

**COURSE SYLLABUS  
LEGAL PRINCIPLES OF REAL ESTATE  
SUMMER 2018  
COURSE NUMBER PLAN 6796  
1.5 CREDITS**

**Thursdays, May 31, June 7, 14, and 21 from 11:30 am to 1:30 pm.; Tuesday June 26 from 2:00 pm to 4:00 pm; Thursday June 28 from 11:30am to 1:30 pm.**

**Classroom: Avery 115**

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## **I. COURSE DESCRIPTION**

The purpose of this course is to provide a foundation for understanding the basic legal principles that serve owners, financiers, operators and experts in the real estate industry. As such, it is a broad survey of the relevant basic topics of real estate law and is designed to enable you to appreciate the value and the risks of property ownership and finance, and to gain elementary knowledge of the rationale behind the structure of transactions. The course will examine our contemporary practice, and the fundamentals that have evolved to get us here.

This course is an important component of your preparation for further in-depth exploration of specific topics of real estate industry practice in future semesters. After completing this course, you will be able to work in partnership with real estate lawyers and understand what they are accomplishing and how they are functioning in a variety of situations. Knowing what pitfalls may confront realtors or would-be realtors is essential to your success in the industry, as the liabilities can be enormous unless circumscribed carefully.

## **II. COURSE REQUIREMENTS AND ASSIGNMENTS**

Students are expected to follow the course outline and read the required materials before class, which will assume general familiarity with the materials. The primary materials will be drawn from documents, statutes, articles, and cases selected for the purpose of giving a general background in the applicable principles and legal framework in which real estate transactions are structured. Document forms and statutes can be dense and general familiarity is a necessity if we are to accomplish our goal – thoughtful questions are encouraged and class participation is expected, but intense scrutiny is not critical at this stage. There will be a required final examination (take home or in class tbd) and possible pop quizzes.

## **III. COURSE GRADING CRITERIA**

Course grading criteria are as follows:

- Attendance and in-class participation: 25%
- Final exam: 75%

#### **IV. READINGS**

Students will be expected to complete readings in advance of class. Readings will be posted at least one week in advance on Courseworks, including references from the required textbook.

**Required textbook(s):** Real Property in a Nutshell (Burkhart and Bernhardt)

**Recommended textbook(s):** New York Real Property Law (Rasch) (for reference, not for purchase)

#### **V. COURSE OUTLINE**

##### **Class 1: May 31, 2018 (11:30 a.m.-1:30 p.m.): Basic Elements of Real Property Law**

We will begin with a look at the fundamentals of real property law. The initial questions to be answered are: what is real property, how is it distinguished from other property, and why it matters. What fundamental problems and issues do the legal principles address? We will move on to defining what is included in the concept of real property in our contemporary world. Beyond exploring our intuitive grasp of what property is “real property”, the value of owning real property is greatly impacted by Federal, State and Local legislation and court decisions.

- Defining real property as land, but historically includes tenements (permanent items an owner can hold intrinsically issuing from land: e.g. rents and buildings) and hereditaments (items that go with the land like easements)
- Fixtures: stuck Personal Property
- Tangible Property (move it around) and Intellectual Property (ideas)
- Determination of black acre—land without anything in the way of nirvana
  - Boundary on horizontal (surface) and vertical planes (below ground and above) and space in between
  - Where is it in cosmos
  - How does world know beyond physical inspection—notice ideas and significance
  - Timelessness vs terms of limitation: fee title absolute, less than fee title, ground leases (long term), space leases (shorter term) and lesser estates.
- The Title Discovery Process
  - Register
  - Title report as a commitment
  - Survey
  - Commitment vs Insurance

- Encumbrances to title (recorded and other) whether imposed by public or private or by voluntary or involuntary means
- Deeds of Conveyance (transferring ownership) and taking title
- Quiet enjoyment as a title concept, not a noisy neighbor concept

Required readings: Real Property in a Nutshell, Chapters 1 (pages 3, 24-49), 2 (pages 51-53, 87-91, 95-100, 124-135) 9, 10 (pages 347-355), and scan Chapters 13, 14, 15, 16, 17 and articles and supplemental material

### **Class 2: June 7, 2018 (11:30 a.m.-1:30 p.m.): Owners**

We will discuss the basics of how real estate is generally owned, including reviewing sample documents for commonly used ownership entities.

- Forms of Ownership Entities: people and entities: the basics, primary characteristics for liability and control, tax implications, capacity and disclosure
- Methods of Acquiring or Disposing of Assets/Methods of Acquiring or Disposing of Owners
- Special Purpose Vehicles
- Basic Multiple Owner Issues: internal struggle risks
- Purpose as a guiding principle:
  - Owner use: residential (house, condo, coop) or business
  - Investment Property (earning a return from others)

Required readings: Real Property in a Nutshell, Chapter 3 (pages 119 and 124-126), and review furnished materials containing sample forms of some ownership entity documents and ownership chart.

### **Class 3: June 14, 2017 (11:30 a.m.-1:30 p.m.): Encumbrances of All Kinds**

Now we deal more specifically with encumbrances. Nirvana exists rarely, and an owner's right to do as it pleases is almost always constrained. From governmental agencies to private entities to banks to people who just move in and may (or may not) have a right to be there, various groups may have a say in what owners can do with their land.

- Government/Condemnation or Forfeiture
- Government/Land Use (from zoning to the environment)
- Public Policy Provisions
- Private Covenants
- Easements
- Adverse Possession
- Tenancies and Occupancies (Leases-ground lease and space lease, and Licenses)
- Voluntary Liens: Mortgages and/or Financing [Debt and Ground Lease]

- Involuntary Liens: Judgments, Real Estate Taxes; Construction
- Other Debt Issues
- Boundary Encroachments

Required readings: Real Property in a Nutshell, Chapter 4 (pages 137-149, 157-166, 174-199) 5 (pages 201-224), 6 (pages 247-277), 18, and Scan 20, and review furnished materials

**Class 4/5: Thursday June 21 (11:30 a.m.-1:30 p.m.) and Tuesday June 26, 2018 (2:00 p.m. - 4:00 p.m.): Let's Put This Knowledge into Context: Let's Make a Deal**

We will now walk through a deal – from the initial inspiration to look at a site to a decision to purchase/sell to the closing and beyond.

- Locating a Site for Development or Investment
  - Brokerage and Agency
  - Term sheets (now or later) or Options
  - Writings and Statute of Frauds, Notices
  - Getting exploration underway: **due diligence** sectors to consider and the team you might need: title review, physical inspection, financial review, land use, environmental, contractors, legal, architects and other consultants with expertise.
  - Land use and entitlements (new development or redevelopment)
- The Purchase Agreement Stage to Closing
  - Term Sheets transformed to Purchase Agreements or Options: Basic elements of a purchase agreement, including material terms such as representations and warranties, conditions to closing, liability limitations and specific performance
  - Paying for the purchase—equity, financing, barter (moving to closing)
  - Other items of critical concern before closing
  - Closing process

Required readings: Real Property in a Nutshell, Chapters 7, 8, review furnished form very carefully—it's a purchase and sale agreement to be covered in detail

**Class 6: June 28, 2018 (11:30 a.m.-1:30 p.m.): Operations, Use, and More**

In this last class we will finish up any open items and questions relating to the prior materials and then we will open the door to issues about the operation and use of real property (based on the property acquired in the deal from the prior two classes), as well as special areas of interest, time permitting.

- Insurance: Beyond Title Insurance
- Management and Management Agreements, Agency concepts
- Leasing
- Personal Residences
- Special Problems

Required readings: review furnished materials