in North Carolina Zoning Law: Text and Model Ordinance* (Institute of Government 1976). In addition, he has written over twelve articles on various topics of land use law, including litigation and appeal issues, obtaining development permission under local ordinances, local government liability for unlawful land use decisions, issues involving local watershed protection programs, and issues related to vested rights and takings law.

Prior to his retirement, Mr. Brough served as general counsel for the Town of Carrboro, Foxfire Village, the Village of Whispering Pines, the Town of Pinebluff and the Town of Cameron, and he regularly consulted with other cities and counties, developers, and citizen groups around the State. He has argued numerous cases in the North Carolina Supreme Court, North Carolina Court of Appeals, and the United States Court of Appeals for the Fourth Circuit, and was a Certified Mediator in North Carolina.

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Publications by Members of the Firm

Books & Monographs

North Carolina Civil Trial Practice (Juris Publishing, Inc 2012)

Legal Counseling, Negotiating & Mediating: A Practical Approach (Lexis-Nexis 2009)

The Nonconforming Use in North Carolina Zoning Law: Text and Model Ordinance, (Institute of Government 1976)

North Carolina Volunteer Fire Department Journal (1995 to present)

The Order Of The Golden Fleece At Chapel Hill, 1904-2004: America's First Honor Society For University Leaders (The University of North Carolina at Chapel Hill Library 2005).

Plea Bargaining (3d ed. Juris Publishing, Inc. 2012)

A Practical Approach to Client Interviewing, Counseling, and Decision-Making: For Clinical Programs and Practical-skills Courses (Lexis/Nexis-Matthew Bender & Co. 2009)

Practical Evidence: The Law, Foundations, and Trial Techniques (2d ed. West Group 1999).

Preparing Ordinances Regulating Mobile Homes and Mobile Home Parks in North Carolina: A Guidebook (Institute of Government 1976)

Selected Major Issues in North Carolina Zoning and Land Use Law (1986)

A Unified Development Ordinance (American Planning Association 1985)

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“Flexibility Without Arbitrariness in the Zoning System: Observations on North Carolina Special Exception and Zoning Amendment Cases,” 53 *N.C. Law Review* 925-958 (1975)

Presentations by Members of the Firm

“Professionalism Issues for Local Government Counsel,” Professionalism for New Attorneys Program (N.C. Bar Association, October 14, 2015)

“Protecting Endangered Properties - Prevention of Demolition by Neglect and Other Preservation Tools,” Preservation North Carolina Annual Conference. (Salisbury, NC, September 17, 2015)

“A Reluctant Acceptance of Public Private Partnerships in North Carolina,” Zoning Planning and Land Use Law Section Annual Meeting (N.C. Bar Association, March 27, 2015)

“A Discussion of *Lanvale Properties v. County of Cabarrus*,” N.C. Association of County Attorneys Winter Conference (U.N.C.-School of Government, February 6, 2015)

“Quasi-Judicial Procedures,” Town of Aberdeen Planning Board and Historic Preservation Commission (January 15, 2015)

“Fair Housing and Local Government Land-use Regulations Affecting Persons with Disabilities,” Town of Cary Board of Adjustment (October 6, 2014)

“Fair Housing and Reasonable Accommodations by Local Governments,” 2014 North Carolina Planning Conference (October 2, 2014)

“Managing the Attorney-client Relationship and Organization of a Legal Department,” Professionalism for New Admittees Program (N.C. Bar Association, May 15, 2014)

“The State of Local Government Powers after *Lanvale Properties, LLC v. Cabarrus County* and into the Future,” Joint Zoning, Planning & Land Use Section and Government/Public Sector Section C.L.E. Program (N.C. Bar Association, March 28, 2014)

“The Aberdeen Board of Commissioners,” Town of Aberdeen Board of Commissioners (February 27, 2014)

“The Aberdeen Planning Board: An Introduction,” Town of Aberdeen Planning Board (October 17, 2013)

“Quasi-Judicial Procedure,” City of Concord Board of Adjustment (August 28, 2012)

“*Lanvale Properties, LLC v. Cabarrus County and the City of Locust* and Its Implications,” N.C. Municipal Attorneys Winter Conference (U.N.C.-School of Government, March 14-15, 2013)

“Quasi-Judicial Procedure,” Town of Cary Board of Adjustment (March 22, 2011)

“Town of Aberdeen Historic Preservation Commission,” Town of Aberdeen Historic Preservation Commission (March 21, 2011)

Lecture on “Litigation in Real Estate Development Process” course at Kenan-Flagler School of Business (U.N.C.-Chapel Hill, January 27, 2011)

“With a Little Help From My Friends—Negotiation Techniques,” N.C. Bar Association C.L.E., “We Can Work It Out—15th Dispute Resolution Section Annual Meeting,” (April 11, 2008)

Leadership Lecture (Elon University Center for Leadership, March 12, 2008)

“Constitution Day,” Lecture to Elon University, College of Arts & Sciences: “Exploring Some Common Constitutional Myths” (September 19, 2007)

“The Legal Responsibilities of the Landlord Under N.C. Law,” Housing Workshop (City of Roxboro, N.C., July 23, 2007)

“Professionalism in Your Practice” (Orange County Bar Association C.L.E. Second Celebration of Professionalism, January 26, 2006)

“Law Students and Lawyers in Professionalism” (Orange County Bar Association C.L.E. on Professionalism, February 12, 2004)

“Update on the City of Hickory Unified Development Ordinance” (Catawba County Bar Association meeting, June 12, 2009)

“Development Agreements and Conditional Zoning in North Carolina” (Moore County Planning Retreat, August 15, 2008)

“Origin, History, And Status Of Bill Dealing With Quasi-Judicial Land Use Decisions” (Law Seminars International Two-Day Conference, July 24-25, 2008)

“Senate Bill 212: Land-Use Permit Appeals” (N.C. Bar Foundation, May 3, 2007)

“Governmental Immunity” (U.N.C.-Chapel Hill School of Government, October 27, 2005)

“Judicial Review of Quasi-Judicial Zoning Decisions” (N.C. Bar Foundation, May 7-8, 2004)

“Getting the Most Out of Your Appraiser (Updated)” (C.L.E. International Eminent Domain Conference August 14-15, 2003)

“Local Regulation of Intensive Livestock Operations After *Craig v. County of Chatham*” (N.C. Bar Association C.L.E. Program October 4, 2002)

“Getting the Most Out of Your Appraiser” (C.L.E. International Eminent Domain Conference June 27-28, 2002)

“Neither Fish Nor Fowl: Conditional Use Zoning” (N.C. Bar Foundation, 2002)

“The Law of Depositions in North Carolina” (N.C. Academy of Trial Lawyers CLE Program January 11, 2002)

“A Proposed Statute Dealing With Appeals of Quasi-Judicial Land Use Decisions” (N.C. Bar Foundation 2001)

“How Land Use Regulations Can Affect Property Values” (N.C. Bar Foundation 1999) “Appealing to and From the Board of Adjustment” (N.C. Bar Foundation 1997)

“Update in Telecommunications Law With an Emphasis on Cell Tower Permitting” (N.C. Municipal Attorneys’ Conference, August, 1997)

“*Dolan vs. Tigard*: The Supreme Court Advances Taking Law” (N.C. Bar Foundation 1994)

“Legal Issues in Obtaining Development Permission for Your Client Under Local Zoning and Subdivision Ordinances” (Wake Forest C.L.E. 1992)

“Liability of Local Governments for Damages for Unlawful Land Use Decisions” (N.C. Bar Foundation 1991)

“Recent Developments in N.C. Land Use Law” (National Business Institute, Inc. 1990)

“Legal Issues in Obtaining Development Permission for Your Client Under Local Zoning and Subdivision Ordinances” (Wake Forest C.L.E. 1990)

“Local Watershed Protection Programs,” Water Rights Resources and Quality (N.C. Bar Foundation and Environmental & Natural Resources Law Section, N.C. Bar Association 1990)

“Land Use Litigation Procedural Issues,” Land Use Regulation and Planning (N.C. Bar Foundation and Real Estate Section, N.C. Bar Association 1988)

“Vested Rights,” Land Use Litigation Seminar (N.C. Academy of Trial Lawyers 1987)

“Punitive Damages,” Seventh Annual Festival of Legal Learning (U.N.C. Law School CLE 1997)

“Ethics of Witness Preparation” (U.N.C. Law School CLE 1996)

“Ethical Considerations in Civil Litigation & Appellate Practice” (N.C.C.U. Law School C.L.E. 1990)

“Legal Aspects of Drug Testing for Health Professionals” (N.C. Alliance of Allied Health Professionals 1988)

Organizational Affiliations of Members of the Firm

North Carolina Bar Association, Zoning, Planning and Land Use Section
North Carolina Association of Municipal Attorneys
International Municipal Law Association
Scribes - The American Society of Writers on Legal Subjects

Bar Memberships for Members of the Firm

North Carolina State Bar
U.S. District Court, Eastern District, N.C.
U.S. District Court, Middle District, N.C.
U.S. District Court, Western District, N.C.
U.S. Court of Appeals for the Fourth Circuit
United States Supreme Court