

Property Law

(Fall 2006 – LL70903)

Professor Joseph Liu

Boston College Law School

Texts

- . Joseph Singer, Property Law: Rules, Policies, and Practices (4th ed. 2006)
- . Handouts (In Class, Periodically)

Guidelines and Requirements

A. Grading

The grade for the class will be based on a final exam. The exam will be 3.5-hour, open-book, in-class exam. In addition, very high-quality in-class participation (as described in more detail in the next section) can result in a half-grade increase (e.g. from B to B+, from B+ to A-, etc.).

B. Participation

Roughly one-third of the class will be on call for any given class session. I expect these students to have read the assigned materials in some detail and to be prepared to summarize, analyze, and discuss them in class. Students with last names beginning with the letters **A through G** will be on call on **Mondays**; students with last names beginning with **H through M** will be on call on **Wednesdays**; students with last names beginning with **N through Z** will be on call on **Fridays**.

If you know in advance that you will not be prepared, you must give me notice by email by midnight on the night before class or in person on the day of class. Lack of preparation without prior notice may be counted against you in your final grade for the course. Conversely, quality (not quantity of) participation, both volunteered and called-upon, will be counted in your favor.

C. Syllabus and Readings

The syllabus below provides a rough, working outline of the course. However, because it is difficult to predict how quickly we will be able to go through the materials, I will probably make changes, delete certain readings, add others, etc., as the course progresses, so you shouldn't rely on it too much. In addition, I will periodically be distributing supplementary materials in the form of handouts in class.

D. Class Web Site

The class web site is: <http://www2.bc.edu/~liujr/courses/prop06f/index.html> . I have posted there a copy of this syllabus and will also post any in-class handouts and/or powerpoint presentations. I will also periodically send out announcements to your B.C. email account, so please check that account from time to time.

E. Contact Information & Office Hours

E-Mail: liujr@bc.edu
Phone: 617-552-6377
Office: East Wing, 313
Hours: Wednesdays, 3:30-5 p.m. or make an appointment

Syllabus

Introduction

I. The Concept of Property – Introductory Themes

Pierson v. Post (76-79), Notes (82-83), A Guide to the Book (xxxix-l) (skim)

Regulation of Land Use

II. Regulation of Owners' Rights as Against Others – The Right to Exclude

A. Common Law Limits: Public Access

Text (103-04), State v. Shack (104-08), Notes 1-4 (112-14), Problems 1-2 (115), Uston v. Resorts (116-18), Williams (118-20); Williams (120); Notes (120-22), Problems (122-24)

B. Statutory Limits: Anti-Discrimination

Civil Rights Act of 1964 (124-25), Civil Rights Act of 1866 (125-26), Notes (126-30), Llewellyn (130-31), Problems (131-32), New Jersey Law Against Discrimination (132-33), Dale v. Boy Scouts (133-40), Boy Scouts v. Dale (140-42), Notes (142-43), Problems (143-44)

C. Constitutional Limits: Free Speech

Lloyd Corp. v. Tanner (153-58), Hudgens v. NLRB (158), N.J. Coalition Against the War v. JMB Realty (158-60), United Food v. Crystal Mall (160), Notes (161-63), Problems (163-64)

III. Regulation of Relations Among Neighbors – The Right to Use

A. Water (Rights, Flooding)

Text (227-30), Coase (230-31), Notes (231-32), Armstrong v. Francis (232-35), Notes (235-37), Text (237-42), Problems (242)

B. Support (Lateral, Subjacent)

Text (242-43), Noone v. Price (243-47), Notes (247-49), Mass. Gen. L. (250), Mass. Building Code (250), Notes (251), Problem (251), Friendswood Dev. Co. v. Smith-Southwest (251-58), Notes (258-60), Problems (260-61), Llewellyn (261-65), Shapiro (265-269), Singer (269-71)

C. Nuisance (Pollution, Light & Air)

Text (271-73), Page County Appliance v. Honeywell (273-76), Notes (276-82), Problems (282-84), Fontainebleau Hotel v. Forty-Five Twenty-Five (284-85), Text (286-302), Prah v. Maretti (302-07), Notes (307-09), Text (309-16) (skim)

IV. Regulation of Agreements Between Parties – The Power to Dispose

A. Involuntary Transfers (Adverse Possession, Prescriptive Easements)

Text (179), Brown v. Gobble (179-184), Nome 2000 v. Fagerstrom (187-91), Notes (191-98), Text (202-07), Problems (207), Community Feed v. Northeastern Culvert (207-10), Notes (210-14), Problems (214-15)

B. Servitudes

1. *Easements (By Estoppel, Implied, Express (Appurtenant and In Gross))*

Text (317-20), Holbrook v. Taylor (321-23), Text (323), Rase v. Castle Mountain (323-28), Notes (328-32), Problem (332), Text (332-33), Granite Properties v. Manns (333-39), Finn v. Williams (339-40), Notes (340-44), Problem (344), Text (344-50), Green v. Lupo (350-52), Notes (352-353), Cox v. Glenbrook (353-58)

2. *Covenants, Equitable Servitudes*

Text (364-67), Davidson Bros. v. D. Katz (367-76), Whitinsville Plaza v. Kotseas (376-77), Notes (377-93), Problems (393-94), Text (394-95), Evans v. Pollock (395-99), Sanborn v. McLean (399), Riley v. Bear Creek (399-400), Notes (400-04), Problems (44-06), El Di v. Town of Bethany (411-05), Notes (415-16), Text (416-18), Problems (418-19), Mass. Gen. L. (419-20), Blakeley v. Gorin (420-24), Notes (424), Problems (424-25)

3. *Homeowners Associations and Condominiums*

Text (425-29), Appel v. Presley (429-32), Notes (432-33), O'Buck v. Cottonwood (483-85), Neuman v. Grandview (485-88), Notes (488-89), Problems (489-90)

4. *Limitations (Restraints on Alienation)*

Text (450-51), Horse Pond v. Cormier (451-53), Northwest Real Estate v. Serio (453-54), Riste v. Eastern Washington Bible Camp (454-55), Aquarian v. Sholom (455-58), Wolinsky v. Kadison (458-60), Notes (460-65), Problem (465)

C. Estates and Future Interests

1. *Formation and Interpretation*

Text (493-96), Text (496-505) (skim), Text (505-15), Text (515), Wood v. Board (516-18), Cathedral v. Garden (518-20), Edwards v. Bradley (521-23), Notes (523-27)

2. *Limitations (Rule Against Perpetuities, New Estates, Waste)*

Text (529-41), Central Delaware v. Greyhound (541-45), Texaco v. Samowitz (545-46), Cambridge Co. v. East Slope (546-49), Notes (549-53), Problem (553), Text (527-28), Johnson v. Whiton (528-29), Moore v. Phillips (553-56), Notes (556-57), Lewis v. Searles (561-64), Frug (564-65), Notes (565-67)

Regulation of Market for Housing

V. Common Ownership

Text (569-76), Olivas v. Olivas (576-78), Notes (678-79), Problem (579), Text (579), Carr v. Deking (580-81), Tenhet v. Boswell (581-84), Kresha v. Kresha (584-85), Notes (585-87), Problem (87)

VI. Landlord Tenant Law

A. Leasehold Estates

Text (639-42), New Jersey Anti-Eviction Act (642-44), Vasquez v. Glassboro (644-50), Schwartz (650-51), Hale (651-55), Notes (656-57), Problem (658)

B. Rent and Occupancy (Duty to Mitigate, Sublet, Assignment)

Text (658-62), Sommer v. Kridel (663-67), Notes (667-69), Problem (669), Text (679-83), Kendall v. Ernest Pestana (683-88), Slavin v. Rent Control Board (688-90), Notes (690-92), Problems (692)

C. Habitable Premises (Constructive Eviction, Implied Warranty)

Minjak v. Randolph (701-03), Blackett v. Olanoff (703-05), Notes (705-08), Problem (708), Text (708-09), Javins v. First National Realty (709-14), Notes (714-18), Problems (718-20), Text (720-26), Hillview Associates v. Bloomquist (726-30), Imperial Colliery v. Fout (730-32), Notes (733-36), Problem (736-37)

Property and Sovereignty

VII. Zoning

Text (911-915), Text (922), Town of Belleville v. Parrillo's (922-25), Cochran v. Fairfax County (925-30), Notes (930-31), Stone v. City of Wilton (931-35), Notes (935), Problems (935-36)

VIII. Takings

A. Taking

Text (953-57), Miller v. Schoene (957-58), Penn Central v. New York (959-65), Keystone Bituminous v. deBenedictis (965-66), Notes (966-75), Problems (975-76), PruneYard Shopping Center v. Robins (976-79), Loretto v. Teleprompter (979-84), Notes (990), Problems (990-91), Lucas v. South Carolina Coastal Council (991-1004), Palazzolo v. Rhode Island (1004-07), Tahoe-Sierra v. Tahoe Regional (1007-08), Notes (1008-11), Problems (1011-13), Dolan v. City of Tigard (1026-36), Notes (1036-39), Problems (1039-42)

B. Public Use

Kelo v. City of New London (1051-66), Text (1066-67), Problem (1067)