

PROPERTY
(LAW 5400)
Section 1
4 credits

Syllabus

Text: The text for this course is J. Dukeminier et al., Property (8th ed. Aspen 2014). We will focus on chapters 1-8, 10 & 12, studying selected material from other chapters as time allows.

Schedule of Class Meetings:

We meet Monday 1:30-2:20 pm and Tuesday to Thursday 1-1:50 pm in Room 285B Holland Hall.

Course Web Page:

There is a Canvas webpage for this course. The syllabus, weekly assignment sheets, and occasional handouts and supplemental readings will be posted on the website. You are responsible for all material posted on the website and for class announcements distributed by email to you via the email address at which you receive UF Law email.

Office Hours:

Wednesday 2-4 pm

My office is 312C Holland Hall. If you would like to meet with me outside of these office hours, please email me at fournoy@law.ufl.edu to schedule an appointment.

Assignments:

Each week, I will post an assignment sheet on the course website with specific assignments. In class, I may elaborate on the assignments, indicating problems, cases or themes you should focus on particularly, or posing specific questions. **All students are expected to have read and prepared the assignments for each class meeting.** The number of pages assigned per class may on some days seem modest, but it is anticipated that you will spend approximately **2 hours out of class** reading and/or preparing for in class assignments **for every 1 hour in class.** This will include reading cases several times, reading applicable statutes closely multiple times, and then reviewing the material to ensure you can answer all the study questions included on the weekly assignment sheet. Sometimes this will include working through problems provided on the assignment sheet. On days listed as “Review” I will assign you a past exam question to work through and we will discuss the approach to the answer in class. On these days, I will provide specific guidance on what approach you should use in preparing for class.

Attendance Policy:

Class attendance is required. You will sign in on an attendance sheet each day. You are permitted seven absences to use as you see fit throughout the semester. **Please note: I do not draw any negative inference from your use of your permitted absences. I do not need or wish to know your reason for using them.** However, if you exceed this number, your grade may be lowered for excessive absences; if you reach 10 absences you may be administratively dropped from the course. You will not be counted absent for observing religious holidays. If you are unsure whether I am aware of a religious holiday you observe, please let me know the date.

Students will be called on to discuss the assigned reading and to answer questions. I will divide you into four groups after the first week of the course. Each group will be on call for one hour of class each week. **(If material is carried over from one class hour to the next, the same group remains responsible for that material during the next hour of class).** When you are on call, you will be expected to have read the material with particular attention and to be prepared to discuss it. Volunteer participation is always warmly encouraged whether or not you are on call.

Examination and Grading:

The exam will be open-book, open-notes, and it will be a seven hour take-home exam administered on Tuesday, May 7, during exam period. You may take the exam at home or at any place you wish. There will be a room available at the law school for those who wish to take it at school.

Your grade will be based primarily on the final exam. If your exam score places you on the border between two grades, exceptional class participation (in terms of quality, not necessarily quantity) may raise your grade by up to 1/3 of a grade (e.g. from a B to a B+). Absences beyond those allowed or lack of preparation for class may lower your grade.

Course Objectives and Student Learning Outcomes:

Objectives: This course will provide an introduction to the law of property, with a primary focus on real property. In the course of studying these legal doctrines and principles, students will develop a practical understanding of the career opportunities for lawyers that involve significant property law dimensions. The course will highlight how property law concepts may be relevant for non-property lawyers and prepare you to recognize them when they arise.

Student Learning Outcomes: At the conclusion of this course, students who complete the assignments, attend class, and complete all other requirements for the course can expect to have acquired the following knowledge and skills related to property law.

Knowledge

Students identify and describe basic concepts, principles, blackletter law, statutes, and common law related to property, embodied in cases and notes, contained in the course materials, or covered in class.

Skills

- Students identify property issues raised in hypothetical fact patterns and cases.
- Students apply the principles, blackletter law, statutes, and common law embodied in cases and materials to issues presented by hypothetical fact situations and analyze how the law applies to the situation.
- Where more than one rule has potential applicability or relevance, students articulate how each rule would apply and why one outcome or another should be preferred as a matter of logic or policy.
- Students interpret language granting estates and future interests, identify estates, and compose granting language to create specified outcomes.
- Students interpret statutes, identify issues presented by statutes, and analyze these issues in light of case law.

Disability Resources:

Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, www.dso.ufl.edu/drc/) by providing appropriate documentation. Once registered, students will receive an accommodation letter. The law school Office of Student Affairs can assist you with this process. Students with disabilities should follow this procedure as early as possible in the semester.

Information on UF Law Grading Policies:

<u>Grade</u>	<u>Points</u>	<u>Grade</u>	<u>Point</u>	<u>Grade</u>	<u>Point</u>
A (Excellent)	4.0	C+	2.33	D-	0.67
A-	3.67	C (Satisfactory)	2.00	E (Failure)	0.0
B+	3.33	C-	1.67		
B (Good)	3.00	D+	1.33		
B-	2.67	D (Poor)	1.00		

The law school grading policy is available at:

<http://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/academic-policies>.

Academic Honesty / Misconduct

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>. On all work submitted for credit by students at the university, the following pledge is either required or implied: ‘On my honor, I have neither given nor received unauthorized aid in doing this assignment.’

Policy related to Make-up exams or other work:

The law school policy on delay in taking exams can be found at: <http://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/academic-policies>.

Other Resources

You are not required or expected to refer to additional materials for this course. However, some students find that additional references can be of help. Dukeminier and Krier has a webpage for their course that offers additional background information about the cases. It can be found at www.aspenlawschool.com/dukeminier_property. I will provide you with the password at our first class meeting.

There are a number of useful hornbooks that cover specific topics in property well. A very good **general** reference that covers almost all of the topics we will study is: Stoebuck and Whitman, THE LAW OF PROPERTY (3rd Ed. West 2000). A slightly different approach is taken in Joseph Singer's PROPERTY (4th Ed. Aspen 2014)). Students frequently ask for additional help **on the topic of estates in land and future interests** specifically. You are not expected to consult any materials outside those distributed in class and the casebook, but if you wish to go into depth on the topic, Bergin & Haskell, PREFACE TO ESTATES IN LAND AND FUTURE INTERESTS, (2nd Ed. Foundation Press 1984) is a small treatise/hornbook that provides good detailed explanations of the concepts, using examples frequently. If you wish to try additional problems, Laurence Anderson & Minzer, A STUDENT'S GUIDE TO ESTATES IN LAND AND FUTURE INTERESTS, (3rd Ed. Lexis Nexis 2012) is a workbook with problems and answers. Chapters 1, 3 & 4 of this cover mostly material we will cover. **A note of caution:** in some instances this workbook introduces material beyond what we have covered. If you use it, don't let this confuse you. Also, chapter 2 & parts of chapter 3 of the workbook deal with the law pre-1536, a time during which executory interests were not recognized, so these chapters are more likely to confuse than help you.

TENTATIVE LIST OF TOPICS AND ASSIGNMENTS

NOTE: Each assignment is for one 50-minute class. Specific assignments and study questions will be provided in weekly assignment sheets.

Acquisition / Theories of Property

1. Acquisition by Discovery pp. 1-17 (through note 6; skip the footnotes in the notes)
2. Acquisition by Capture pp. 18-26, 30-33, notes 1 & 2 p. 33
3. Capture of Natural Resources and the Liberal Economic Theory of Property pp. 40-56
4. Acquisition by Creation pp. 56-64
5. Property in One's Person pp. 90-104
6. The Right to Exclude and Abandonment pp. 104-110 & nn. 2-4 on pp. 117-118
7. Acquisition by Find pp. 125-135; omit Note 3 on p. 127
8. Acquisition by Find pp. 135-144
9. Adverse Possession pp. 144-163
10. Adverse Possession pp. 170-176, 177-178 (Note on Adverse Possession v. Government)
11. Acquisition by Gift pp. 189-199
12. Acquisition by Gift pp. 199-206
13. Review

Estates in Land and Future Interests

14. Introduction and the Fee Simple pp 209-222 and p. 226 (skip section on Fee Tail; skip problems 1-3 pp. 219 and problems 1-3 pp. 221)
15. The Life Estate pp. 227-234
16. The Life Estate and Waste pp. 235-244
17. Defeasible Estates pp. 244-258
18. Defeasible Estates and Use Restrictions pp. 258-265 (ignore footnote 35), 271-273
19. Introduction to Future Interests: Reversions and Remainders pp. 275-284
20. Reversions and Remainders (Review Problems)
21. Executory Interests pp. 284-292 (up to Review Problems)
22. Executory Interests pp. 292-293 (Review Problems)
23. Rules Destroying Contingent Interests p. 293-297, 303-312
24. The Rule Against Perpetuities & Review pp. 312-315

Co-Tenancies

25. Types, Character, Creation, and Severance pp. 343-354
26. Partition pp. 359-371
27. Sharing the Benefits and Burdens of Co-Ownership pp. 371-375, 380-382

Landlord and Tenant Law

28. Leaseholds and the Fla. Residential Landlord Tenant Act pp. 441-453 and Fla. Stat. 83.41-83.47, 83.57, 83.575, 83.58
29. Subleases and Assignments pp. 465-471 (through Note 2)
30. Tenant's Duties: Landlord's Rights and Remedies pp.471-472, 482-492; Fla. Stat.

- 83.52-83.55, 83.56 (2)-(5), 83.59, 83.595, 83.62, 83.625, 83.63, 83.681
31. Landlord's Duties: Tenant's Rights and Remedies pp. 505-514 (up to problems); Fla. Stat. 83.63
 32. Landlord's Duties and Tenant's Rights Under FRLTA pp. 514-515 (problems); Fla. Stat. 83.48, 83.51, 83.52, 83.54-83.55, 83.56(1),(2),(4)&(5), 83.59, 83.595, 83.60, 83.67, 83.681
 33. The Illegal Lease and Implied Warranty of Habitability pp. 515-526; Fla. Stat. 83.51, 83.60, 83.61, 83.64, 83.67
 34. Review

Real Estate Transactions

35. Introduction and Role of the Broker and Statute of Frauds pp. 541-544, 559 (paragraph on brokers), read the notes on pp. 562-570 & read pp. 570-75
36. Marketable Title and Risk of Loss pp. 575-582
37. Duty to Disclose (TBA)
38. The Deed and Warranties of Title pp. 593 (note on Merger), 614-620, 623-628
39. Estoppel by Deed & Delivery pp. 634-639
40. Delivery pp. 639-645
41. Foreclosure and the Subprime Mortgage Crisis 645-651, 656-659 (Nelson & Whitman excerpt and Notes 3-7), & 659-668
42. Title Assurance: Title Searches pp. 693-708
43. Title Assurance: Introduction to Recording Acts pp. 715-718
44. Apply Recording Acts pp. 718-724
45. Inquiry Notice and Recording Acts pp. 741-749

The Law of Servitudes

46. Overview of Servitudes and Creation of Easements pp. 809-820 Easements Implied by Prior Use pp. 825-833
47. Easements Implied from Necessity & Prescription and Customary Use Rights pp. 842-847 and *Daytona Beach v. Tona-Rama, Inc.*, 294 So.2d 73 (Fla. 1974)
48. Covenants Running at Law pp. 892-897
49. Equitable Servitudes and Negative Reciprocal Easements pp. 898-909
50. Discriminatory Covenants and Termination of Servitudes pp. 922-927, 931-936
51. Review