PROPERTY
Monday, Wednesday, and Friday
11:20 a.m. to 12:35 p.m.

SYLLABUS

John D. Echeverria
Vermont Law School
Debevoise, Room 315
Phone: 802-831-1386
JEcheverria@vermontlaw.edu
Introduction to the Course

Welcome to Property.

My name. My name is John and that is what I like to be called. No need to try Echeverria or to call me “Professor” or “Sir.”

Office Hours. I welcome conversations with students outside of class, both to offer any assistance I can and to get feedback on the course. Early in the semester I will schedule Property Office Hours at a time convenient to as many of you as possible, In addition, I am happy to set up individual meetings by appointment. We will probably meet via TEAMS.

Reaching Me. My e-mail address is JEcheverria@vermontlaw.edu. My phone is 802-831-1386.

Attendance. Every student is expected to attend every class, unless he or she has a valid excuse for missing a class (religious observance, serious illness, personal emergency, or a reason that is otherwise adequate in my judgment). Absence from class will affect performance on the class quizzes and the final exam and, therefore, will affect a student’s grade. The academic regulations specify penalties for excessive absences from class.

Course Materials. The case book is Dukeminier et al., Property (9th ed. 2018). There are also some supplementary course materials, which I have posted on the course TWEN site.

Exam: There will be a traditional four-hour, in-class examination, consisting mostly of short essay questions. I have posted a copy of last year’s exam (with model answers) on the course TWEN site.

Quizzes. In lieu of a midterm exam, there will be at least three short-answer quizzes over the course of the class. I have posted copies of last year’s quizzes (with model answers) on the course TWEN site.

Grading Policy: The score on the final exam will determine 90% of the final grade; scores on the class quizzes will determine 10% of the final grade. In most instances the final grade will be determined by the combination of scores on the final exam and the quizzes. Class participation is expected from all, and will not normally factor into the final grade. However, grades will be raised slightly to reflect exceptional contributions to the classroom discussion, especially if there is a significant divergence between the classroom contribution and the exam and quiz scores. Thus, a student who is a stellar participant in class, but scores less impressively on the
exam and/or quizzes, might receive a grade that is one level higher than he or she would otherwise receive. (for example, B+ instead of B).

**Initial Assignment:** Prior to the first class, please read pages 1 to 19 in the Dukeminier text.

**Study Aids:** The only materials you need are the Dukeminier casebook and the supplementary course materials which will be posted on the TWEN site. You might find it helpful, purely as a supplement, to dip into Gerald Korngold & Andrew P. Morriss, *Property Stories* (Foundation Press 2009).

**Learning Outcomes.** This is summary of the main course outcomes (knowledge, skills) that a student should attain as a result of taking this course:

- The student should be able to describe fundamental concepts of property law introduced in the course.
- The student should be able to identify and apply property law concepts relevant to a particular factual situation.
- The student should be able to identify multiple property law concepts relevant in different factual situations and synthesize those concepts to assess the positions of potential parties.
- The student should be able to name technical property terms and apply those terms correctly in legal analysis.
- The student should be able to draft basic estates language in a client document (deed or will) that will effectuate the client’s stated objectives.
- The student should develop facility in analyzing basic property hypothetical problems through frequent practice.
- The student should develop introductory knowledge of the historical roots of American property law.
- The student should be able to identify two major influential conceptual approaches to property law and apply the reasoning of those approaches to particular circumstances and policy issues.
- The student should be able to examine the merits reasoning of judicial opinions and articulate why the student agrees or disagrees with that reasoning.
- The student should be able to analyze the impact of property law on social, economic and racial justice and be able to articulate some connections between the law and justice.
- The student should recognize some of the effects of property concepts on the natural environment.
- The student should recognize how property law is related to some other legal areas such as contracts and torts.
Scheduled Class Readings and Discussion (subject to change)

Page references are to Dukeminier et al., Property (9th ed. 2018).

Origins of Property

1. Discovery
   Johnson v. M’Intosh

2. Capture
   Pierson v. Post
   Ghen v. Rich
   Keeble v. Hickeringill

3. Finding
   Armory v. Delamirie
   Hannah v. Peel
   McAvoy v. Medina

4. Labor and Economic Theories of Property
   TWEN
   John Locke, Two Treatises of Government, Book II, Ch. V
   Harold Demsetz, Toward a Theory of Property Rights

Trespass and Adverse Possession

5. Trespass
   TWEN
   Jacque v. Steenberg Homes, Inc.
   State v. Shack
   Restatement (Second) of Torts – select trespass provisions

6. Adverse possession
   Van Valkenburgh v. Lutz

7. Adverse possession (cont’d)
   TWEN
   Mannillo v. Gorski
   Howard v. Kunto

Estates in Land

8. Brief history; fee simple; fee tail; life estate
   White v. Brown
9. Life estate (cont’d); leasehold; defeasible estate  
   *Baker v. Weedon*  
   *Mahrenholz v. County Board*  
   274-96

10. Future Interests: reversion; remainder; possibility of reverter; right of entry  
    *Folsom v. Rowell*  
    313-27

11. Executory interest; trusts  
    *Broadway National Bank v. Adams*  
    327-42

12. Review and Reexamination of Estates in Land

Concurrent Ownership

13. Tenancies in common; joint tenancies; relations among concurrent owners  
    *Riddle v. Harmon*  
    *Harms v. Sprague*  
    *Delfino v. Vealensis*  
    387-416

14. Relations among concurrent owners (cont’d)  
    *Spiller v. Mackereth*  
    *Swartzbaugh v. Sampson*  
    416-26

Family Property

15. Common law marital property  
    *Sawada v. Endo*  
    427-38; 444-47

16. Community property; rights of domestic partners  
    *Obergefell v. Hodges*  
    447-59

Landlords and Tenants

17. Leasehold estates; tenancies at will; holdovers; the lease instrument  
    *Garner v. Gerrish*  
    TWEN

18. Discrimination in housing; delivery of possession  
    *Hannan v. Dusch*  
    471-82

19. Sublease and assignment  
    *Ernst v. Conditt*  
    *Kendall v. Ernest Pestana, Inc.*  
    483-500

20. Defaulting tenants  
    *Berg v. Wiley*  
    500-21
Sommer v. Kridel

21. Landlord’s duties: quiet enjoyment; constructive eviction; implied warranty of habitability
   Village Commons, LLC v. Marion County Prosecutor’s Office
   Hilder v. St. Peter

Transfers of Land

22. Real estate contracts; real estate brokers; statute of frauds
   Hickey v. Green

23. Marketable title; duty to disclose defects; merger; remedies for breach
   Lohmeyer v. Bower
   Stambovsky v. Ackley
   Johnson v. Davis

24. Deeds; Warranties of title
   Frimberger v. Anzellotti
   Rockafellor v. Gray

25. Delivery; mortgage financing; foreclosure
   Rosengrant v. Rosengrant
   Murphy v. Financial Development Corp.

26. Recording systems
   Board of Education v. Hughes
   Lewis v Superior Court

Affirmative Easements

27. Creation of easements and licenses
   Willard v. First Church of Christ, Scientist
   Holbrook v. Taylor

28. Implied easements; easements by necessity; prescriptive easements
   Van Sandt v. Royster
   Othen v. Rosier

29. Assignability; scope
   Miller v. Lutheran Conference & Camp Assn.
   Brown v. Voss
Negative Easements

30. Negative easements; real covenants; equitable servitudes; conservation easements 829-43
   Tulk v. Moxhay

31. Enforcement; constitutional limits; Restatement (Third) of Property 843--65
   Neponsit Property Owners’ Ass’n v. Emigrant Industrial Savings Bank
   Sanborn v. McLean
   Shelley v. Kraemer

32. Condos, coops, and gated communities 873-94
   Nahrstedt v. Lakeside Village Condominium Ass’n

Nuisances

33. Substantive law; remedies 731-42
   Morgan v. High Penn Oil Co.
   Estancias Dallas Corp. v. Schultz

34. Remedies 742-760
   Boomer v. Atlantic Cement Co.
   Spur Industries, Inc. v. Del E. Webb Development Co.

Land Use Regulation

35. The advent of zoning 895-914
   Village of Euclid v. Ambler Realty Co.

36. Nonconforming uses; variances 915-37
   PA Northwestern Distributors, Inc. v. Zoning Hearing Board
   Commons v. Westwood Zoning Board of Adjustment
   Cope v. Inhabitants of the Town of Brunswick
   State v. City of Rochester

37. Constitutional limits 962-72, TWEN
   Village of Belle Terre v. Boraas
   Moore v. City of East Cleveland
   City of Cuyahoga Falls v. Buckeye Community Hope Foundation

Eminent Domain and the Limits of Regulatory Power

38. Condemnation; “public use” 997-1021
   Kelo v. City of New London
39. Physical occupation; regulatory takings

*Cedar Point Nursery v. Hassid*

*Pennsylvania Coal Co. v. Mahon*

40. Regulatory takings (cont’d)

*Penn Central Transportation Co. v. City of New York*

*Lucas v. South Carolina Coastal Council*

41. The “substantially advance” theory; takings of personal property.


*Horne v. Department of Agriculture.*

42. Exactions Takings

*Nollan v. California Coastal Commission*

*Koontz v. St. Johns Water Management District*

**********END**********