

George Mason University School of Law
Fall 2009
Hazel Hall, Room 121

Professor Adam Mossoff
3301 Fairfax Drive, #319
Telephone Number: (703) 993-9577
E-mail: amossoff@gmu.edu

Property

This course surveys the fundamentals of property law. The class will begin by studying the creation of property rights (both real and personal) through such legal doctrines as discovery, capture, find, gift, and adverse possession. The balance of the course will be spent studying the myriad estates and interests that represent the different ways that a person can legally own something; topics will include possessory estates, future interests, joint tenancies, and leaseholds. The course will conclude by studying differing types of land-use controls, including the law of servitudes, nuisance, zoning and eminent domain. The goal of this course is to provide students with the basic rules of property law, as well as a working knowledge of the social, moral and economic policies that gave rise to these legal rules and which affect their continuing application today.

LOGISTICS

1. Class Schedule

The class will meet Mondays and Wednesday, 2-3:50pm, in Room 121 of Hazel Hall.

Please note that we have two minor changes to the class schedule to accommodate another GMU professor. Our normal Wednesday class meetings on September 9 and October 7 will instead meet on Thursday (Sep. 10 and Oct. 8, respectively). We will meet at the same time and in the same room (2-3:50pm, Room 121).

2. Attendance and Class Preparation

Students are responsible for complying with GMU's regulations regarding attendance. The regulations are on the law school's web site, and students should read them before their first classes. To ensure compliance, I will take attendance. If you are tardy, it will be counted as an absence unless you tell me to mark you as present before I leave the classroom at the end of class. Two tardies will equal one absence.

Students are expected to read the assignments, and I will call on students randomly to answer questions about the cases and related readings. Students who are consistently prepared and who actively participate in class discussion may receive a "bump up" in their final grades; conversely, if a student is chronically unprepared for class, or acts unprofessionally, then this may be taken into account in determining final grades (see below). Do not worry about this distinction: all of your professors can distinguish between a student who has difficulty answering a question given the complexity of a case or legal issue and a student who cannot answer a question simply because he or she has not read the assigned material.

If you are motivated more by carrots than by sticks, I have identified a correlation in my past Property classes between attendance and class participation and final grade distributions.

3. Grade

Your grade is based primarily on the final exam.

Final grades may be adjusted upwards or downwards one grade level (e.g., from B to B+ or from B to B-) based on classroom participation. I may raise a student's final grade for exceptional contributions to classroom discussion. On one hand, an "exceptional contribution" is defined essentially in terms of quality, not quantity; on the other hand, contributing only once to class discussion—no matter how brilliant the commentary—is insufficient to warrant a mark-up in your grade. *There is no entitlement to bumping up a grade*; it is only a gratuitous bonus. A student's grade may be lowered for habitual unpreparedness or unprofessional conduct in the classroom, such as being rude to your fellow students.

4. Final Exam

The final exam will consist of essay questions, although the exact format remains to be determined. If past practice means anything, my exams comprised short answer and short essay questions. To assist students in studying for the exam, I will post some of my old exams to the class website (TWEN). I will also discuss the exam at about mid-semester, and I always hold an official exam review session at the end of the semester in which I answer questions and review the answers to last year's Property exam.

The exam will be open book, but this does not mean that students should bring everything written under the sun on property law. Understanding how one prepares for intensive and discrete events, such as contract negotiations, depositions and trials, is as much a part of good lawyering as is learning the substantive law. If you want to bring five commercial outlines and a variety of canned summaries to the final exam, I will not impede your desire to drown yourself (and your grade) under a mountain of superfluous materials.

With that warning in mind, the best way to succeed in this course is to read all of the assignments, come to every class, and take good notes. When studying for the final exam, I recommend preparing an outline that is detailed and comprehensive. Using the outline, you should also prepare a checklist that lays out the steps you will go through and the issues you will address in answering potential problems on the exam, e.g., creation of a legal interest in land (e.g., types of estates (fee simple, life estate, etc.) and their requirements). The idea is that you will use the checklist as the principal reference guide during the exam, and the more comprehensive outline will serve only as a back up in case you forget something or need more information. Feel free to use commercial outlines or canned case summaries to fill in holes in class notes—speaking with me though is always the best policy—but it is the *preparation* of the outline and checklist that constitutes proper studying for a final exam. If you read the material, attend every class, pay attention to class discussion, and prepare your own outline and checklist, then you will perform at your best on the final exam.

5. Technology Issues

TWEN

Registration for the class website (TWEN) site is mandatory. (For those who may not have used TWEN yet, go to lawschool.westlaw.com, click on the TWEN tab at the top of the page and follow the instructions.) I will post announcements, updates to the syllabus, and supplemental class materials to the TWEN site. If you do not register with your current email address, you risk not receiving class notices, changes to the syllabus, and whatnot. “I forgot to register at TWEN” is not an acceptable defense against applying the grading rules.

Computers in the Classroom

Students may use computers or handheld devices for taking notes. Although I love computers and fully embrace everything that they do for us, I will not be using TWEN or the Internet for any purpose during class. Thus, there is no reason for any student to connect to the school’s network; please leave Ethernet cables at home and disable all wireless network (wi-fi) cards.

If I discover a student surfing the net during class, the link will be disconnected. Depending on the recidivism of the offending student, I reserve the right to ban the student from using a computer in class for the rest of the term. The same applies to playing games or using computers for any purpose other than note-taking, such as, but not limited to, instant messaging, updating your Facebook profile, posting to your blog, planning your next vacation. Such extraneous computer activities ensure that you will do worse in this course than you expect, and they are also unprofessional because they are disruptive to your fellow classmates sitting next to and behind you.

6. Office Hours

I will remain in the classroom after each class meeting to answer questions, and I have an open door policy for students. (If my door happens to be closed, please knock and let me know that you are there.) Please feel free to stop by whenever you’d like or make an appointment, as I am in my office regularly throughout the workweek.

My “official” office hours are: 4:00 – 5:15 pm, Mondays and Wednesdays in Room 121 (right after each class meeting), or by appointment.

7. Miscellany

Students are not permitted to record lectures without first obtaining my permission to do so.

I RESERVE THE RIGHT TO CHANGE THE SYLLABUS AND ANYTHING ELSE DISCUSSED HEREIN, except those policies pertaining to attendance and grades, which will be set in stone as of the first day of class.

READINGS

The required texts are: (1) Jesse Dukeminier, James Krier, Gregory Alexander, & Michael Schill *Property* (6th ed. 2006) ["DKAS"], and (2) Robert C. Ellickson, Carol M. Rose, & Bruce A. Ackerman, *Perspectives on Property Law* (3d ed. 2002) ["ERA"].

I have also ordered a hornbook for students who are looking for explanations of the black letter law beyond the class lectures and casebook: Joseph W. Singer, *Introduction to Property* (2001).

The Singer hornbook is optional. Do not spend money unnecessarily if you don't think you'll look at this text regularly throughout the semester. If you think you might intermittently look at outside texts for help on a topic here and there, then take a look at the numerous hornbooks and other property law summaries in the library. Better yet, come and see me and I'll be more than happy to discuss the issue with you.

I will also make statutes and other supplemental materials available either by posting them on TWEN or by passing out handouts during class.

Please see the document, "Class Schedule – Reading Assignments," for the assignments for each class meeting.