



Property II Syllabus Spring 2011

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Classroom 152
WF 10:15 – 11:30 a.m.

“Property. That which is peculiar or proper to any person; that which belongs exclusively to one. In the strict legal sense, an aggregate of rights which are guaranteed and protected by the government . . . *The term is said to extend to every species of valuable right and interest. More specifically, ownership; the unrestricted and exclusive right to a thing; the right to dispose of a thing in every legal way, to possess it, to use it, and to exclude everyone else from interfering with it. That dominion or indefinite right of use or disposition which one may lawfully exercise over particular things or subjects. The exclusive right of possessing, enjoying, and disposing of a thing. The highest right a man can have to anything; being used to refer to that right which one has to lands or tenements, goods, or chattels, which no way depends on another man’s courtesy.*

The word is also commonly used to denote everything which is the subject of ownership, corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal; everything that has an exchangeable value or which goes to make up wealth or estate. It extends to every species of valuable right or interest, and includes real and personal property, easements, franchises, and incorporeal hereditaments, and includes every invasion of one’s property rights by actionable wrong.

BLACKS LAW DICTIONARY (emphasis added)

Required Text: Dukeminier, Krier, Alexander, & Schill, PROPERTY (7th ed. 2010).

http://www.aspenlaw.com/product.asp?catalog_name=LegalEd&product_id=0735588996&tag=CTGSCasebooks%20%26%20Coursebooks

Recommended

Treatises:

Hovenkamp & Kurtz, *Principles of Property Law* (6th ed. 2005)

<http://west.thomson.com/productdetail/128860/22048674/productdetail.aspx>

Singer, *Property* (3rd ed. 2009)

http://www.aspenlaw.com/product.asp?catalog_name=LegalEd&product_id=0735589356&tag=SERSAspen%20Treatise%20Series

Office Hours: Regular: WF 9-10 a.m. and 3-5 p.m.
Other: Announced in Class; or by appointment.

Grading: Spring final exam is 3 hours essay and possibly multiple choice or short answer. The exam will cover all materials assigned in Dukeminier & Krier et al., all materials covered in lectures, and any assigned supplemental material including handouts. The exam is cumulative with Property I only to the extent described in class. The examination is a modified open book examination – each student may use his/her text, any assigned supplemental materials, any notes or outlines which that student prepared, and any group notes or outlines to which he/she made a *significant* contribution in preparation. No commercial outlines, treatises, or similar materials will be permitted for use during the examination.

Sample exam questions will be distributed mid-term; some past practice and final exams are available on my website.

All students must register on the TWEN page for this course, and must make themselves familiar with the Social Science Research Network (“SSRN”) and JSTOR.

Spring Assignment Schedule¹

Powerpoint Presentations will accompany most classes, as assigned in class and posted on TWEN on a rolling basis. The powerpoints and any designated readings within such powerpoints are required reading.

<u>CLASS/DATE</u>	<u>PAGES</u>
29 – Jan. 12	Read Powerpoint 29-30 <i>Introduction; Lecture on Public Lands and Natural Resources; Regulatory and Legislative Land Use Controls</i>
30 – Jan. 14	Read Powerpoint 29-30 <i>Introduction; Lecture on Public Lands and Natural Resources; Regulatory and Legislative Land Use Controls</i>
31 – Jan. 19	Complete Powerpoint 29-30 Property I Fall 2010 Final Exam Review (<i>attendance mandatory to be eligible for individualized one-on-one review</i>)

¹ All assignments may be supplemented with additional readings. Additional readings may also be listed in class powerpoints. Syllabus subject to change as necessary; students will receive notice of any changes.

- 32 – Jan. 21 519-546
Land Transactions: Buying and Selling Real Estate; Brokers
- 33 – Jan. 26 547-584
Contract of Sale
- 34 – Jan. 28 585-613
The Deed; Warranties of Title
- 35 – Feb. 2 614-643
Financing; Mortgages; Foreclosures
- ****
- 36 – Feb. 4 645-675
Recording: Indexes; Recording Acts
- 37 – Feb. 9 677-692
Recording: Chain of Title; Persons Protected
- 38 – Feb. 11 693-728
*Recording: Inquiry Notice; Marketable Title Acts
Registration of Title; Title Insurance*
- ****
- 39 – Feb. 16 No Reading
*Lecture on the “Land Use” Game - Parties/Players; Mechanisms,
Methods, Options, Competition, Forwards and Reversals, Judicial and
Legislative Roles*
- 40 – Feb. 18 731-738
Introduction to Land Use Controls
- 41 – Feb. 23 **Time Permitting:** “Runoff and Reality” – Download from TWEN
Externalities, Property Rights, Law & Economics, and Regulation
- 42 – Feb. 25 739-762
Judicial Land Use Controls; Nuisance

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- 43 – Mar. 9 763-784
Distribute Take-Home Optional Practice Exam
Private Land Use Controls; Introduction; Easements
- 44 – Mar. 11 785-811
Creation of Easements cont.
- 45 – Mar. 16 Practice Exam Review
All students required to attend. But, to be eligible for individual review of this Practice Exam during office hours, completed practice exams must be turned in prior to this class and student must be in attendance on this day.
- 46 – Mar. 18 812-844
Assignability, Scope, and Termination of Easements; Negative Easements; Conservation Easements
- 47 – Mar. 23 845-863
Covenants Running With the Land;
- 48 - Mar. 25 Private Land Use Controls Review and Problems
- 49 – Mar. 30 864-895
Creation , Validity, Enforcement, Discrimination and Public Policy, and Termination of Covenants
- 50 – Apr. 1 896-924
Common Interest Communities; HOAs, CC&Rs, Private Ordering
- *****
- 51 – Apr. 6 925-966
Zoning, Public Ordering

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- 52 – Apr. 8 Readings TBA
 Eminent Domain and Takings Clause: Introduction; Public Use
- 53 – Apr. 13 Readings TBA
 *Eminent Domain and Takings Clause: Categorical Rules, Ad Hoc Rules
and Regulatory Takings*
- 54 – Apr. 15 Readings TBA
 Regulatory Takings, Exactions, Rent-Extraction, Moratoria, etc.

VRS - SATURDAY April 16, 1:00-4:00 p.m.
OPTIONAL/VOLUNTARY REVIEW SESSION

- 55 – Apr. 20 **THE GAME** (Time Permitting)
- 56 – Apr. 27 Final Class – Review Session

*Freezeout Period will be announced toward the end of classes– No questions will be
answered in person or by email not submitted before that point.*

FINAL EXAM: Friday, May 6, 2011, 1:00 p.m.-4:00 p.m.

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