

**Property Law
DePaul University College of Law
(Spring 2009)**

Syllabus

- Meeting Time and Location:** Weds. and Fri., 1:00-2:40 p.m., Lewis 905
- Faculty Information:** Professor Allison Brownell Tirres
atirres@depaul.edu
Lewis 743, phone 312-362-8116
Office Hours: Weds. 3:00-5:00 p.m., or by appointment
- Course Materials:**
- Required:*
- 1) Joseph William Singer, Property Law: Rules, Policies & Practices (4th ed., 2005)
 - 2) Additional course materials will be posted on Blackboard
- Recommended* (and on reserve at Rinn Library):
- 1) Gerald Korngold and Andrew P. Morriss, eds., Property Stories (Foundation Press, 2004)
 - 2) Joseph William Singer, Introduction to Property (2nd ed., Aspen, 2005)

Course Description: This class will introduce you to the basic rules, concepts, and theories of American property law. Among other topics, we will discuss the acquisition of property, the various rights and obligations of property holders, the rules governing shared ownership, and the regulation of property by the state.

Course Requirements: You are expected to be on time, to be prepared, and to be an active and thoughtful participant. Participating means not just speaking, but also actively listening and contributing in useful ways to class discussion. You should be prepared to engage with the reading and contribute to discussion. Excellent participation will allow you to raise your grade, while poor participation may lower it (see attached memo on my participation policy). According to DePaul's official policy, repeated unexcused absences may lead to an involuntary withdrawal and a grade of "FX."

Method of Instruction: I will teach this course using a combination of case analysis, statutory interpretation, lecture, and problem-solving. We will engage not only in discussion but also in problem-solving exercises, which will require you to work actively with your classmates during class period. **For some assignments, I have asked you to work problems in advance of class. Doing so will not only aid your understanding of the course material but will also assist you in preparing for the exam.**

Method of Evaluation: Your grade for this course will be based on your final exam, which is three-hours, open book, and in-class. Your grade also may be raised or lowered based on my participation policy (see attached memo). I will grade your exam essay answers based on the following criteria:

- knowledge of the material in the course
- analysis of the legal and factual issues presented

- clarity, cogency, and organization of argument
- accurate and appropriate use of legal terminology
- quality of expression

Optional Essay: In addition to the final exam, you may *choose* to write a response paper, which – if you take this option – will count as 15% of your final grade (meaning the final exam will count as 85%, rather than 100%, of your final grade). The paper will draw on one particular case that we have read and its companion essay in the volume Property Stories (I will give more detailed instructions in a separate memo). The book is on reserve at the law library. You must email your paper no later than 5 p.m. on the day before we are covering the case in question. Late submissions will not be considered. Here are the relevant dates:

Case	Companion Essay	Date of Coverage in Class	Due Date for Essay
<i>Shelley v. Kraemer</i>	Carol Rose, "Property Stories: <i>Shelley v. Kraemer</i> " [Note: This is required reading for everyone]	February 27	February 26
<i>Sawada v. Endo</i>	Pat Cain, "Two Sisters vs. A Father and Two Sons: The Story of <i>Sawada v. Endo</i> "	March 13	March 12
<i>Javins v. First National Realty Corp.</i>	Richard H. Chused, "Saunders (a.k.a. Javins) v. First National Realty Corporation"	April 1*	March 31
<i>Village of Euclid vs. Ambler Realty Co.</i>	David Callies, " <i>Village of Euclid vs. Ambler Realty Co.</i> "	April 3*	April 2
<i>Lucas v. South Carolina Coastal Council</i>	Vicki Been, "Lucas vs. The Green Machine: Using the Takings Clause to Promote Efficient Regulation?"	April 15*	April 14
<i>Moore vs. Regents of the University of California</i>	Maxwell J. Mehlman, "Moore vs. Regents of the University of California"	April 24*	April 23

* These dates are tentative and will be finalized when I hand out the second half of the syllabus.

Blackboard Site: I will post all handouts, slides, and other course-related materials on the Blackboard site for this course, under the file entitled "Course Documents." I will also post links to current news articles in the "In the News" folder. If you find property-related news stories, feel free to email them to me and I will upload them to this folder.

Schedule of Assignments: This schedule may change to reflect the needs and direction of the class.

Access to Property: Acquisition

Class 1, Jan. 14: Introduction; Acquisition by Conquest

"A Guide to the Book" (xxxix-l)
Johnson v. M'Intosh (3-14)

Class 2, Jan. 16: First Possession

Pierson v. Post, Popov v. Hayashi, Ellif v. Texxon Drilling Co., water (76-91)

Class 3, Jan. 21: Labor and Investment: Wills and Inheritance

International News Service v. Associated Press, *Babbit v. Youpee*, and selected notes (32-45, 63-69)

Work problem 2 (pp. 44-45)

Class 4, Jan. 23: Adverse Possession

Brown v. Gobble, *Nome 2000 vs. Fagerstrom*, and selected notes (179-184, 187-198)

Class 5, Jan. 28: Adverse Possession and Prescriptive Easements

Community Feed Store vs. Northeastern Culvert, and selected notes (202-215)

Work problem 2 (p. 214)

Access to Property: Trespass and Public Accommodations

Class 6, Jan. 30: Trespass and Public Access

State v. Shack, *Uston v. Resorts International*, and selected notes (103-108, 112-113 [notes 1-4], 116-124)

Work problem 1 (p. 122-123)

Class 7, Feb. 4: Public Accommodations and Free Speech

Civil Rights Acts of 1864 and 1866, *Lloyd Corp v. Tanner*, *New Jersey Coalition Against the War v. J.M.B.*, and notes (124-130, 153-164)

Work problem 4 (p. 164)

Transferring Property Rights: Real Estate Transactions

Class 8, Feb. 6: Conveyancing

Notes, *Johnson v. Davis* and notes (743-751 [skim], 767-773 [notes 1-7], 776-783)

Illinois Residential Real Property Disclosure Report [skim] (on Blackboard)

Class 9, Feb. 11: The Recording System

Sabo v. Horvath, and selected notes (783-793, 798-799)

Work problems 1-7 (pp. 792-793)

Relations Among Neighbors

Class 10, Feb. 13: Water Rights, Nuisance

Armstrong v. Francis Corp., *Page County Appliance Center, Inc. v. Honeywell*, *Fontainebleau Hotel Corp. v. 4525 Inc.*, and selected notes (227-242, 271-280 [notes 1-4 only], 282-285)

Work problem 1 (p. 282-283)

Servitudes: Private Agreements and Public Regulation

Class 11, Feb. 18: Easements

Holbrook v. Taylor, Granite Properties Ltd. v. Manns, Finn v. Williams, and selected notes (317-323, 332-350, 364-365)

Class 12, Feb. 20: Covenants [HEAVY READING ADVISORY]

Davidson Bros., Inc. vs. D. Katz & Sons, Whitinsville Plaza v. Kotseas, and notes (365-394)

Work the problem (pp. 393-394)

Class 13, Feb. 25: Residential Subdivisions, Modification and Termination

Evans v. Pollack, Sanborn v. McLean, Riley v. Bear Creek, El Di, Inc. v. Town of Bethany Beach (394-402 [notes 1-3 only], 411-418)

Class 14, Feb. 27: Homeowners Associations; Racially-Restrictive Covenants

Appel v. Presley Companies, Shelley v. Kraemer, and selected notes (425-439, 446-448 [notes 1-4 only])

Required: Carol Rose, "Property Stories: *Shelley v. Kraemer*," in Property Stories (on Blackboard)

Shared Ownership: Property Rights over Time

Class 15, March 4: Estates System

Notes, *Wood vs. Board of County Commissioners, Edwards vs. Bradley* (493-496, 505-518, 521-526)

Class 16, March 6: Future Interests [HEAVY READING ADVISORY]

Central Delaware County vs. Greyhound, Texaco Refining vs. Samowitz, Moore v. Phillips, Lewis v. Searles (450-451, 529-546, 549-557, 561-567)

Shared Ownership: Concurrent and Family Ownership

Class 17, March 11: Common Ownership and Marital Rights

Olivas v. Olivas, Carr v. Deking, Tenhet v. Boswell, and notes (569-584)

Class 18, March 13: Common Ownership continued

Kresha v. Kresha, Sawada v. Endo, O'Brien v. O'Brien, and selected notes (584-607)

Optional: Pat Cain, "Two Sisters vs. A Father and Two Sons: The Story of *Sawada v. Endo*," in Property Stories (on reserve)

Regulation of the Market for Shelter: Leaseholds

Class 19, March 18: Leasehold Estates

Vásquez v. Glassboro Service Association and selected notes (639-658)

Class 20, March 20: Conflicts about Rent and Occupancy

Sommer v. Kridel, Kendall v. Ernest Pestana, Inc., The College Block v. Atlantic Richfield Co., and selected notes (658-669, 679-688, 692-697)

Work problem (p. 669)

SPRING BREAK

Part II of our course will cover these topics:

Landlord/Tenant Law, continued

Zoning

The Takings Clause

Intellectual Property

Property in People

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Participation Policy

On the second day of class (Jan. 16), I will distribute a seating chart, which all students should sign. Starting with our third day of class (Jan. 21), I will arrive in class a few minutes early with a dated copy of the seating chart and a red pen. If you are present and prepared to be called on, you should come to the front of the class and circle your name in red. You will then be counted as "present and prepared" for that day, whether I call on you or not. Students who are more than **2 minutes** late may not check off their names. If you arrive within the two minute grace period, you should come up to circle your name even if class has already started. You may not check off your name at the end of class under any circumstances.

If you are counted as present and prepared for at least 20 of our 26 classes (not counting the first two days of class), your grade will automatically rise by a half-step (e.g., from a B to a B+). (Please note that grades are still subject to the mandatory curve.) Students who check their names but are not prepared may suffer a decrease of one-half grade for bluffing. Students whose raw examination score is a D or an F will not be entitled to have their grades raised under this policy.

If you miss a class for any reason, you cannot be counted as present and prepared. The purpose of the six classes that you are allowed to miss without penalty is to cover for such circumstances, such as illness, family emergency, jury service, etc. I may make an exception to this rule in the case of extraordinary hardship.

Chris LaGrone, the faculty clerk who sits outside my office on the 7th floor of Lewis, will keep a record of your check marks. If you would like to know how many classes you have missed/attended at any point in the semester, you can see him during normal business hours.