## Property Syllabus and Course Guide

**Fall 2016**  
Professor Steven J. Eagle

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* Class meets from **1:00 p.m. to 2:50 p.m.** in our regular room (make-ups for Aug. 31, Oct. 3, 12).  
† ASLS Monday classes meet this day at regular time and room.

**COURSE GUIDE**

**Property in Context**

This course explores the fundamentals of one of the three great branches of the common law. Property law considers individuals’ ownership of rights with respect to things. Contract law considers the consensual transfer of those rights. Tort law deals with the rectification of harm to the property rights of others. In large measure, Criminal Law and Constitutional Law also consider protection for property rights.

“Property” is a very broad concept, applicable not only to physical things, but also to intangibles generally (such as corporate stock), intellectual property (such as patents and copyrights), and rights to integrity of one’s physical person (vindicated by tort suits for physical injury) and character (the basis of tort suits for defamation).

This course deals primarily, although by no means exclusively, with private ownership and government regulation of real property (i.e., land and permanent improvements to land), and with residential real estate transactions. Property is the prerequisite to courses in Real Estate Finance and Development (which primarily treats commercial real estate transactions) and Land Use Planning (which deals with government regulation of land uses and eminent domain). Property also is a principal gateway course to Trusts and Estates, and Estate Planning.

Other courses also have large property components. For instance, Taxation involves government exactions based primarily on accretions and diminutions in value of property owned by taxpayers. Much of family law is concerned with the disposition of marital property. Business law courses (including Bankruptcy) also are devoted in large measure to the control and disposition of property.

**Goals for this Course**

In this course you will learn (1) basic legal skills, such as how to read a case, (2) property law theory, (3) property law doctrine, and (4) how lawyers apply theory and doctrine in dealing with typical property transactions and disputes.

**Attendance and Class Preparation**

The Law School posts requirements for class attendance on its web site. You should become familiar with these before the first class. I am obligated to take attendance. If you have questions about Law School’s attendance policy, please check with the Recorder’s Office.
The first year of law school typically is difficult, and you will have to spend a substantial amount of time preparing for each class. The generally accepted minimum is six hours of preparation for each two-hour class meeting. I suggest that you begin by reading the assigned cases and materials quickly at first to get their overall flavor. Then go back and reread them very carefully, this time taking notes. There will be words that clearly will be foreign to you. Obviously, you should look those up in your law dictionary. However, and more treacherous, you will come upon idiomatic expressions that you do not recognize, or words that not look exactly right in context. Often, these denote legal terms of art. You should check such usages in the legal dictionary, as well.

Your careful review of each principal case should culminate in your preparation of a summary, called a case brief. There are many styles of legal case briefs available. You should select the method with which you are most comfortable, and which best enables you to describe the case and to answer questions posed in class.

Under the most common style of class brief, abbreviated “IRAC,” you would sequentially state the issue raised by the case; the legal rule that governs its resolution; the application of the governing rule to the particular facts; and the court’s conclusion. In addition, it is important that you understand the procedural posture of the case. For instance, a trial court would employ a different standard in reviewing a motion to dismiss a case based on the initial pleadings than it would in deciding the case after all the evidence is heard. Likewise, an appellate court reviewing a trial court’s decision typically would use a different standard for reviewing the facts than that employed by the trial court.

You should beware of purchasing commercial “canned briefs.” These are of very uneven quality. Much more important, the prime benefit that comes from creating your own case brief lies not in having them in your possession, but rather in going through the process of reading and thought of which they are the culmination. It is possible for you to jot a few words in the margins of your casebook in lieu of a fully prepared brief. Some upper-class students may get by with a so-called “book brief,” but my long experience suggests that it is folly for first year students to try it.

Perhaps the most important aspect of your brief is the first component under the IRAC system—identifying the issue before the court. Refining the legal issue is harder than it looks. Since you cannot resolve the issue before you correctly define it, you should devote lots of attention to this.

**In Class**

The typical undergraduate lecture course permits students a passive role in the classroom. Law school classes are more demanding. Most law classes have some lecture component, typically regarding preliminary or secondary matters. The heart of the class, however, is the Socratic dialogue. The instructor asks questions about the
case or other subject at hand, and the student responds. Sometimes the student has volunteered, but often responds to a cold call.

It is natural for you to feel uncomfortable with being placed on the spot. For that reason, I want to emphasize that the law school practice of cold calling reflects that the primary purpose of legal education is to prepare you for the practice of law. It is much better to become acclimated to the need for careful preparation, to think on your feet, and to defend your position now, than it would be for you to first experience the process in front of a judge, with opposing counsel anxious to pounce on your every mistake, with a client whose property or liberty is in your hands, and with a legal stenographer taking down every word you say.

The Socratic method permits you to make rookie mistakes in class, and to learn from them. Indeed, getting the “wrong” answer in class sometimes results not from your having made an error, but rather from your being unacquainted with considerations germane to resolving the issue not apparent from your readings. I and your other instructors do not necessarily expect that you will give the “right” answer in response to a question. We do expect an answer reflecting a good faith effort to prepare for class and to grapple with the issues. If your answers reflect preparation and thought, you can be sure that some of your classmates will have thought the issues through in the same way you did. Your comments and the resulting discussion will be instructive to them, as well as to you.

I very much urge you to volunteer in class. You might find it fun, and you certainly will learn more if you take an active part in the discussion. Also, it is a wonderful way to get instant feedback on how you are doing.

One caveat: While any good faith answer helps advance the discussion, you should never bluff in class. If you are unprepared, you should say so. That is much better for all than wasting your classmates’ time.

Some instructors, I not among them, ban laptop computers in class. That is less because of beguiling distractions than because of the ease with which laptops allow you to take notes. That seems counterintuitive. However, when you write in longhand, you can jot down very little. You are forced to listen attentively for the outline of the argument and the most salient points. Correspondingly, fast keyboarding permits you to copy much more, and to assume that you can make sense of it later. It doesn’t work that way. Your main job in class is to listen carefully, follow the discussion, and participate. Your notes will be sparser, but you will learn more. A recent article in *The Atlantic* discusses empirical evidence on point that students who take notes by hand do better:

http://www.theatlantic.com/technology/archive/2014/05/to-remember-a-lecture-better-take-notes-by-hand/361478/

Your laptop computer is a job tool—but your job is not that of legal stenographer.
Supplemental Readings and Examination Review Material

There are many supplemental materials available for explication of topics you find interesting or difficult, and for exam review. This selective list includes some that might be particularly helpful. In addition to the materials mentioned here, the casebook web site contains much useful information. The casebook contains access information.

**General**


Julian C. Juergensmeyer & Carol Necole Brown, *Property* (5th ed. 2011). This Westlaw “Quick Review” publication is a useful skeletal outline of property law.


John G. Sprankling, *Understanding Property Law* (3d ed. 2012). This Lexis Publishing paperback is midway in length between the West Hornbooks and shorter study guides. It restates basic property principles with some case illustrations.


Coleen Medill, *Acing Property* (2d ed. 2012). This West “Acing” series book features checklists to lead students through the analytical steps necessary to evaluate and resolve property issues.

**Estates in Land**

Raymond R. Coletta, *Workbook on Estates and Future Interests* (West, 2007). This workbook contains estates in land problems and, on the opposite page, model answers.

**Real Estate Finance**

Grant Nelson & Dale Whitman, *Real Estate Finance Law* (5th ed. 2007). This classic West Hornbook remains an excellent and comprehensive guide to commercial real estate finance.

Alex M. Johnson, Jr., *Modern Real Estate Transactions* (3d ed. 2012). This Lexis Publishing paperback is midway in length between the West Hornbooks and shorter study guides. It restates basic real estate finance and commercial real estate law principles, with some case illustrations.

Jon Bruce, *Real Estate Finance in a Nutshell* (6th ed. 2008) is a very useful West Nutshell. It is especially recommended for review.

**Final Examination and Grade**

Your grade will reflect your performance on the examination. However, I reserve the right to adjust grades for outstanding class participation, or for chronic lack of preparation or unprofessional conduct.

The final examination will be closed book, three hours in length, and containing both essay and multiple-choice components. It will cover most major areas of the course and will reflect assigned readings and class discussion. My emphasis is on whether you understand, and are able to apply, the concepts and doctrines we stress in class. If you can answer the questions that are discussed the classroom, your prospects are good for the exam room.

I very much encourage you to take the essay part of the exam on your laptop computer. The exam software will lock out other files. The Recorder’s Office will distribute information about use of laptops in the exam late in the semester.

**Instructor Contact Information and Office Hours**

My office is in Room 317, and my office hours are on Mondays and Wednesdays from noon to 2:00 p.m. In addition, whenever my office door is open you should feel free to inquire if that is a good time to talk.

Since I often work at home or travel on non-class days, the preferred and easiest way to reach me is by e-mail at seagle@gmu.edu. Please be sure to include “Property Class” on the subject line and your full name and contact information. My office telephone number is (703) 993-8054. My assistant, Ms. Jane Barton, is very helpful. Her
desk is at the center entrance to the faculty wing on the third floor, and her telephone number is (703) 993-8030.

Final Comments

My job is to help you master the fundamentals of property law, and, more broadly, our legal system in the context of our evolving society. This course guide provides basic information and should answer many of your questions. If you believe that something should be here that isn’t, I would appreciate your feedback.

Your job is to apply your talents, perseverance, and imagination to your legal education. Much in law school (even Property!) is fun, but law is a craft as well as an art, and you have to start with the basics. As Euclid responded to Ptolemy when the ruler wanted a shortcut, “there is no royal road to geometry.” If you engage fully in your studies and in other opportunities that the law school offers, you will be well on your way to a legal career that is rewarding in every sense of the word.