Course Time

Monday and Wednesday, 1:20-3:20 PM

Reading Materials


Cases marked as being on TWEN can be accessed from the class TWEN site, directly from the syllabus there. These cases can also be accessed on Westlaw and Lexis, if you prefer. Several other items on the reading list are available on TWEN, under the “Course Materials” heading.

Grading

Grades will be based on a combination of the final exam and class participation. Specifically, the course grade will be the final exam grade plus a bonus for good class participation worth up to as much as about one half of a letter grade on your final grade for the semester.

The final exam will consist of essay questions and short identification questions. Further details of the final exam will be announced later in the semester. Class participation will be assessed on a combination of quantity and quality. Further details on class participation and final exam grading will be provided during the course of the semester.

Assignments

Although I will try to stick to the schedule, we may occasionally fall behind. In such an unfortunate event, we will begin the next class with the next case or other reading on the syllabus, unless I say otherwise. The same procedure applies if we have a class cancellation due to inclement weather.
Recording

I hereby authorize students to record sessions of this class, so long as the recordings are not used for any commercial purpose.

August 26: Introduction to Property

Margaret Jane Radin, “Property and Personhood,” ERS 6-15
Harold Demsetz, “Toward a Theory of Property Rights” ERS 112-20

August 28: Acquisition by Conquest and Capture

Johnson v. M’Intosh DK 19
Pierson v. Post DK 19-23
Ghen v. Rich DK 27-32
Keeble v. Hickeringill DK 35-39

September 4: Acquisition by Creation/Tragedy of the Commons

International News Service v. AP DK 133-39
Feist Publications, Inc. v. Rural Telephone Service Co. DK 141-48
Garrett Hardin, “The Tragedy of the Commons,” ERS 99-107
Michael Heller & Rebecca Eisenberg, “Can Patents Deter Innovation? The Anticommons in Biomedical Research,” ERS 131-39

September 9: Acquisition by Find

Armory v. Delamirie DK 53-57
Hannah v. Peel DK 57-63
McAvoy v. Medina DK 63-64
Notes: DK 64-70
Popov v. Hayashi DK 46-52
Popov v. Hayashi video: https://m.youtube.com/watch?v=af4dRPV_dUc

September 11: Acquisition by Adverse Possession/Acquisition by Gift

Background on Adverse Possession DK 70-75
Mannillo v. Gorski DK 89-95
Howard v. Kunto DK 95-100
Newman v. Bost DK 116-23
Gruen v. Gruen DK 123-30

September 16: The Right to Exclude/Theory of Property Rules
Jacque v. Steenberg Homes DK 205-207
State v. Shack DK 207-11

September 18: Property Rights in the Body and Inalienability Rules

Moore v. Regents of the Univ. of California DK 167-78
Richard Epstein, “Altruism and Valuable Consideration in Organ Transplantation,” (Handout/TWEN).

September 23: Estates and Fee Simple/Coase Theorem

History and origins of estates DK 249-65
White v. Brown DK 266-73

September 25: Life Estates and Defeasible Estates

Baker v. Weedon DK 274-82
Defeasible Estates DK 283-86
Mahrenholtz v. Cty. Bd. of School Trustees DK 286-94

September 30: Future Interests and Trusts/ Concurrent Interests I

Future Interests DK 313-22, 327-35
Rule Against Perpetuities and its Reform DK 345-52
Jesse Dukeminier and James Krier, “The Rise of the Perpetual Trust” DK 379-83
NOTE: The traditional rule against perpetuities will NOT be on the final exam.
Background to concurrent interests DK 387-92

October 2: Concurrent Interests II

Riddle v. Harmon DK 392-97
Delfino v. Vealencis DK 405-15
Spiller v. Mackereth DK 416-19
Swartzbaugh v. Sampson DK 419-24

October 7: Landlord-Tenant Law I – Estates, Delivery of Possession, Sublets

Types of Leasehold Estates DK 461-63
The Lease DK 468-71
Garner v. Gerrish DK 463-66
October 9: Landlord-Tenant Law II - Landlord Remedies and Tenants’ Rights

Fair Housing legislation 471-74
Berg v. Wiley DK 500-508
Sommer v. Kridel DK 510-19
Landlord Remedies DK 508-510, 519-21
Hilder v. St. Peter DK 533-546

October 15 (Tuesday observing Monday schedule): Tenant Rights/Rent Control/Statute of Frauds

Tenants’ Rights DK 548-551
Land Transactions DK 553-54 (briefly skim 554-69)
The Statute of Frauds DK 569-70

October 16: The Contract of Sale

Hickey v. Green DK 571-76
Lohmeyer v. Bower DK 576-81
Stambosvky v. Ackley DK 581-86
Johnson v. Davis DK 586-91

October 21: The Deed

The Deed DK 595-600
Frimberger v. Anzelloti DK 600-605
Rockafellor v. Gray DK 605-11
Rosengrant v. Rosengrant DK 612-16

October 23: Mortgages

Introduction to Mortgages DK 617-23
Murphy v. Financial Development Corp. DK 623-28
The Mortgage Crisis and the Great Recession DK 631-33
Commonwealth v. Fremont Investment and Loan DK 633-40


**October 28: Recording Systems/Easements I**

Introduction to Recording DK 661-67
Types of Recording Acts DK 681-85
*Messersmith v. Smith* DK 686-91
Historical Background of Easements DK 763-66
*Willard v. First Church of Christ, Scientist* DK 766-772

**October 30: Easements II**

Licenses DK 772
*Holbrook v. Taylor* DK 772-77
*Othen v. Rosier* DK 785-95
*Brown v. Voss* DK 807-17
Negative Easements and Conservation Easements DK 829-35

**November 4: Easements II (Continued)/Real Covenants and Servitudes**

Covenants Running with the Land DK 835-38
*Tulk v. Moxhay* DK 838-42
*Sanborn v. McLean* DK 854-59
*Neponsit Property Owners Association v. Emigrant Industrial Savings Bank* DK 843-51
*Shelley v. Kraemer* DK 859-64

**November 6: Common Interest Communities/Discussion of Final Exam**

Common Interest Communities DK 937-40
Richard Epstein, “Of Covenants and Constitutions,” ERS 361-72
*Nahrstedt v. Lakeside Village Condominium* DK 940-51
*Mulligan v. Panther Valley Property Owners Association.* DK 961-64

**November 11: Zoning I**

History of zoning DK 895-99
*Euclid v. Amber Realty* DK 899-909
Structure of zoning laws DK 910-15
*Northwestern Distributors, Inc. v. Zoning Hearing Bd.* DK 915-22
November 13: Zoning II: Flexibility in Zoning/Exclusionary Zoning

Zoning Amendments/Spot Zoning DK 930-37
State ex rel. Stoyanoff v. Berkeley DK 938-46
William Fischel, “Homevoters, Municipal, Corporate Governance, and the Benefit View of the Property Tax” ERS 380-388

November 18: Takings I - Public Use

The Power of Eminent Domain DK 997-1001
Kelo v. City of New London DK 1001-1017

November 20: Takings II: What is a Taking?

Physical Occupations and Regulatory Takings DK 1021-22
Loretto v. Teleprompter DK 1022-34
Pennsylvania Coal v. Mahon DK 1042-1050
Penn Central Transp. Co. v. City of New York DK 1050-65

November 25: Takings III/End of Class

Lucas v. South Carolina Coastal Council DK 1068-84
Horne v. US Department of Agriculture 1103-14
Murr v. Wisconsin 1088-1100
Remedies for Takings Violations DK 1065-68