

ECONOMICS OF PROPERTY (Law 270)

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Course Description

This course will introduce the students to the economic analysis of property and property law. The students will be presented with some basic economic concepts that have been applied to the study of property and invited to reflect on problems concerning the justification, definition and allocation of property rights in society, the rules according to which property can be protected or it can be transferred from an owner to the next one, the limits to the use of one's own property, the role of the state as a taker or giver of property, and the effects of property rights on the well-being of individuals.

Requirements

This course counts as a 2-credit course and meets for the first 7 weeks of the semester. No background in economics is necessary. This course requires the completion of a term paper. The paper must be an analysis of a problem concerning property, similar to those presented in class. Students are expected to make use of informal economic analysis.

Reading Material

Only the following text is mandatory. The articles listed in the course program are optional. The additional material listed after the program may serve as reference for students interested in knowing more about the problems discussed in class and as a bibliographic guideline for the term paper.

Required Text: *Shavell, Steven (2003), Foundations of Economic Analysis of Law, Harvard: University Press [chapters on property – downloadable free of charge from http://papers.ssrn.com/abstract_id=370029]*

Schedule

See posted schedule and classroom assignment. The course ends the first week of October. The term paper is due by December 13th.

Program

- Class I **Introduction: Nature, source and function of property rights**
- Reading: Demsetz, Harold (1967), 'Towards a Theory of Property Rights,' 57 *American Economic Review*, 347-359.
- Class II **The allocation of property rights**
- Reading: Coase, Ronald H. (1960), 'The Problem of Social Cost,' 3 *Journal of Law and Economics*, 1-44.
- Class III **The distribution of property rights**
- Reading: Sen, Amartya (2000), *Development as Freedom*, New York: Anchor Books, chapter 7 on 'Famines and Other Crisis.'
- Class IV **The protection of property rights**
- Readings: Calabresi, Guido and Melamed, A. Douglas (1972), 'Property Rules, Liability Rules and Inalienability: One View of the Cathedral,' 85 *Harvard Law Review*, 1089-1128.
Merrill, T. (1985), 'Property rules, liability rules, and adverse possession,' 79 *Northwestern University Law Review*, 1122-1154.
- Class V **Private v. public property: right to use and right to exclude others from use**
- Reading: Samuelson, Paul A. (1954), 'The Pure Theory of Public Expenditure,' 36 *Review of Economics and Statistics*, 387-389.
Coase R.H (1974), 'The Lighthouse in Economics,' 17 *Journal of Law and Economics*, 357-376.
- Class VI **The tragedy of the commons: multiple rights to use**
- Reading: Hardin, Garrett (1968), 'The Tragedy of the Commons,' 162 *Science*, 1243-1248.
- Class VII **The tragedy of the anticommons: multiple rights to exclude others from use**
- Readings: Heller, Michael A. (1998), 'The Tragedy of the Anticommons: Property in the Transition from Marx to Markets,' 111 *Harvard Law Review*, 621-688.
Parisi, Francesco (2002), 'Entropy in Property', 50 *American Journal of Comparative Law*, 595-632.

- Class VIII **Discovery, invention, and theft of property**
- Reading: Tullock, Gordon (1967), 'The Welfare Cost of Tariffs, Monopolies and Theft,' 5 *Western Economic Journal*, 224-232.
- Class IX **Voluntary transfers of property (sale, gift and inheritance) and systems for establishing title**
- Reading: Levmore, Saul (1987), 'Variety and Uniformity in the Treatment of the Good-Faith Purchaser', 16 *Journal of Legal Studies*, 43-65.
- Class X **The choice of contractual arrangements**
- Reading: Coase, Ronald H. (1937), 'The Nature of the Firm,' 4 *Economica*, 386-405.
- Class XI **Involuntary transfers of property (adverse possession, mistaken improvement, private takings)**
- Reading: Bouckaert, Boudewijn and De Geest, Gerrit (1995), 'Private Takings, Private Taxes, Private Compulsory Services: The Economic Theory of Quasi Contracts,' 15 *International Review of Law and Economics*, 463-487.
- Miceli, Thomas J., and Sirmans, C. F. (1995), 'An Economic Theory of Adverse Possession,' 15 *International Review of Law and Economics*, 161-173.
- Class XII **Takings and givings**
- Reading: Bell, Abraham and Parchomovsky, Gideon (2001), 'Givings,' 111 *Yale Law Journal*, 547-618.
- Miceli, Thomas J., and Segerson, Kathleen (1998), 'Compensation for Regulatory Takings,' In *The New Palgrave Dictionary of Economics and the Law*, vol. I, edited by Peter Newman, London: Macmillan, 360-364. [Based on: Miceli, Thomas J., and Kathleen Segerson (1996), *Compensation for Regulatory Takings: An Economic Analysis with Applications*. Greenwich, Conn.: JAI Press.]
- Class XIII **Intellectual property: Copyright, patents, trademarks, and trade secrets**
- Reading: Akerlof, George, (1970), 'The Market for Lemons: Qualitative Uncertainty and the Market Mechanism,' 84 *Quarterly Journal of Economics*, 488-500.
- Class XIV **Slavery**
- Reading: Barzel, Yoran (1977), 'An Economic Analysis of Slavery,' 20 *Journal of Law and Economics*, 87-110.

Additional References

- Books on the economics of property:
- Ackerman, B.A. (1975), *Economic Foundations of Property Law*, Boston: Little, Brown.
- Alchian, A. A. (1977), 'Some Economics of Property Rights', in *Economic Forces at Work*, Liberty Press.
- Barzel, Y. (1997), *Economics of Property Rights*, 2nd ed., Cambridge: Cambridge University Press.
- Ellickson, R.C. (1991), *Order without Law: How Neighbors Settle Disputes*, Cambridge, Mass.: Harvard University Press.
- Jensen, M.C. (2000), *A Theory of the Firm*, Harvard University Press.
- Mattei, U. (1997), *Basic Principles of Property Law: A Comparative Legal and Economic Introduction*, Westport: Greenwood Press.
- Milgrom, P. and Roberts, J. (1992), *Economics, Organization and Management*, Prentice-Hall.
- Umbeck, J.R. (1981), *A Theory of Property Rights with Application to the California Gold Rush*, The Iowa State University Press.
- Williamson, O. (1985), *The Economic Institutions of Capitalism*, Free Press.
- General works on law and economics:
- Bouckaert, B. and De Geest, G. (eds.) (2000), *Encyclopedia of Law and Economics*, Cheltenham, Edward Elgar, [Vol II, Sections I 'Private property' and II 'Common property'] downloadable free of charge from <http://allserv.rug.ac.be/~gdegeest/index.htm>.
- Cooter, R.D. and Ulen, T.S. (2000 - 3rd ed. or 2003 - 4th ed.), *Law and economics*, Reading, Massachusetts, [etc.]: Addison-Wesley. [chapters on property].
- Miceli, Thomas J. (1997), *Economics of the Law: Torts, Contracts, Property, Litigation*, Oxford: Oxford University Press. [chapters on property].
- Miceli, T.J. (2004), *The Economic Approach to Law*, Stanford University Press [chapters on property].

Guidelines for the term paper

Papers are due by Monday, December 13th and must be emailed to gdarimat@gmu.edu as an attachment in MS-Word, Word Perfect or PDF format. A confirmation will be sent upon reception.

Papers should be written using a font of the size of times new roman 12, line spacing 1.5, honest page borders and be about 10 to 15 pages long (length is less important than quality).

The topic should be relevant for the economic analysis of property; the more original, the better. Bare reviews of the literature will not be considered sufficient.

The structure should follow economic articles' style: abstract of 100 words or less that states your point, introduction with the explanation of the context of the analysis and the logic of the results,

central chapter or chapters with your arguments and/or legal background to the analysis if needed, conclusions, list of references.

Students are encouraged to discuss the topic and the structure of their papers with the teacher during the course.