

Property – Law 607 349 2672

Spring 2012

Tuesdays & Thursdays 1:30-3:20

Room LC 207

REVISED SYLLABUS

(change in office hours)

Professor Margaret E. Johnson

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Office hours: WEDNESDAYS 10:30 a.m. -12:00 p.m. and by appointment

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COURSE DESCRIPTION

REQUIRED MATERIALS:

1. JOHN G. SPRANKLING AND RAYMOND R. COLETTA, PROPERTY: A CONTEMPORARY APPROACH (2009).
2. LINDA H. EDWARDS, ESTATES IN LAND AND FUTURE INTERESTS: A STEP-BY-STEP GUIDE (3d ed. 2009).
3. TWEN. Each student is required to register for the course's TWEN website.

All reading assignments are in these texts, except where supplemental reading is noted. All supplemental readings are required as well and are posted on TWEN. Please make sure to check the TWEN site regularly for course materials.

RECOMMENDED

REFERENCE MATERIAL:

JOSEPH WILLIAM SINGER, PROPERTY (3d ed. 2010) (treatise) (available on reserve in library). It is not necessary for you to buy this book. I recommend it as a helpful treatise if you find yourself in need of one.

COURSE GOALS:

The course will provide an overview of property law, including the substantive law governing the nature of property, ownership of property, possessory present estates and future interests in property, concurrent interests in property, marital estates, leasing real property, selling real property, and private land use

planning. The course will also provide an overview to the theoretical and conceptual underpinnings of the law of property. The course materials draw on case law, statutes, theory and policy from a variety of jurisdictions, including Maryland law. In addition, the course involves five experiential learning projects in different areas of property law.

Through this course, students will understand the key concepts of property law and learn how to conduct legal analysis to apply those concepts to a variety of factual situations. Students also will learn how to think critically about the law and legal systems, understand the role of lawyers and clients in creating the law, and understand the law in action.

ATTENDANCE:

You are expected to attend each class on time. I will pass around a sign-in sheet each class session. It is your responsibility to ensure that you sign this sheet, as it is the official record of your attendance. Per the University of Baltimore's policy, you may have no more than 5 absences during the semester. A student whose absences exceed this limit will be excluded from the final examination and will receive a grade of "WA" (withdrawal due to excessive absences) in the course. The law school's attendance policy is located at <http://law.ubalt.edu/template.cfm?page=267>. The reasons for absences are irrelevant. While I will make every effort to notify students who are in danger of exceeding the maximum number of absences, each student is responsible for keeping track of his/her attendance record and for contacting me if there are any questions.

I encourage the use of laptops for notetaking and accessing the internet for class-related information. However, random laptop internet searching (involving materials that are not related to that day's class) or instant messaging is a distraction to the rest of the class. If you are discovered to be using your computer for purposes unrelated to productive class participation, you will be marked absent for that day.

EVALUATION:

You will be evaluated based on your performance on the final exam and the four experiential projects. If your class participation is of a consistently high quality, you may receive an increase in your final grade. If your class participation is of a consistently poor quality, you may receive a decrease in your final grade.

On February 21, 2012, I will give you a take-home 1.5 hour closed-book midterm exam. You will be required to take the exam by February 23, 2012. On February 23, 2012, you will provide your exam responses to your assigned partner, who will provide you with his/her exam responses. You will then provide written feedback on your partner's midterm exam no later than midnight February 26, 2012. By midnight on February 26, 2012, you will submit your written comments on your partner's exam along with your original exam response to the TWEN dropbox. We will discuss the midterm examination during class on February 28, 2012. The exam will contain multiple choice and essay questions. The goal of this exam is to help you learn how to prepare for and take an exam and to provide an assessment of your learning of Property law and your ability to conduct legal analysis of Property law. This exam will not be graded. Nonetheless, students who study and take the exam as if it were graded have done better on the final exam in past years.

80% of your final course grade will be based on a final in-class, closed-book, four-hour exam. The exam is scheduled for Wednesday, May 2, 2012, at 1 p.m. The exam will consist of multiple choice and essay questions. I have posted on TWEN five of the thirty-five multiple choice questions and all of the essay questions from my Spring 2009 exam. I will hold an optional review session for the final examination. The tentative date, time and place for the review session are April 24, 2012, from 1:30 – 3:00 p.m. in LC 207.

20% of your grade will be based on four experiential learning projects:

- (1) Project #1: A court observation of Escrow Court of the District Court of Maryland and written memorandum (5%);
- (2) Project #2: A marital property negotiation exercise and written self-reflection paper (5%);
- (3) Project #3: A title search project (5%); and
- (4) Project #4: An easement project (5%).

There will be more instructions provided on TWEN about each of these projects. Each of the written portions of the projects needs to be submitted to me through the drop box on TWEN. Submit your assignments to the "Drop Box" on TWEN no later than 5 p.m. on April 23, 2012. Each of these projects will be graded on a pass/fail basis. I recommend that you complete each project as we cover its corresponding topic in class and have indicated this timing on the assignment chart below. Students who have completed the projects in this way have been better prepared for the final exam and also are not overburdened with project work as they study for final exams. Please note that I have canceled one class [March 6, 2012] in consideration of the time you will need to spend on the projects.

Assignments:

Specific reading assignments are set forth below. The CB numbers refer to the assigned Casebook SPRANKLING AND COLETTA, PROPERTY: A CONTEMPORARY APPROACH, and the “Estates” chapters or page numbers refer to the other assigned text, Edwards’ ESTATES IN LAND AND FUTURE INTERESTS: A STEP-BY-STEP GUIDE. The statutes assigned for Projects are available through TWEN.

If necessary, this syllabus may be modified during the semester. If the syllabus is modified, the modifications will be announced in class and/or posted on TWEN. All reading materials identified as “handouts” will be available on TWEN.

Students are expected to complete the reading assignments, including answering the problems from the texts, to attend each class on time, to timely complete the four projects, and to engage in the in-class discussion of the readings and problems. Bring the relevant texts (and any statutes or handouts assigned as a supplement) to each class. Consistently active participation, demonstrating that you have read and thought about the class assignment, is expected.

Assignment for the first class: The reading assignment for the first class concerns why we should recognize property: SPRANKLING AND COLETTA, PROPERTY: A CONTEMPORARY APPROACH 1-25.

Extra assignment for February 23, 2012:

If you are a tenant or a landlord, please provide me with a hard copy of your lease. When we get to the landlord/tenant section of the course, I may use parts of your lease in class to demonstrate different points about the law governing this relationship. Accordingly, feel free to redact any personal information you feel uncomfortable sharing. If you feel uncomfortable for

any reason in providing a copy of your lease, you do not need to provide me with a copy.

Other:

I will distribute a seating chart on the first day of class. Please sign the chart in the place where you intend to sit all semester. Please sit in your seating chart place for each class. This will help me put your name and face together.

I will use a set of index cards with your name on them for randomly selecting students on which to call each class. Although I will use this method to call on students randomly, I also expect and provide an opportunity for volunteering students to participate in the class discussion.

SPECIFIC TOPICS AND ASSIGNMENTS:

<u>DATE</u>	<u>TOPIC</u>	<u>ASSIGNMENT</u>	<u>PRINCIPAL CASES AND MATERIALS</u>
		At any point you may begin Project #1: Court Observation (see TWEN)	
	<u>The Concept of Property</u>		
January 10, 2012	Why Recognize Property	CB 1-25	Pierson v. Post; White v. Samsung Electronics America, Inc. (panel and en banc)
January 12, 2012	The Right to Transfer	CB 25-47	Johnson v. M'Intosh; Moore v. Regents of the University of California
January 17, 2012	The Right to Exclude	CB 47-63	Jaque v. Steenburg Homes, Inc.; State v. Shack

January 19, 2012	The Right to Use and The Right to Destroy; Summary	CB 68-95	Sundowner, Inc. v. King; Prah v. Maretti; Eyerman v. Mercantile Trust Co.
	<u>Owning Real Property</u>		
January 24, 2012	Adverse Possession – Elements	CB 97-116	Gurwit v. Kannatzer; Van Valkenburgh v. Lutz
January 26, 2012	Adverse Possession – State of Mind, Mechanics; Summary (exclude Airspace Rights)	CB 116-134; 158	Fulkerson v. Van Buren; Tioga Coal Co. v. Supermarkets General Corp.; Howard v. Kunto
	<u>Owning Personal Property</u>		
January 31, 2012	The Rule of Capture and Finders	CB 161-184	State v. Shaw; Popov v. Hayashi; Armory v. Delamirie; Hannah v. Peel
February 2, 2012	Sharing the Find; Modern application; Summary (exclude Gifts)	CB 184-197; 232-33	McAvoy v. Medina; Haslem v. Lockwood; Benjamin v. Lindner Aviation, Inc.
	<u>Estates and Future Interests</u>	During this section of study, you will find an increase in reading and workload. This is tricky material and you will master it if you stay on top of the assignments. For each class, you are required to complete all of the problems in the Casebook and the Estates book and to check your	

		answers to Estates problems with the answer guide in the back. In addition, you are expected to memorize each relevant section of the chart in the inside back cover of the Estates book as we go along.	
February 7, 2012	Introduction, Fee Simple, Life Estate and Fee Tail; Waste	CB 309-33; Estates Chs. 1 and 2	Cole v. Steinlauf; White v. Brown; Woodrick v. Wood
February 9, 2012	Fee Simple Defeasible, Fee Simple Determinable, Future Interests in Transferor, Remainders	CB 333-357; Estates Chs. 3, 4 and 5	Mahrenholz v. County Board of School Trustees of Lawrence County; Metropolitan Park District v. Unknown Heirs of Rigney
February 14, 2012	Executory Interests, Rule Against Perpetuities, Rules Furthering Marketability	CB 357-360; 365-369; Estates Chs.6, 8, 13-14	
February 16, 2012	Modern Reforms; Summary	CB 375-378; Estates Ch. 15	
	<u>Concurrent Ownership and Marital Property</u>		
February 21, 2012	Concurrent Ownership Generally, Partition; Rights and Duties of Cotenants	CB 379-402	James v. Taylor; Tenhet v. Boswell; Ark Land Co. Harper; Esteves v. Esteves
February 23, 2012	Marital Property Generally; Tenancy by the Entirety; Defining Marital Property; Unmarried Couples; Same-Sex Marriage; Summary	CB 402-top of 428; 437-38	Sawada v. Endo; Guy v. Guy; In re Estate of Roccamonte;
		At any point,	

		you may begin work on Project #2: Marital Property Negotiation (see TWEN)	
	<u>MID-TERM EXAMINATION</u>		
February 28, 2012	Review Take Home Exam in class	<p>On February 21, 2012, I will distribute the Take Home Closed Book 1.5 hour Mid-Term Exam.</p> <p>By February 23, 2012, complete the Mid-Term Exam.</p> <p>By midnight, February 23, 2012, exchange your exam with your assigned partner (see assignment posted on TWEN).</p> <p>By midnight February 26, 2012, provide written comments on your partner's exam to your partner and submit your written comments along you're your original exam response</p>	

		to me as one document through the TWEN dropbox. The written comments should address issue spotting, rule statements and legal analysis and application of the rules to the exam's facts. (see TWEN for Midterm Exam Instructions)	
	<u>Leasing Real Property</u>		
March 1, 2012	Discrimination; Nonfreehold Estates; Delivering Possession	CB 439-462	Neithamer v. Brenneman Property Services, Inc. Kajo v. Church Square, Inc. v. Walker; Keydata Corp. v. United States
March 6, 2012	CLASS CANCELED IN LIEU OF PROJECT WORK		
March 8, 2012	Substandard Housing; Constructive Eviction; Implied Warranty of Habitability	CB 462-484	In re Clark; Fidelity Mutual Life Insurance Co. v. Kaminsky; JMB Properties Urban Co. v. Paolucci; Wade v. Jobe Teller v. McCoy
March 13, 2012	Assignment and Sublease: Basics and Lessor Consent	CB 485-503	Ernst v. Conditt; Kendall v. Ernest Pestana, Inc.
March 15, 2012	Abandonment; Security Deposits; Eviction and Summary	CB 503-518; very bottom of 522-31	Sommer v. Kridel; Hillview Associates v. Bloomquist; Berg v. Wiley
Week of March 19	CLASSES CANCELED – SPRING BREAK		

	<u>Selling Real Property</u>		
March 27, 2012	Introduction; Statute of Frauds; Marketable Title; Equitable Conversion (introduction)	CB 531-548	Hickey v. Green; Lohmeyer v. Bower
March 29, 2012	Duty to Disclose; The Closing; The Deed (introduction); The Mortgage (introduction); Remedies for the Breach of Contract (introduction)	CB553-560 (top); 564-65; 576-84	Stambovsky v. Ackley; Wansley v. First Nat'l Bank of Vicksburg
April 3, 2012	Title Assurance; Title Covenants (warranty deeds); Title Opinion Based on Search of Public Records; The Recording System; How to Search Title; Operation of the Recording System; The Recording Acts; Notice (introduction); Title Insurance (introduction); Summary (excluding chain of title problems)	CB 590-93; 599-602; 609 (How Far Back?); 610-12; 618-619 (Forgery and Fraud; The Shelter Rule; Problems); 628; 634-35; 641-43	
		At any point, begin Project #3: Title Search (see TWEN)	
	<u>Private Land Use Planning: Easements, Covenants, Equitable Servitudes and Nuisance</u>		
April 5, 2012	Express Easement; Implied Easement by Prior Existing Use; Easement by Necessity	CB 645-665	Millbrook v. Hunt, Inc. v. Smith; Van Sandt v. Royster; Berge v. State of Vermont
		Begin Project #4: Easement Project (see TWEN)	
April 10, 2012	Prescriptive Easement; Irrevocable	CB 665-678	MacDonald Properties, Inc. v. Bel-

	License/Easement by Estoppel		Air Country Club; Kienzle v. Myers
April 12, 2012	Interpreting Easements; Terminating Easements; Negative Easements	CB 678-94	Marcus Cable Associates, L.P. v. Krohn; Presault v. United States
April 17, 2012	Real Covenants and Equitable Servitudes; Unreasonableness of CC&Rs	CB 694-714	Tulk v. Moxhay; Nahrstedt v. Lakeside Village Condominium Association, Inc.
April 19, 2012	Abandonment; Changed Circumstances; Nuisance; Summary	CB 714-25; 739-54	Fink v. Miller; Vernon Township Volunteer Fire Department, Inc. v. Connor; Boomer v. Atlantic Cement Co., Inc.; Thomsen v. Greve
April 24, 2012 1:30 – 3:00 LC 207 (please note that date, time and place are tentative)	OPTIONAL EXAM REVIEW SESSION		No later than 5 p.m. on April 22, 2012, submit to me by email any questions you would like answered. The review session will consist solely of my answers to these submitted questions.