

VERMONT LAW AND GRADUATE SCHOOL

Property Law – Spring 2023 (Req. 7160)

Professor: Jess Phelps

Email: jphelps@vermontlaw.edu

Course Time: 3:35 p.m. to 5:20 p.m. (Monday and Wednesday)

Course Room: Oakes 012

Office Hours: I will not have official office hours. That being said, I will be available to you as often as needed. If you email me a few dates/times that work, we will find a time to meet (likely via Teams). I also will plan to stick around immediately after each class to field questions/discuss the material further.

Credits: Four (4) credits

Welcome to Property Law! We will cover an essential subject matter related to your legal education, which includes such topics as housing, real estate, trusts and estates, contracts, land use, environmental law, to name a few issue areas. This class also gives us a chance to reflect on historic decisions and on how lawyers work within this system and can also advocate for improvement.

This class will largely use common law (i.e. case law) to explore property, rather than review of statutes or contracts. We will cover eight general topics (as follows) which correspond to the **learning outcomes** (and chapters of the Coursebook) identified below:

- (1) Explain theories of property law and why property rights are recognized by society (principally chapter 1);
- (2) Identify how real property and personal property are owned (principally chapters 2 and 3);
- (3) Define the types of possessory interests/future estates (principally chapter 5);
- (4) Identify the various types of concurrent ownership and marital property that exist (principally chapter 6);
- (5) Gain familiarity with leasehold estates and the landlord/tenant relationship (principally chapter 7);
- (6) Understand the various steps in a typical real estate transaction, including the related financing) (principally chapters 8 and 9);
- (7) Describe how land use planning and regulation operate within property law (principally chapters 10 and 11); and
- (8) Consider the option of eminent domain/takings (principally chapters 13 and 14).

Learning Outcomes:

The goals of this course involve both the study of property law and theory as well as the development of lawyering skills. As a required course for first year law students, Property Law serves as a vehicle to build understandings of common law (law made by judges and in our cases

largely inherited from the British), federal constitutional law (mostly in the context of the 5th Amendment), and statutory law. Property Law draws upon multiple sources of law and provides a good venue for learning about different sources of law and how they interact. This class should provide you with a basic understanding of these ideas as well as knowledge of substantive property law. The assignments in this class will also help you gain lawyering skills and prepare for the bar examination.

Your Property Law grade will not be based solely on a final exam. There will be research and writing assignments periodically throughout the course. The purpose of these assignments is not only to test your understanding of the substantive law of property, but to strengthen skills that help make successful lawyers. This will include researching laws, writing memos, working in groups, and practicing basic negotiation skills. Finally, this course also incorporates some basic property law theory. Understanding the rules regarding property is useful; understanding why those rules exist and how they might change can be enlightening. Such discussions can help us all become better citizens as well as better lawyers.

Required Coursebook:

Below are the assigned readings for each course session and the current plan for how we will collectively progress through the readings. The basic plan is that we will attempt to cover on average 25 pages of text for each session. For the avoidance of doubt, this course will only test knowledge related to the materials actually covered in the course. It is important to also note that this course will skip certain sections/pages of the Coursebook.

We will use the following coursebook:

JOHN G. SPRANKLING AND RAYMOND R. COLETTA, PROPERTY: A CONTEMPORARY APPROACH (5th ed. 2021).

Unless indicated below on the course schedule, all references to the assigned readings will refer to the pages in the Coursebook.

Additional Optional Materials:

There is absolutely no expectation that you need to read outside sources or read any materials that are referenced in the footnotes or are listed in the Coursebook. If you are, however, looking for additional study aid, you may find the following resource helpful:

REAL PROPERTY IN A NUTSHELL (7th ed., 2016).

Grading:

Your grade for this course will be determined by a final exam, as well as periodic -home assignments. Assignment dates are listed below (in the reading schedule). All assignments will be graded out of 100 points, and the list below shows the percentages that will comprise the final grade. You will be responsible for all assigned readings regardless of whether they are discussed in class. Assignments should always be read prior to the class.

- Adverse Possession Assignment: 15%
- Landlord/Tenant Lease Negotiation: 15%
- Final Examination 70%
- Optional Participation Adjustment (explained more in the Class Participation section).

Final Examination:

70% of your final grade will be based on a typical law school final examination. More details about the timing, format, and content of the examination will be provided during the semester. It will be a closed book examination.

Late Assignments:

You will have an assignment a significant amount of time before each assignment is due. Please schedule your time accordingly and leave yourself with time to complete such assignments. Late submitted work will lose 10 points a day. A fraction of a day counts as a day. For example, if your assignment is due at 1 p.m., and you turn it in at 1.01 p.m., you would still lose 10 points.

Class Participation:

Each student is expected to be actively engaged in each class. Many of the sessions will be interactive as we collectively explore issues. Your participation will contribute to how your fellow classmates learn as well. Your final grade may be lowered or raised by 1/3 step (e.g., A- to A or B+) based on exceptional participation (or lack thereof).

Classroom Environment and Expectations:

You should show up for each class on time and well prepared. We will spend time through the readings in each class. At first, I will initially call on volunteers and I will later have an on-call list.

My approach to teaching emphasizes student participation and engagement. You should take an active role in each class. In each class, I will be asking for your views/thoughts on various subjects. Because we are in a legal discipline, your response should largely focus on legal principles or theory.

To promote an inclusive and constructive learning environment, demeaning, marginalizing, or otherwise negative language and behavior will not be tolerated. Respect and courtesy to your instructor, classmates, and classroom guests, are expected. Language and behaviors that are disruptive, abusive or harassing may result in disciplinary action as specified by VLGS's Code of Student Conduct.

Attendance:

Class attendance is mandatory. Vermont Law and Graduate School Academic Regulation II.A. provides that a student will receive a grade of F-Wd if they are absent from 20% of regularly scheduled classes. You are required to monitor your own compliance with this policy. Two tardies equals one unexcused absence. I consider 3:36 p.m. as tardy.

If additional absences are due to a health issue or some other extraordinary circumstance beyond your control, contact Vice Dean for Students Brennan as a withdrawal or medical leave may be appropriate. Contact Associate Dean of Diversity, Equity, and Inclusion Ryan for any accommodation request. You can review our accommodations policy [here](#).

Amendments to Syllabus:

Any amendments to the syllabus will be made in writing.

COURSE SCHEDULE*

* This is an initial roadmap for readings for the course. This schedule may change as the course progresses.

Class Session	Topic	Readings
Class 1 – Wednesday, January 18	The Concept of Property: Part I	Coursebook pgs. 1-14
Class 2 – Monday, January 23	The Concept of Property: Part II	Coursebook pgs. 14-34
Class 3– Wednesday, January 25	Right to Exclude/Right to Use	Coursebook pgs. 45-63
Class 4 – Monday, January 30	Right to Use/Right to Destroy	Coursebook pgs. 63-87
Class 5 – Wednesday, February 1	Adverse Possession Go Over Case File and Assignment	Coursebook pgs. 89-124
Class 6 – Monday, February 6	Adverse Possession/Vertical Ownership/Water Law	Coursebook pgs. 124-149
Class 7 – Wednesday, February 8	Capture/Finders/Personal Property	Coursebook pgs. 151-176
Class 8 – Monday, February 13	Personal Property/Gifts	Coursebook pgs. 176-212
Class 9 – Wednesday, February 15	Introduction/Fee Simple/Life Estates Adverse Possession Assignment Due	Coursebook pgs. 287-308
Class 10 – Monday, February 20	Fee Tail/Defeasible Estates/Future Interests	Coursebook 308-336
Class 11 – Wednesday, February 22	Other Rules/Rule Against Perpetuity	Coursebook pgs. 336-353
Class 12 – Monday, February 27	Concurrent Ownership	Coursebook pgs. 355-382
Class 13 – Wednesday, March 1	Future Interests Quiz (ungraded) Heirs Property	Heirs Property (Supplemental reading will be provided in advance)
Spring Break (March 6 through March 10)	No Class	No Class
Class 14 – Monday, March 13	Leasing: Part I	Coursebook pgs. 411-439
Class 15 – Wednesday, March 15	Leasing: Part II (Condition of the Premises) Go Over Landlord Tenant Exercise	Coursebook pgs. 439-460
Class 16 – Monday, March 20	Leasing: Part III (Assignment/Sublease/Abandonment)	Coursebook pgs. 460-499
Class 17 – Wednesday, March 22	Selling Property: The Purchase Contract	Coursebook pgs. 501-533
Class 18 – Monday, March 27	Selling Property: The Closing	Coursebook pgs. 534-550

Class 19 – Wednesday, March 29	Title: Part I Landlord/Tenant Exercise Due	Coursebook pgs. 550-568
Class 20 – Monday, April 3	Title: Part II	Coursebook pgs. 569-600
Class 21 – Wednesday, April 5	Financing Property	Coursebook pgs. 601-621
Class 22 – Monday, April 10	Easements	Coursebook pgs. 637-668, 682-684
Class 23 – Wednesday, April 12	Covenants	Coursebook pgs. 684-706
Class 24 – Monday, April 17	Nuisance/Zoning	Coursebook pgs. 735-760
Class 25 – Wednesday, April 19	Zoning	Coursebook pgs. 760-792
Class 26 – Monday, April 24	Eminent Domain	Coursebook pgs. 851-872
Class 27 – Wednesday, April 26	Takings/Exactions	Coursebook pgs. 873-900
Class 28 – Monday, May 1	Takings/Exactions: Part II	Coursebook pgs. 900-927