

Property, Sec. 1
Law 5400, §079D
Spring 2020
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SYLLABUS

This is a course in the law of real and personal property. We will cover basic principles in the law of land (real property) and personal property, government regulation of private property, governmental land use planning, landowner-tenant law, nuisance, and sovereignty.

Class meets on Mondays from 1:30-2:45 and Tuesdays and Wednesdays from 1:00-2:15.

Required Materials: There are two sources of reading material for this class. The first is a packet of cases with very short explanations that I have prepared for our class. This will be our primary reading material and you should plan to read the cases very carefully. We will begin at the beginning and progress through to the end of the case packet. The second source is John G. Sprankling, *Understanding Property Law*, 4th edition, (Lexis/Nexis 2018) or the 3rd edition is acceptable as well. This is a short treatise that will provide some discussion of many of the cases in the case packet, as well as treatise-like explanations of many of the rules we will be covering. We will progress through the treatise by subjects as they arise in the course packet. So while sometimes it may take us 3 or 4 days to cover a particular subject, like easements, I will assign the entire easement section of the treatise for you to read on the first day. You can use your discretion as to whether you want to read the entire treatise section immediately before the cases, after the cases, or after we've finished the entire subject. The treatise is meant to be a supplement to help explain some of the arcane subjects and to provide important background information for many of the rules we will cover.

You are expected to prepare thoroughly for discussion of all materials assigned. Brief all cases. If you are not prepared, please leave your name on the podium before class begins. I do not penalize students who are *occasionally* unprepared, so long as they follow this procedure and do not avail themselves of the opportunity too often. Please do not gamble on not being called on. If I call on you and you are not prepared and have not notified me, I will get angry and may launch into a tirade, we will lose valuable time, and I will mark you absent for that day.

Attendance is required. I reserve the right to dismiss from class any student who misses more than 10% of regularly scheduled classes. This policy reflects bar requirements that you actually be physically present in the classroom for a significant amount of scheduled class meetings – obviously done under the perhaps mistaken assumption that you might learn something in class. There will be an attendance sheet passed around each day. More importantly, my policy is to make the final exam draw heavily on the discussions in class. And besides, coming to class certainly won't kill you (though please let me know if I am putting you in immediate peril of life or limb by requiring your attendance).

Laptops: I realize that many of you rely heavily on laptops for taking notes, briefing cases, and doing research and that you may feel banning laptops hampers your ability to prepare and study. However, laptops may not be used in class for note-taking because I have found that they **seriously** detract from the classroom experience. Every class is different, and every set of students creates a unique personality in the room. I have found that our interaction and the experience for all students have deteriorated greatly with the widespread use of laptops. Please continue to use your laptops for briefing cases and outlining and doing research. In class, however, please bring print-outs of your briefs and note paper on which to take notes. You will need print-outs of all material for the exam as you will not have access to your computer hard drive during the exam.

Outlines and Supplements: Many of you may have already obtained outlines for this course or have talked to upper level students and received their outlines. Although I will not prohibit use of those outlines, I will caution you. The reason most A students receive A grades is that they actually wrote their own outlines. It is the process of writing your own outline that helps you make sense of the vast array of material we will have covered in class. Other outlines are worth consulting, but if they are not your own work, they are more likely to give you a false sense of security than actually provide answers for the exams. I would ask that you not bring those outlines to class, or use them when answering questions or participating in discussions, because the point of class is to reach the appropriate discussion topics through a procedure of talking and analyzing. It is the working through the problems that teaches you, not getting to the final answer.

Many of you will start asking right away about exam preparation and commercial outlines. Here is my philosophy and advice. Do not waste your money on commercial outlines. If you feel that you need additional study aids, check out or purchase the hornbook by West, Stoebuck and Whitman's, *Property*, 3rd edition or Joseph Singer's, *Property* hornbook. Every rule we will learn has an exception and every fact situation we encounter will fall within the grey areas of the law. Hence, the key is to understand the law in context. The facts are 90% of the law. In preparation for the exam, I highly recommend (let me repeat, I HIGHLY RECOMMEND) that you get together with a small group (4-6 people) and take the sample exams under exam conditions. Then read each other's exam. I know: this means showing your paper to your classmates, heaven forbid. But it is a very useful exercise. After that, bring the whole group into my office to talk about it.

Office Hours: I will generally be available after class for as long as you have questions or comments on the class. You may also reach me via email or through the support staff to arrange a specific time to meet with me if you cannot make my regularly scheduled office hours. I have not yet scheduled office hours because when I do so in advance I inevitably schedule them during one of your required classes. So I will discuss it with you the first week of class and try to set hours that will fit with as many schedules as possible. I am also here most mornings and afternoons and you may drop in if you like. I do ask, however, that you not disturb me during the hour immediately preceding class; I need that uninterrupted time for my most intensive preparations for class. Otherwise, I encourage you to stop in and discuss issues and questions arising out of the class. However, I am less inclined to spend lots of time going over issues from the beginning of the semester when you finally get around to doing your outline a week before

the exam. If you have problems or questions, please come in when they arise and don't wait until the end to bury me with questions.

To prevent the inevitable deluge of students and identical questions at the end of the semester, I will hold strictly to my office hours the last two weeks of class. I will not be available outside of those times, and you all will have to share me with your classmates. The goal is to try to get you to work on your outlines as we go along and, for the last couple of weeks, to have you hold off on your questions until the review session. That way I don't have to answer the same question 100 times. I am always amenable to entire study groups meeting with me to go over certain topics.

Accommodations: 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 which must be presented to me when requesting accommodations. Students with disabilities should follow this procedure as early as possible in the semester.

Honor Code: As you no doubt realize, you are bound by the University of Florida Levin College of Law Honor Code and Conduct Code while in this class. Outside of class, I believe you should cooperate with each other as much as possible. You should form a study group and take practice exams together. In class, you may share notes, books, and outlines and feel free to come to a colleague's aid if he/she is stumbling over a question (not on your cell phones, however). But ultimately you will need to master this material if you are to competently represent a client. I encourage you to ask questions during office hours and get involved in the issues we will discuss. I ask that you not interrupt your classmates, disparage their questions or answers, or imply (either inside or outside of class) that their questions are not worthy of our attention. I also ask that if you are not going to pay attention in class that you not distract your classmates, but rather sit quietly and do other work. I recommend the NY Times crossword puzzles or Sudoku – they work on logic and verbal skills that are in great demand among lawyers.

Examination: There will be a four and a half hour written essay examination at the end of the semester. It will be open book, open notes, open outlines, open treatises and open any other written sources you think might help. You will be responsible for all material assigned, whether specifically discussed in class or not. I will post sample final exams as we get further along in the semester. I suggest you print a couple of them and work them with your classmates as we go through the semester. One day in a couple of months I will go over the basic procedure for the exam. There also will be periodic ungraded quizzes and exercises to help you with exam preparation.

There will be three teaching assistants for this course. They all survived my class and are current 3Ls. They will hold office hours and will help with designing and commenting on written practice questions. Most importantly, they really liked Property because it is a great subject.

The exam is scheduled for April 27, 2020 at 8:30 a.m.

Learning Outcomes: This is a traditional first year course, which means that the focus is primarily on learning the basic rules and principles of American Property law. You will need to read cases carefully to extract not only the relevant rules and precedents, but to understand the dynamic nature of law and the pressures pushing to expand or extend the law's reach. At the end of the semester, I expect you to be able to identify the property rights at issue in a hypothetical fact situation, analyze the rules that would be used to resolve any disputes, apply the rules, and then comment on whether the outcome comports with traditional norms of justice and equity.

Grading: The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

Please be aware that any grade below a B places you at risk of failing the bar exam. This is not meant to scare or intimidate you, but to help you recognize which subjects may require additional bar preparation. More importantly, however, it is meant to give you a sense of how well you are mastering the very specialized skill of legal analysis that we are endeavoring to teach here. Although some of you will receive grades below a B, please use that information to guide your further course choices and to motivate you to take advantage of the many special courses and opportunities we offer to students to improve your analytical skills. And if you get a grade below a B, please come see me after the exam to discuss specific challenges you may have.

Preferred Names and Pronouns: It is important to the learning environment that you feel welcome and safe in this class, and that you are comfortable participating in class discussions and communicating with me on any issues related to the class. If your preferred name is not the name listed on the official UF roll, please let me know as soon as possible by e-mail or otherwise. I would like to acknowledge your preferred name, and pronouns that reflect your identity. Please let me know how you would like to be addressed in class, if your name and

pronouns are not reflected by your UF-rostered name. I welcome you to the class and look forward to a rewarding learning adventure together.

You may also change your "Display Name" in Canvas. Canvas uses the "Display Name" as set in myUFL. The Display Name is what you want people to see in the UF Directory, such as "Ally" instead of "Allison." To update your display name, go to one.ufl.edu, click on the dropdown at the top right, and select "Directory Profile." Click "Edit" on the right of the name panel, uncheck "Use my legal name" under "Display Name," update how you wish your name to be displayed, and click "Submit" at the bottom. This change may take up to 24 hours to appear in Canvas. This does not change your legal name for official UF records and it likely will not affect the names I receive because I won't be using Canvas for this class. Thus, please make the changes in Canvas and also notify me by email.

Reading Assignments: These reading assignments are grouped categorically in sections by topic. I have given up hazarding guesses at how long we should need to spend on each segment, so I have not given you exact dates for the reading assignments. I will give you one or two days' worth of assignments in class each day. But even those are hard to stick to. In any event, be sure you read at least the next 10-15 pages for each hour of class and prepare a minimum of three cases for each hour. I will try to tell you, each day, how far ahead I expect we will get for the next day. But you are responsible for being adequately prepared each day. So please stay well ahead in the readings. **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.** We will discuss the readings in the order assigned below.

Section 1 – Acquisition of Property Rights (2 weeks)

pp. 5-95

Section 2 – Ownership Interests, Transfers, and the Sticks in the Bundle of Sticks

Inter-vivos, Causa Mortis, and Testamentary Transfers and Sales (1/2 week) – pp. 96-111

Estates in Land and Future Interests (1 ½ weeks) – pp. 112-186

Concurrent Estates (1/2 week) – pp. 187-209

Licenses and Easements (1 week) – pp. 210-243

Bailments and BFPs (1/2 week) – pp. 244-260

Section 3 – Private Limits on Property Rights between Owners and Non-Owners

Prescription (1 week) – pp. 261-287

Nuisance (1/2 week) – pp. 288-318

Covenants (2 weeks) - pp. 319-383

Leaseholds (2 weeks) – pp. 384-428

Section 4 - Public Limits on Property Rights

Public Accommodation (1 week) – pp. 429-458

Non-Discrimination (1 week) – Optional

Constitutional Protections (1 week) – Optional