

PROPERTY
PROF. BECKETT G. CANTLEY
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SYLLABUS

Course Description

This course will introduce students to property law concepts through the general themes of acquisition and possession, exclusion and access, and ownership and constitutional protections. In this course, students will study these themes through specific topics including conquest, gifts, capture, adverse possession, estates and future interests, leaseholds, real estate transactions, and several real property law concepts – such as nuisance, easements, covenants, servitudes, takings, and trespass. This course will also give students the opportunity to develop and hone their legal reasoning skills and introduce them to some of the practical, ethical, and policy concerns of a working attorney.

Course Overview

As evidenced by its place in the first-year curriculum, the law of property is a foundational course in any lawyer's education. Most obviously, property law provides the rules for determining if and how one individual or group may own and use something – be it land, an automobile, an idea, or even one's own person – to the exclusion of other individuals or groups. This is how the ordinary layperson views "property," and for this reason alone, a lawyer must understand property law to counsel clients with regard to their business and personal dealings. Property is the systematic study of both things personal (movable and unattached) and things real (commonly known as real property). Property, as a subject, transcends many areas of the law, including torts, contracts and Constitutional law. Thus, an understanding of property law (and the theories underlying it) facilitates appreciation, assessment, and criticism of government, society, public policy, and our roles as citizens.

Course Goals

The objective of the course is to have students become familiar with and understand the legal terms and the basic legal concepts used in the substantive law of property, and have them begin to think conceptually about how Property law serves society.

Student Learning Outcomes

At the end of this course, students should be able to:

1. Recognize and resolve problems involving the legal doctrines covered in this course, including, but not limited to, original acquisition, limits on exclusionary rights, forms of ownership, adverse possession, estates and future interests, leaseholds, real estate transactions, and real property law concepts – such as nuisance, easements, covenants, servitudes, takings, and trespass.
2. Accurately identify and synthesize the relevant issues when given a complex set of facts involving property law issues, and analyze and evaluate in writing the relative strengths and weaknesses of each party's legal position by effectively integrating rules and facts.
3. Demonstrate the ability to apply property law concepts and rules to new factual contexts using the traditional IRAC format.
4. Accurately recite in writing relevant laws, including its various elements and exceptions, related to a particular property law issue, including using legal terms and concepts correctly and precisely.
5. Identify and explain underlying public policy and jurisprudential concerns related to specific property law concepts.
6. Demonstrate the ability to analyze cases and/or statutes, and differentiate cases in terms of legally relevant facts.
7. Think critically and analytically about the intersection between the law, property ownership and public policy.

Casebook

The casebook in this course is Rabin, Kwall, Kwall & Arnold, *Fundamentals of Modern Property Law* (6th Ed.). In addition, the following book is highly recommended for use in studying the future interests material in this course: Makdisi & Bogart, *Estates in Land and Future Interests* (5th Ed.).

In addition to the text material, I will lecture on elements of the underlying policy behind the court cases and other law contained in the text. These policy arguments will be very important in understanding property law, and will be tested on the written exams.

I will also lecture on economic issues, business issues, and other topics effecting property law from both from an academic and practice standpoint. Unlike the policy issues, these “add on” topics not addressed in the text are to give students a better understanding of the law, but students will not be required to know them for purposes of any written exam.

Class Participation, Attendance and other Class Rules

Students need to be prepared to discuss cases and problems without the use of notes during class. Subject to the law school policies, students may bring drinks. Students can take notes on their laptops, but if I catch a student talking, texting, emailing, using Facebook, or otherwise doing non-course work in class, I will ask the student to leave the class immediately and eventually it will result in points off the student's grade. Students should not be surprised if I ask them to turn your computer around in class on the spot. Students should respect me and respect the class enough to follow this rule.

Final Exam & Final Grade

There will be only one formal exam in this course - the final examination at the end of the semester. The final examination will contain multiple-choice and multiple essay questions. The final examination will be the primary determinant of any student's grade. Each grade will be calculated 100% by the grade on the final examination, unless one or more of the following adjustments is applied. A student may receive a downward adjustment of $\frac{1}{2}$ of 1 grade level if the student's classroom participation is unsatisfactory, including where a student is unprepared when called upon in class or is in violation of class rules.

Absences

Students are expected to be in class at the commencement of class. **Students who arrive late for class are marked absent.** It is a student's responsibility to be in class, so there will be no exceptions made to this policy. Students must be prepared to discuss all course material in every class, whether they have been specifically assigned to be "on call" for the material or not. **If a student is unprepared in class, they will also be marked absent.** There will be no exceptions to this policy.

Class Time & Office Hours

This class meets on **Wednesdays** from **6:15 to 9:30 p.m.** My office is on the 8th floor of the 1422 building. My office-hours are on **Mondays (4:30pm-6pm)** and **Wednesdays (4:30pm-6pm)**, although students should feel free to drop by my office anytime in the afternoons since I am often there. If a student is having trouble with the class work, I highly encourage the student come talk to me and be very honest about his or her difficulties. If I don't know a student is having trouble, I cannot help him or her.

Text Assignments

I will attempt to cover the below schedule as outlined. In practice, however, sometimes the class gets bogged down on the more important material while some of the less-important material is glossed over or eliminated. Assignments will be announced at the end of each class, depending on the class' progress. Below is a target outline of assignments. However, this outline is subject to change in our class-by-class assignment announcement. For each of the below, students should read all of the material, cases, and problems.

Week 1 – Zoning & Land Use

Jan 15. Pages 591-644 (Chapters 29 & 30)

Week 2 – Takings

Jan 22. Pages 644-713 (Chapters 31 & 32)

Week 3 – Equal Protection, Due Process, & Religious Land Use

Jan 29. Pages 715-772 (Chapters 33 & 34)

Week 4 – Water Rights & Public Trust Doctrine

Feb 5. Pages 773-824 (Chapters 35 & 36)

Week 5 – Adverse Possession

Feb 12. Pages 859-903 (Chapters 38 & 39) *Note: Skip Chapter 37*

Week 6 – Written Instruments & Deed Descriptions

Feb 19. Pages 905-954 (Chapters 40 & 41)

Week 7 – Deed Delivery & Real Estate Brokers

Feb 26. Pages 954-994 (Chapters 42 & 43)

Week 8 – Marketable Title

Mar 5. Pages 995-1046 (Chapters 44 & 45)

Mar 12 - Spring Break - No Class

Week 9 – Mortgages & Covenants of Title

Mar 19. Pages 1047-1101 (Chapters 46 & 47)

Week 10 – Recording Statutes

Mar 26. Pages 1103-1141 (Chapters 48 & 49)

Week 11 – Title Insurance & Income Tax

Apr 2. Pages 1143-1185 (Chapters 50 & 51)

Week 12 – Equitable Conversion & Implied Warranty of Fitness

Apr 9. Pages 1187-1235 (Chapters 52 & 53)

Week 13 – Catch Up

Apr 16. Catch Up

Week 14 – Review

Apr 23. Review