Property, Sec. 1

Law 5400, §15367

Spring 2021

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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, private land use planning, landowner-tenant law, nuisance, and trespass.

Class meets on Tuesdays, Wednesdays, and Thursdays from 9:00-10:15.

**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 cases are divided into sections and posted onto our canvas page by module. Each subject, as listed below, will have a file with the cases for that section.

The second source is John G. Sprankling, *Understanding Property Law*, 4th edition, (Carolina Academic Press, 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. Thus, 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.

Because this is a hybrid class, I am assigning many written assignments that will be due daily or at the end of each section. I have found that class discussion suffers from the hybrid format, and so to make up for it I am going to have you do many writing assignments and graded quizzes, with feedback, to help you assess how you are doing in the class and to take some of the pressure off of having a single final exam. It may seem like a lot, but I want you to do enough so that it becomes quick and easy for you. Legal analysis is like playing the piano – you can read books about it and you can read the music and listen to it, but until you put your fingers on the keyboard and start practicing, you won't ever be able to play.

**Assignments**: There are three kinds of assignments that will be due for this class. These assignments are sometimes graded, but often not. If they are not graded, you will get participation points. They should not take a lot of time but will be very helpful when it comes to the final exam. They are:

**Briefs**: There are 86 cases assigned for the class. After the first 2 cases, you will be required to brief each case every day before class. To do so, you will log into our canvas page and you will find each case brief listed in the module for that section. Each brief has a final due date which is 9:00 of the morning I anticipate we will discuss the case in class. When you log in to do the brief, it will be listed as a non-graded quiz which has 4 or 5 essay questions. Simply fill out the boxes and submit. We will discuss how to do this in class the first few days. You are allowed to miss 10 briefs of your choice over the course of the semester. You don't need to tell me when you aren't doing briefs. Just be sure to keep track of whether you have used up all of your 10 excused briefs. If you go over that, you will start to lose points. That means you will have 74 briefs that you will submit. Most will be non-graded, but I will randomly choose 6 throughout the semester to grade. The TAs will be commenting on your briefs daily, but I will grade the 6 graded briefs.

**Treatise Outline**: There are 25 chapters in the treatise that you will need to outline. Most of the chapters are only about 20 pages long, with some longer and some shorter. Each outline should be roughly a page, and you will need to write down the relevant rules, exceptions, elements, factors, and other information. These will also be submitted on canvas and the TAs will comment on them. These will be ungraded, but you will get participation points on these as well.

**Quizzes**: There are 11 sections of material, some of which will only take a day or two to cover, others of which will take 2 weeks or more to cover. You will be given short essay questions calling for answers of 300-500 words every two weeks or so. The first 3 will be ungraded, but the quizzes after that will be graded. There will also be a graded mid-term on future interests so that you don't have to study that material for the final exam.

## **Final Examination:** There will be a four-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, except the estates and future interests chapter, whether specifically discussed in class or not. The law school policy on exam delays and accommodations can be found [here](http://www.law.ufl.edu/student-affairs/current-students/forms-applications/exam-delays-accommodations-form).

## **The exam is scheduled for April 30, 2021 at 8:30 a.m.**

## **TAs**: There will be three teaching assistants for this course. They all survived my class and are current 2Ls. They will hold office hours weekly and will help with designing and commenting on written practice questions, briefs, and outlines. Most importantly, they really liked Property because it is a great subject. They are:

Jensen Carter (jcarter311@ufl.edu)

Ethan Moore (ethanmoore@ufl.edu)

Jessica Terkovich (jterkovich1793@ufl.edu)

**Final Grade**: Your final grade will be calculated as follows:

Final Exam 50%

Mid-Term Exam 10%

Graded Briefs 5%

Graded Quizzes 15%

Participation Points 15%

In-Class Participation 5%

Total 100%

**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, or on zoom, for a significant amount of scheduled class meetings. Currently about 2/3rds of you are scheduled for in-person class, with 1/3rd scheduled for online. If you are an in-person student and are unable to attend class, please attend on zoom. You do not need to let me know if you are going to attend via zoom. Just sign the attendance as usual.

**Preferred Names**: Many of you may have a preferred name that is not the name given to me on the official roll. There is a mechanism for changing your name to your preferred name for certain university lists, although not for all of them. Please contact Michelle Smith ([style@ufl.edu](mailto:style@ufl.edu)) if you have any questions about how to list your preferred name on some of the forms that we get from the university.

**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.

For your briefs, outlines, and quizzes, I expect you to do your own work.

**Office Hours**: I am generally available, so simply email me to set up a time. This is my only class, so I should be flexible. Please feel free to email me to schedule a zoom meeting.

**Accommodations**: Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, [www.dso.ufl.edu/drc/](http://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. “The law school policy on exam delays and accommodations can be found [here](http://www.law.ufl.edu/student-affairs/current-students/forms-applications/exam-delays-accommodations-form).”

**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.

**Laptops**: In a normal semester I prohibit laptop use in class because I find that students tend to spend too much time typing rather than listening and participating. I will tell you when you need to take notes, so although we will need our laptops for this hybrid class, I would ask that you bring a pen and paper on which you can take notes, which leaves your laptop open for reading the case, doing a zoom break-out room, or other activities.

**Class Recordings**: Students may not take, circulate, or post photos or videos of classroom discussions, whether they are in-person, hybrid, or completely online. Students failing to follow this rule will be referred to the College of Law Honor Code Council and the University’s Office of Student Conduct and Conflict Resolution.

**Course Evaluations**: All students are expected to complete any course evaluations online via GatorEvals. I assure you that I take seriously the comments that are made as I continue to strive to make the course useful for you.

**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 | 4.0 |
| A- | 3.67 |
| B+ | 3.33 |
| B | 3.0 |
| B- | 2.67 |
| C+ | 2.33 |
| C | 2.0 |
| C- | 1.67 |
| D+ | 1.33 |
| D | 1.0 |
| D- | 0.67 |
| E | 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 of B or below, please come see me after the exam to discuss specific challenges you may have.

**Covid Practices**: Many students will have face-to-face instructional sessions to accomplish the student learning objectives of this course. In response to COVID-19, the following policies and requirements are in place to maintain your learning environment and to enhance the safety of our in-classroom interactions. I may take noncompliance into account when grading students or determining if a student may remain in the course.

* You are required to wear approved face coverings at all times during class and within buildings. Following and enforcing these policies and requirements are all of our responsibility. Failure to do so will lead to a report to the Office of Student Conduct and Conflict Resolution. You also will no longer be permitted on the UF Law campus. Finally, Dean Inman will also report your noncompliance to the relevant state board of bar examiners.
* This course has been assigned a physical classroom with enough capacity to maintain physical distancing (6 feet between individuals) requirements. Please utilize designated seats and maintain appropriate spacing between students. Please do not move desks or stations.
* Sanitizing supplies are available in the classroom if you wish to wipe down your desks prior to sitting down and at the end of the class.
* Be mindful of how to properly enter and exit the classroom.  Practice physical distancing to the extent possible when entering and exiting the classroom.
* If you are experiencing COVID-19 symptoms (<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>), please do not come to campus or, if you are already on campus, please immediately leave campus. Please use the UF Health screening system and follow the instructions about when you are able to return to campus.  <https://coronavirus.ufhealth.org/screen-test-protect/covid-19-exposure-and-symptoms-who-do-i-call-if/>.
* Course materials will be provided to you with an excused absence, and you will be given a reasonable amount of time to make up work.<https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/>.”

**Reading Assignments:** These reading assignments are grouped categorically in sections by topic. I have found that it is difficult to stick to a daily calendar of reading assignments, so plan to read 2 cases per day, plus any treatise chapters, unless I indicate otherwise in class. 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)**

**Section 2 – Ownership Interests, the Sticks in the Bundle of Sticks**

Gifts and Sales (1/2 week)

Estates in Land and Future Interests (1 ½ weeks)

Concurrent Estates (1/2 week)

Licenses and Easements (1 week)

Gifts, Bailments, and BFPs (1/2 week)

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

Prescription (1 week)

Nuisance (1/2 week)

Covenants (2 weeks)

Leaseholds (2 weeks)

**Section 4 - Public Limits on Property Rights**

Public Accommodation (1 week)

Non-Discrimination (1 week) (optional)

Constitutional Protections (1 week) (optional)