Property Law - Fall 2015 - Evening
Law 104 (003) 82010 Mon/Wed 6-7:50pm

Professor: Helen Alvaré
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Office Hours: Wed. before class (5-6pm) and by appointment.


Assignments: The syllabus below will be posted on the law school’s web site. Regular attendance and class participation are mandatory. I will call on quite a few students randomly during each class.

Grading: There will be a 3.5 hour, closed book examination at the end of the semester. You are responsible for the material covered during class discussions, as well as all of the assigned readings. Final grades may be raised or lowered by a single increment to reflect the quality of your class participation.

Exam: December 18, 6-9:30 pm. Exam format will be discussed thoroughly in class before December.

Attendance: Academic Regulation 4 governs attendance. It provides, in part:

“Regular and punctual attendance and class preparation are required to earn academic credit.

If a student is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent from that session.”

I will have an attendance sheet for your signature during each class.

Internet Policy: Students may not send or receive email or text messages or browse the Internet during class time.

**Please realize that this schedule is subject to slight changes as classes actually unfold. At the end of each class, I will confirm what material I intend to cover in the following class. Also, if weather interferes with our class schedule, I will keep you posted about a new schedule.

All references to *D&K* are to your required textbook, Dukeminier, Krier, et al, *Property*, 8th edition.
**POSSESSION AND OWNERSHIP**

In this first unit, we will study possession and ownership. Both first possession and subsequent possession will be covered. We will also examine the importance of the relationship between Property Law and Economics.

During this period, we will pay close attention to a number of the basic skills necessary to form legal habits of mind: the articulation of the relevant facts, holdings, and legal reasoning in cases; the careful reading of statutes; and the ability to discern the public policies at work in the cases and statutes.

You will also come to see how Property Law, one of the oldest areas of law, is influenced not only by economics, but also by history, culture, and conclusions about human nature.

**Class # 1 Wed Aug 19**
- Welcome and Introduction to Property Law
- First Possession: Discovery
  
- First Possession: Capture
  \[D&K \text{ pp. 3-40}\]

**Class # 2 Mon Aug 24**
- First Possession: Creation
  \[D&K \text{ pp. 56-83}\]

**Class # 3 Wed Aug 26**
- Creation/Right of Persona
- Right in One’s Person
  \[D&K \text{ pp. 83-110}\]

**Class # 4 Mon Aug 31**
- Find
  \[D&K, \text{ pp. 125-44}\]

**Class # 5 Wed Sept 2**
- Adverse Possession
  \[D&K, \text{ pp. 144-69}\]

**MONDAY SEPT 7, LABOR DAY HOLIDAY**

**Class # 6 Wed Sept 9**
- Adverse Possession
  \[D&K \text{ pp. 170-206}\]

**ESTATES AND FUTURE INTERESTS**

This section of the course requires particular attention to language and some attention to history. Regarding history: much of current law in the area of estates and future interests
bears the marks of its feudal origins. This helps to explain its complexity. Some knowledge of this history will also help you understand the purposes these estates and future interests were created to serve, and sometimes continue to serve, in the lives of families and society.

Regarding language: in order properly to construe the conveyances in this section, you will need to pay very close attention to each clause of a conveyance, as well as to the overall intent of the grantor as best it can be discerned. Much is in the details.

Memorization of the names and characteristics of the various estates and future interests will serve you well. But even more important is zeroing in on the distinctions between them. At certain points during the study of this material, we will pause, and create a chart of estates and future interests together.

Finally, for a good understanding of this material, there is no substitute for the patient and repeated working-out of problems. There are a significant number of problems already contained in your textbook. Please come to class ready to discuss these. For additional practice, I recommend the following workbook: Charles I. Nelson, Peter T Wendel, A Possessory Estates and Future Interests Primer. ((West Group) Do not bother working out problems situated in the ancient past offered in this or any workbook).

Class #7 Mon Sept 14
Present Poss. Ests. And Future Ints., cont’d
Lecture 248-56
D&K pp. 215-22; 222-47;

* “Lecture” indicates that the reading is recommended, but not required; I will not direct questions to the class on this material in the course of our class meeting. You are responsible at exam time for the contents of the class lecture.

Class# 8 Wed Sept 16
Future Ints
D&K pp. 258-65; 275-86

Class #9 Mon Sept 21
Future Ints and The Rule Against Perps., cont’d
D&K pp. 290-300; 307 (#4.) – 315; 328-41

Class # 10 Wed Sept 23 – TO BE RESCHEDULED AFTER CONSULTATION WITH CLASS. (PROFESSOR INVOLVED WITH PAPAL VISIT INSANITY NY/DC/PHILA)

Concurrent Interests
D&K, pp. 343-54; 359-82
Class #11 Mon Sept 28

Marital Interests

LEASEHOLDS: THE LAW OF LANDLORD AND TENANT

Introduction
Most law in this area is today a matter of contract law principles. We will cover briefly some of the subjects having their origins in property law.

Class # 12 Wed Sept 30
LL/Tenant

TRANSFERS OF LAND
The purchase and sale of land is another area of law occupied today largely by contract law. Quite a bit of today’s law in this area, however, has its origins in Property law.

Class # 13 MON Oct 5

The Land Transaction
Stat of Frauds; Marketable Title; Duty to Disclose

Class # 14 WED Oct 7

Land Transaction, cont’d

Class #15 Tuesday Oct 13 (OBSERVING A MON. SCHED ON TUES)

Title Assurance, cont’d

Class # 16 Wed Oct 14

Deeds and Title Insurance
LAND USE CONTROLS AND EMINENT DOMAIN

This area deals with a great variety of tools for managing competing interests in the use of land, e.g. neighboring properties, or properties in a particular community. It contains the law of nuisance, servitudes, zoning and eminent domain. We will be observing the differences between these areas of law, as well as their shared goals.

Servitudes can be one of the more complex areas within Property Law. Although modern efforts are underway to streamline this area, it is still full of terms and even ideas drawn from its historic origins. It is very important in the United States today given the number of properties purchased within “common interest communities.”

Constitutional law and social justice issues feature prominently in the areas of zoning and eminent domain. The U.S. Supreme Court has been particularly active recently in the latter area, and it remains a vital subject of current public controversy and legislation.

MON OCT 12, HOLIDAY NO CLASS

Class # 17 Mon Oct 19

Nuisance

D&K pp. 779-806

Class # 18 Wed Oct 21

Servitudes

D&K pp. 809-14; 820-33

Class #19 Mon Oct 26

Easements and Public Trust

D&K pp. 833-56

Class # 20 Wed Oct 28

Easements

D&K pp. 865-75; 887-98

Class # 21 Mon Nov 2

Covenants/Servitudes

(Lecture 922-27)

D&K pp. 898-921

Class # 22 Wed Nov 4

Easements, Termination

D&K, pp. 927-36; 959
(Notes)-64

Class # 23 Mon Nov 9

Zoning

D&K pp. 967-1008
Class # 24 Wed Nov 11  
Zoning, cont’d  

Class # 25 Mon Nov 16  
Zoning, Household Comp.  

Class # 26 Wed Nov 18  
Eminent Domain:  

Class 27 # Mon Nov 23  
Eminent Domain (cont’d)  
Regulatory Takings  

November 25 THANKSGIVING VACATION  

Class # 28 Mon Nov 30  
Eminent Domain  
Regulatory Takings  

EXAM  
Exam Friday Dec. 18 at 6PM – 9:30 PM  

I will consult you about a good time for your review session to be held days before your exam.