University of Baltimore School of Law

COASTAL LAW

Fall Semester 2015
Instructors: Ren Serey, Mark Talty

Course: Law 866
Thursday 4:45 p.m. – 7:30 p.m.
Room 204, Law Center

Consultation: After class or by appointment.
Also available by:

Phone: Ren Serey: 301-646-0965 (cell)
        410-260-3462 (office)

Email: ren.serey@maryland.gov

Mark Talty: 410-746-7853 (cell)
           410-260-8352 (office)

Email: mark.talty@maryland.gov

Course Requirements:

There is no exam in the course. Each student is required to write a research paper on a topic relevant to coastal or ocean law, or legal or administrative policy.

Paper topics must be approved.

If you intend that the paper satisfy the Upper Level Research and Writing Requirement, the paper must be at least 25 pages double-spaced, with footnotes or endnotes single-spaced.

If you do not intend that the paper satisfy the writing requirement, the paper must be at least 20 pages double-spaced, with footnotes or endnotes single-spaced.

All students will present their papers to the class during the last two class sessions. Each presentation should be 10-15 minutes.
Course Materials:

There is no textbook for the course. Most of the required and Supplemental Materials are located on the TWEN site for the course. Other materials may be provided prior to or during individual class sessions. If the latter are required materials, they will be provided at least one week prior to the class session. Additional resources are located on the TWEN site under Background Resources and Materials. You should check the Background Resources section periodically for updates.

The TWEN site contains all of the required cases. Some cases are excerpted; some are provided in their entirety. However, not all materials on the TWEN site, required or supplemental, are listed separately in the syllabus for each class session. Please be aware of that.

Work on the research paper must meet the following schedule:

Submission of topic; one sentence is sufficient: October 1, 2015
Submission of preliminary outline (1/2 – 1 page): October 15, 2015
Submission of rough draft by email: November 19, 2015
Drafts returned by email: November 25, 2015
Submission of final paper by email: December 11, 2015 (Last day of exams)

When you email your paper, you are responsible for checking to make sure we have been able to open it and print it. Please see us if you want to make other arrangements to deliver your paper.

Attendance will be monitored according to the Law School’s official Attendance Policy, which can be viewed at: [http://law.ubalt.edu/academics/pdfs/Attendance.pdf](http://law.ubalt.edu/academics/pdfs/Attendance.pdf)
The school’s policy specifies that for a 3 credit course that meets once each week, such as Coastal Law, the allowed number of absences is 2.

THE GRADE FOR THE COURSE WILL BE DETERMINED AS FOLLOWS:

Course grade: Research paper: 75%
Class participation: 25%*

* Class participation means that you will complete all assignments and be actively engaged in class discussions.
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<thead>
<tr>
<th>Class</th>
<th>Date</th>
<th>Subject</th>
<th>Assignment</th>
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<tbody>
<tr>
<td>1</td>
<td>August 20</td>
<td>Introduction and Overview</td>
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<td>2</td>
<td>August 27</td>
<td>Coastal Trends</td>
<td>Supplemental Materials on TWEN site</td>
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<tr>
<td></td>
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<td>Title to lands under coastal waters and introduction to the Public Trust Doctrine</td>
<td>Phillips Petroleum v. Mississippi 484 U.S. 469 (1998)</td>
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<td>Navigable waters</td>
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<td>The Public Trust Doctrine and state authority over submerged lands</td>
<td>Illinois Central Railroad v. Illinois 146 U.S. 387 (1892)</td>
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<td>(Some of this material will be continued into the next class.)</td>
<td>Caminiti v. Boyle 107 Wash.2d 662 (1987)</td>
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<td>Esplanade Properties v. City of Seattle 307 F.3d 978 (9th Cir.) (2002)</td>
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3 September 3  The Public Trust Doctrine (continued)  Columbia Land Development v. Secretary of State Supreme Court of Mississippi 868 So.2d 1006 (2004)

Ownership and disposition of tidelands in Maryland  1) Board of Public Works: Kingfisher Land Company

(Possibly continued into the next class.)  2) Board of Public Works: Rukert Terminals

3) Maryland Commissioner of Land Patents (p. 1 – first paragraph on p. 4; remainder optional)

4) Baltimore Maritime Center: March 10, 2005
Riparian Rights: private property interests in coastal lands and waters; the rights of water access

Ford v. Turner
District Court of Appeal of Florida
142 So.2d 335 (1962)

Lummis v. Lilly

Dorrah v. McCarthy

Sullivan’s Cove Piers – Maryland Department of the Environment - Summary of Decision, Feb. 2, 2009

In Re Protest of Mason
78 N.C. App. 16 (1985)

Becker v. Litty
318 Md. 76 (1989)

Slavin v. Town of Oak Island
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<th>Date</th>
<th>Section</th>
<th>Topics</th>
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<tr>
<td>Date</td>
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<td>Piers</td>
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<td>Setbacks and Cliffs</td>
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<td>7</td>
<td>October 1</td>
<td>Takings</td>
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October 1  
(con’t)  

Takings (con’t)  

Roberta Gove v. Zoning Board of Appeals of Chathan  
Supreme Judicial Court of Massachusetts  
831 N.E.2d 865 (2005)  

Parts II, III: Stop the Beach Renourishment  

McQueen v. South Carolina Coastal Council  

Village of Harvey Cedars v. Karan  
Supreme Court of New Jersey  
July 8, 2013  

Shore erosion control  

South Carolina Conservation League v. S. C. Dept. of Health and Environmental Control  
South Carolina Court of Appeals  
548 S.E. 2d 887 (2001)  

Maryland’s Living Shorelines Act  

MD Env. Article, Section 16-201(c)
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<tr>
<th>Date</th>
<th>Topic</th>
<th>Readings</th>
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| October 8 | Federal and State jurisdiction over Coastal Waters; Submerged Lands Act; Law of the Sea; Authority over ocean resources | The Tidelands Controversy and U.S. v. California  
U.S. v. California  
332 U.S. 19 (1947)  
U.S. v. Maine  
420 U.S. 515 (1975)  
Ocean and coastal fisheries  
Supplemental Materials  
Marine Mammal Protection Act  
Winter v. Natural Resources Defense Council  
129 S.Ct. 365 (2008)  
Marine Endangered Species  
Florida Marine Contractors v. U.S. Fish and Wildlife Service  
U.S. District Court, Middle District, Florida  
| October 9 | Beach Access; prescriptive easements; implied dedication; customary rights | Opinion of the Justices (Public Use of Coastal Beaches)  
139 N.H. 82 (1994)  
Nollan v. California Coastal Commission  
483 U.S. 825 (1987)  
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<tr>
<td>October 22</td>
<td>10</td>
<td>Special Coastal Problems</td>
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<td>October 29</td>
<td>11</td>
<td>Chesapeake Bay and Maryland Coastal Issues (1) Supplemental Materials</td>
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<td>Clean Water Act: Total Maximum Daily Load for the Chesapeake Bay</td>
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<td>Maryland’s Adaptation Plan for Climate Change</td>
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<td>November 5</td>
<td>12</td>
<td>Chesapeake Bay and Maryland Coastal Issues (2) Supplemental Materials</td>
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<td>Chesapeake and Atlantic Coastal Bays Critical Area Act</td>
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<td>November 12</td>
<td>13</td>
<td>Class Presentations</td>
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<td>November 19</td>
<td>14</td>
<td>Class Presentations</td>
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A Sampling of Possible Research Paper Topics

Can the law save the Chesapeake Bay? Maryland and Virginia responses to climate change and sea level rise. Also: State regulation of fisheries, crabbing, shore erosion control, nutrient loadings, property rights.

The federal government’s pollution diet for the Chesapeake Bay; the Total Maximum Daily Load (TMDL) controversy.

Coastal regulatory programs and recent takings cases: an analysis of trends and predictions for the future. After the Stop the Beach Renourishment and Koontz decisions, what’s next for the Supreme Court?

The Public Trust Doctrine and access to the beach: private property v. public rights.

Do the federal government’s offshore oil and gas exploration, leasing and drilling requirements promote or hinder energy development? What is the proper balance between energy promotion and environmental protection? Is wind power dead for now?

Will the world run out of fish? Should we try to save the whales? How about the sharks? Or tuna? Are international rules the answer or a hindrance?

Has the Environmental Protection Agency’s new Clean Water Rule gone too far? Is wetlands regulation doing the job? An analysis of EPA’s Rule, the U.S. Army Corps of Engineers’ and states’ authority (generally), and Maryland’s authority in particular, following recent court opinions. Navigable waters and the reach of the definition over time: Is there a better way?

The future of U.S. fisheries management under the Magnuson-Stevens Act; compare to recent trends and regulatory actions in Maryland and Virginia. Are state fisheries regulations a Taking under the Constitution?

Climate change and the eroding shoreline: private property rights v. public costs. After Hurricanes Katrina and Sandy, can Maryland, or any other state, truly adapt? Are Maryland’s new Critical Area regulations for development by State agencies (COMAR 27.02.05) and CoastSmart Construction requirements headed in the right direction?

Marine Mammals; Endangered Species: Who has rights and whose rights should control?

The future of ocean resources: Can we manage anything effectively? How can we craft laws? Is sustainability viable? Can the Coastal Zone hold everyone?