

John Marshall Law School
Real Property I Day Section B
Spring 2015
Associate Professor Helen de Haven

Tuesdays and Thursdays 11:15-12:45, Room TBA

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My office is in the West Wing of the John Ryan Faculty Suite, Building 1422

Office Hours: M: By appointment, T: 2:00-4:00, W: By appointment, Th: 2:30-4:30 and after class at 9:30, F: 2:00-6:00 and after class at 9:30.

I give my time generously to committed students. I am here a lot Tuesday-Friday, but not necessarily in my own office. Appointments are always preferred. You are also welcome to drop by during official office hours. The faculty assistant will usually know where to find me if I am not in my office when you arrive.

Real Property I Syllabus

A. Student Learning Objectives

Real Property is a foundational course in a traditional law school curriculum and is universally required. The law of real property provides the basis for determining whether, when, and how a person or group may lawfully own and use land. Studying the law of real property and how it develops is critical to an informed understanding of government, society, public policy, and our roles as citizens and public servants.

This year-long basic survey course will introduce you to property law concepts, rules, and processes through the general themes of acquisition and possession, exclusion and access, ownership, regulation, and government takings. This semester you will study the development of the common law and the application of legislative enactments to such topics as trespass, adverse possession, nuisance, servitudes, including easements and covenants, and ownership of property over time (present estates and future interests). You will not only be learning a substantive body of law; even more important, you will be practicing the intellectual and ethical skills that fit you to practice law.

By the end of this course, as judged by your performance on a written examination, you must demonstrate that you can:

1. Comply with examination rules and instructions;

2. Read cases, statutes, and other law-related materials thoughtfully, analytically, and comprehensively;
3. Write clearly and plainly in grammatical, standard English, using correct spelling, punctuation, and capitalization;
4. Organize your answer to a problem logically and clearly;
5. Use legal terms correctly and precisely;
6. Identify and synthesize the property law issues arising from complex fact patterns presented to you;
7. Create strong rule statements drawn from the most applicable sources of law, taking into account the facts with which you are presented;
8. Express the legal arguments reasonably applicable to the facts you are given with respect to the issues you have identified, using the rules you have articulated;
9. Reach a well-supported conclusion, based on fact and law, that comports with reason, fairness, justice, and precedent.

B. Course Information

The required text for this course is Joseph W. Singer, Property Law: Rules, Policies, and Practices (5th ed. 2010).

There will be a three-hour, closed-book examination at the end of the course.

Students who do well in this course also highly recommend Singer's treatise, Introduction to Property (4th Edition 2013). It is expensive, but the library has stocked several copies for your use.

You will be expected to participate in class and small group discussion. For each class, you should be able and willing to summarize and explicate cases and principles from your reading, to explore with your classmates the factual and legal issues and arguments and the social policies implicated by problems with which you are presented, and to create an efficient analytical method for synthesizing information. You will be expected to understand the basic elements of logic and to practice identifying fallacies in thinking. If for some reason you are unable to participate fully in a class, please let me know in advance if possible.

Overall class participation and preparation may affect the class mean. In addition, I may raise or lower your individual grade by one grade step for exceptionally good or exceptionally

poor class preparation and performance. Exceptional performance is that which significantly enhances (or devalues) the educational experience of the class as a whole.

The ground rules of this class are that you must show up, pay attention, be honest, and keep an open mind. You are expected to behave professionally at all times. Disrespect and incivility will not be tolerated. We will be engaged in a group learning experience, and I intend to keep the field open and level. You must, however, take responsibility for your own access to the group. I am a straight white woman, and I am aware that my group identities may result in an impact that is not my intention. If you experience difficulty participating fully in the class as a result of your own group identities, you are expected to bring the matter to my attention.

I require that you attend class. Under the JMLS attendance policy, I am expected to report to the administration if you miss more than 20% of scheduled class hours, and you will not be permitted to take the final examination in the course if you do so. Furthermore, my class policy is that unexcused absences may lower your grade by one grade step. Absences are excused only for good cause shown and communicated to me preferably in advance but certainly no later than 5:00 on the day following the absence.

Attendance will be taken during each class session. Students who are not seated and prepared to begin class when attendance is taken may be considered absent.

Attendance requires preparation, attention, and intelligent participation during the entire class period. Except in emergencies, students should not leave the classroom once class has begun.

You should inform me in advance if an emergency requires you to be available by cell phone during class; otherwise, please make sure your cell phones are turned off.

Under no circumstances may you bring firearms into my classroom. If you believe that both the law and JMLS policy permit you to carry a firearm to class, please see me immediately so that we can arrange for you to transfer to another section. Violation of this rule will result in your immediate and permanent dismissal from this class.

It is my responsibility to facilitate your learning how to think about the law of real property in a group setting and to test you fairly at the end of the semester on the assigned materials. It is your responsibility to learn the law of property in accordance with the student learning objectives stated above and to make sure that you have adequate access to the group learning process. We will be having a continuing conversation about how race, sex, sexual orientation, socioeconomic status, and disability affect property issues. You are expected to participate thoughtfully and responsibly in that conversation.

I will be using several methods for assessing the quality of your learning experience as the semester progresses, including an elected Student Advisory Team (SAT). The SAT will meet

periodically with me to help improve the course. First, they should be able to give me information about student learning (what students are and are not “getting”) and the effectiveness of the instructional methods we are using. Second, they should offer suggestions to improve the course and the learning. We will organize the SAT during the first or second class session.

I also encourage individual students or groups of students to see me privately if you are having difficulty with the course material or if you have concerns about the class. You may communicate with me by e-mail or telephone. When you communicate by e-mail, please send to both my home and office addresses. I am not at the school every day, so if you need to reach me by telephone, it is best to try my home number if you do not reach me at school first.

Welcome to the class!

C. Reading Assignments

This syllabus and reading list are subject to change. We will cover Chapters 1, 6, 7, 8, and 9 of your Casebook this semester.

Class 1, January 13: Chapter 1, Trespass

Public Policy Limits on the Right to Exclude, 3-16

Class 2, January 15: Chapter 1, Trespass

Right of Reasonable Access to Property Open to the Public, 16-24

Trespass Remedies, 24-32

Class 3, January 20: Chapter 1, Trespass

Public Accommodations Statutes

The Antidiscrimination Principle 33-44

Discrimination Against Persons with Disabilities 44-52

Class 4, January 22: Chapter 1, Trespass

Free Speech Rights of Access to Public Property, 52-56

Beach Access and the Public Trust, 56-66

The Right to Be Somewhere and the Problem of Homelessness, 66-69

Class 5, January 27: Chapter 6, Adverse Possession

Title versus Possession 281-89

Class 6, January 29: Chapter 6, Adverse Possession

Title versus Possession 289-302

Justifications for Adverse Possession 304-11

- Class 7, February 3: Chapter 6, Adverse Possession
Prescriptive Easements 311-19
Other Informal Ways to Transfer Title to Real Property 319-30
- Class 8, February 5: Chapter 7, Nuisance
Land Use Conflict Among Neighbors 333-36
Water Rights 337-48
- Class 9, February 10: Chapter 7, Nuisance
Support Easements 348-67
- Class 10, February 12: Chapter 7, Nuisance
Nuisance 368-384
- Class 11, February 17: Nuisance
Nuisance 384-86, 403-11
- Class 12, February 19: Chapter 9, Present Estates and Future Interests
Division of Ownership Over Time 595-98
Historical Background 598-606
The Contemporary Estates System 607-16
- Class 13, February 24: The Contemporary Estates System continued
- Class 14, February 26: Chapter 9, Present Estates and Future Interests
Interpretation of Ambiguous Conveyances 616-25
Regulatory Rules 626-28
- Class 15, March 3: Chapter 9, Present Estates and Future Interests
Rule Against Perpetuities 628-41
- Class 16, March 5: Chapter 9, Present Estates and Future Interests
Rule Against Perpetuities 628-41 [sic]
- Class 17, March 10: Chapter 9, Present Estates and Future Interests
Rule Against Perpetuities 641-50
- Class 18, March 12: Chapter 9, Present Estates and Future Interests
Waste 650-54
Racial Conditions 654-58
Rule Against Unreasonable Restraints on Marriage 658-61

Class 19, March 24: Chapter 10, Concurrent Ownership and Family Property
Varieties of Common Ownership 663-664
Rights and Obligations of Co-owners 664-670
Conflicts over Rent and Possession 671-674

Class 20, March 26: Chapter 10, Concurrent Ownership and Family Property
Conflicts over Transfers by One Co-Owner 674-688

Class 21, March 31: Chapter 10, Concurrent Ownership and Family Property
Marital Property 688-707

Class 22, April 2: Chapter 10, Varieties of Common Ownership
Unmarried Partners 707-717
Same-Sex Partners 717-722
Skip Child Support 146-150
Forfeiture 722-729

Class 23, April 7: Chapter 12, Real Estate Transactions
Structure of the Transaction 835-850
Sales Contract 850-859

Class 24, April 9: Chapter 12, Real Estate Transactions
Sales Contract continued 859-872
Deeds and Title Protection 872-886

Class 25, April 14: Chapter 12, Real Estate Transactions
Deeds and Title Protection continued 886-893

Class 26, April 16: Chapter 12, Real Estate Transactions
Real Estate Finance 893-923

Class 27, April 21: Open

Class 28, April 23: Open