

PROPERTY

CLASS INFORMATION & SYLLABUS

Spring 2016

Professor Gerry W. Beyer

Governor Preston E. Smith Regents Professor of Law

Texas Tech University School of Law

Course Materials

JOHN E. CRIBBET, ET AL., PROPERTY: CASES AND MATERIALS (9th ed. 2008).

BRIAN D. SHANNON & GERRY W. BEYER, SKILLS & VALUES: PROPERTY (2012).

Contact Information:

Office: Law 310

Telephone (office): (806) 834-4270 (If I am not in my office when you call, please leave a message on the voice mail system and I will return your call.)

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Office Hours:

Whenever I am in my office — below are typical times (but subject to change):

Monday through Thursday:

10:00 a.m. to 11:00 a.m. and 2:00 p.m. to 5:00 p.m.

Friday:

No set times.

E-mail List:

It is *essential* that you register for e-mail updates as these updates serve as the official source of all class announcements. Please submit your name and preferred e-mail address to me directly or via e-mail if you are not already receiving class announcements.

Attendance:

- You are expected to attend **every** class meeting.
- **Prompt Arrival:** You are expected to be in your seat and ready to begin when class is scheduled to start. It is unprofessional and impolite to arrive at or after the start of class. Attendance will be taken via TopHat immediately *before* class starts.
- **Tardy:** You are tardy if you (1) arrive late, (2) leave early, or (3) leave in the middle of class and return. Three tardies equates to one absence. (If you are really creative, you could come late, leave and return during class, and then leave early and get one absence in one day even though you are in class for awhile!)
- **Excessive Absences:** Other than in exceptional circumstances, if you accrue eight (8) or more absences, you will be automatically dropped from this course. Notice will be provided after the seventh absence. You may petition for relief from this rule by submitting a sworn affidavit along with supporting materials to document the reason for your absences. Note that your petition must show a justifiable reason for *all* your absences, not just the eighth and subsequent absences.

Class Preparation:

- You must be prepared for every class.
- You must be prepared to discuss the assigned material.
- Your final grade is subject to a one level reduction (e.g., from a B to a C+) for being unprepared.

Technology Etiquette:

- Turn off all mobile communication devices including cell phones prior to the beginning of class.
- Boot up computers before class starts.
- Turn off computer audio.

- Disable distracting screen savers.
- Use an adequately charged battery or a power cord to avoid running out of power and the associated low battery warning noises.
- Do not use your computer for purposes that are not related to class. For example, do not write or reply to e-mail or instant messages, surf the Internet, tweet, work on your Facebook or LinkedIn page, etc.

Syllabus:

Assignments are subject to change. Updates will be sent to all students via e-mail.

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills & Values</u>
	INTRODUCTION		
January 20, 2016	Introduction & Class Procedure Property Defined – Generally	1-18	
January 21, 2016	Property Defined – Generally (continued)	18-34	
January 22, 2016	Tutoring		
January 25, 2016	Attributes of Property – Exclusion Attributes of Property – Disposition	35-56 57-62	
January 26, 2016	Classification of Property Role of Property in Society	63-78 79-99	
	PERSONAL PROPERTY		
January 27, 2016	Personal Property – Introduction Finding	101-102 103-124	1-2
January 28 2016	Finding (continued)	124-140	
January 29, 2016	Tutoring		
February 1, 2016	Bailments	141-148	
February 2, 2016	Unauthorized Possession	149-168	
February 3, 2016	Improving Another’s Property by Mistake	193-202	

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills & Values</u>
February 4, 2016	Tutoring		
February 5, 2016	No class		
February 8, 2016	Bona Fide Purchase	203-212	
February 9, 2016	Donative Transfers – Overview	213-219	7-9
February 10, 2016	Engagement Gifts Gifts Causa Mortis	219-222 222-235	
February 11, 2016	Tutoring		
February 12, 2016	No class		
February 15, 2016	Transfers Upon Death	258-267	
TBD	Review Session & Practice Examination		
	PRIVATE INTERESTS IN LAND – INTRODUCTION		
February 16, 2016	Overview Historical Background	237 238-250	
	FREEHOLD ESTATES & FUTURE INTERESTS		
February 17, 2016	Classification of Interests Fee Simple Absolute Life Estates	251-254 254-258 267-281	59-64
February 18, 2016	Defeasible Estates	281-300	
February 19, 2016	Tutoring		
February 22, 2016	Fee Simple Conditional and the Fee Tail Introduction to Future Interests Future Interests in the Grantor	300-305 307-308 308-312	
February 23, 2016	Remainders	312-323	
February 24, 2016	Remainders (continued)	312-323	
February 25, 2016	Rule in Shelley’s Case Doctrine of Worthier Title	323-328 328-334	
February 26, 2016 [two hour class; noon to 2:00 p.m.]	Executory Interests	334-346	

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills & Values</u>
February 29, 2016	Rule Against Perpetuities	355-370	
March 1, 2016	Rule Against Perpetuities (continued)		
	CONCURRENT OWNERSHIP		
March 2, 2016	Introduction Marital Estates	371-379 379-385	37-40
March 3, 2016	Creation and Attributes of Concurrent Ownership	385-395	17-19
March 4, 2016	Tutoring		
March 7, 2016	Creation and Attributes of Concurrent Ownership (continued) Rights and Duties of Concurrent Ownership Condominiums and Time-Shares [end of material covered on mid-term exam]	415-420 420-428 432-434	
TBD	Review Session for Mid-Term Examination		
	LANDLORD-TENANT		
March 8, 2016	Introduction Creation of Leasehold Estates Access to Rental Market	449 449-458 458-468	69-73
March 9, 2016	Tenant's Right to Possession Duration	468-474 474-488	
March 10, 2016	Condition of Premises Rent	488-501 501-507	
March 11, 2016	Tutoring		
March 14-18, 2016	Spring Break – No classes		
March 21, 2016	Use of Premises Injuries to Persons and Property	507; 512; 516- 517 517-525	
March 22, 2016	Lessor's Remedies Against Defaulting Tenant Transfers	525; 531-537; 543-546 546-547; 551- 552; 557-558	
	EASEMENTS, PROFITS, AND LICENSES		
March 23, 2016	Introduction Express Creation	559-561	119-121

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills & Values</u>
		561-571	
March 24, 2016	Express Creation (continued) Creation by Implication	575-576 576-589	
March 25, 2016	Mid-Term Examination – 8:30 a.m. to 10:30 a.m.		
March 28 2016	Day of No Classes		
March 29, 2016	Creation by Prescription	589-603	
March 30, 2016	Scope and Transferability	603-612	
March 31, 2016	Termination	612-617	
April 1, 2016	Tutoring		
	REAL COVENANTS & EQUITABLE SERVITUDES		
April 4, 2016	Introduction Elements of Real Covenants	617-618 618-634	127-129
April 5, 2016	Equitable Servitudes	634-642	
April 6, 2016	Equitable Servitudes (continued) Limitations on Covenants and Servitudes	642-646 652-661	
April 7, 2016	Construction, Administration, and Termination	662-672	
April 8, 2016	Tutoring		
	NON-VOLITIONAL (NATURAL) INTERESTS		
April 11, 2016	Nuisance Support of Land	673-679 691-698	49-53
April 12, 2016	Drainage Interests in Water – Introduction	698-706 706	
April 13, 2016	Water in Watercourses	706-713	
April 14, 2016	Groundwater Oil & Gas	714-716 724-725	
April 15, 2016	Airspace & Sunlight	730-750	
	PUBLIC INTERESTS IN LAND [Eminent domain and related issues are covered in your Constitutional Law course]		

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills & Values</u>
	THE REAL ESTATE CONTRACT & RELATED MATTERS		
April 18, 2016	Introduction Statute of Frauds “Standard” Written Contract	915-918 918-27; 936-45 956-964	81-85
April 19, 2016	Time for Performance Financing Arrangements	964-973 974-986	95-100
April 20, 2016	Financing Arrangements (continued) Merchantable Title	1002-1007	
April 21, 2016	Tutoring		
April 25, 2016	Tender Assignment Remedies	1016-1019 1019-1026 1029-1036	
April 26, 2016	Tutoring		
April 27, 2016	Equitable Conversion Risk of Loss Role of the Real Estate Broker	1036; 1042 1055-1057	
April 28, 2016	The Deed	1069-1071; 1076-1080; 1089-1096; 1103-1109	
April 29, 2016	The Recording System Skills & Values: Property exercise due at 5:00 p.m.	1129-1138; 1146-1155; 1158-1165; 1180-1184	105-108
May 2, 2016	The Recording System (continued)		
May 3, 2016	Methods of Title Assurance (including adverse possession)	168-178; 1189; 1206- 1208; 1213- 1215; 1230- 1240; 1246- 1248; 1254- 1263; 1280- 1282	
May 4, 2016	Methods of Title Assurance (including adverse possession) (continued)		
May 5, 2016	Conclusion		

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills & Values</u>
	Examination Information		
May 6, 2016	Review Session for Final Examination – Time TBD		
May 9, 2016	<i>Final Examination</i> -- 8:00 a.m. to 10:00 a.m.		

Course Purpose:

The purpose of this course is to provide students with an introduction to the basic law governing real and personal property in the United States.

Expected Learning Outcomes:

Upon completion of this course, a student will have acquired knowledge of how to handle a variety of matters concerning real and personal property. The specific tasks the student will be able to complete include the following:

- Determine the attributes of property.
- Understand the role of property in society.
- Determine the ownership of found personal property.
- Ascertain liability in bailment situations.
- Prioritize the rights of parties when personal property is purchased, possessed by someone without the owner’s authority, or improved by mistake.
- Realize whether a person has made a donative transfer either while alive or at death.
- Classify freehold estates and determine rights of the parties.
- Classify future interests and determine rights of the parties.
- Determine rights of parties when property is concurrently owned.
- Comprehend the basic operation of landlord-tenant law.
- Know how to create, classify, interpret, and enforce easements, profits, and licenses.
- Identify, distinguish, interpret, and enforce real covenants and equitable servitudes.

- Obtain a basic understanding of non-volitional interests in land including the right to be free from nuisance, support of land, drainage of surface water, water in watercourses, groundwater, minerals, and airspace.
- Comprehend how to buy, sell, and transfer real property.
- Resolve conflicts that may arise in the transfer of real property.
- Know the elements of a valid deed.
- Prioritized the rights of conflicting claimants to the same parcel of real property.
- Understand methods of assuring title to real property.

Method of Assessing Learning Outcomes:

Examinations:

Three exams will be given:

- a one hour practice exam on a date to be determined [0% of grade]
- a two hour mid-term exam on March 25, 2016 [50% of grade]
- a two hour final examination on May 9, 2016 [50% of grade].

The exams will include essay and objective questions.

Experiential Exercises:

You will prepare an assignment from the *SKILLS & VALUES: PROPERTY* book. Further instructions will be provided in class regarding the procedure to sign up for an exercise as an individual, in teams, or as a group. The due date is April 29, 2016 at 5:00 p.m. but early submissions are encouraged.

The exercise will be scored on a twenty point scale from +10 to -10. This score will then be computed with your examination scores to determine your grade.

Criteria for Grade Determination:

Examinations:

The following factors will be considered in grading the examinations: accuracy (e.g., legally correct), completeness (e.g., number of issues spotted), and analysis (including organization, clarity, quality, and presentation).

Experiential Exercises:

The exercises will be evaluated on whether the materials you submit represent a comprehensive, professional, and thoughtful completion of the tasks (in other words, as if you are an attorney handling the cases for your clients).

Academic Honesty

It is the aim of the faculty of Texas Tech University to foster a spirit of complete honesty and high standard of integrity. The attempt of students to present as their own any work not honestly performed is regarded by the faculty and administration as a most serious offense and renders the offenders liable to serious consequences, possibly suspension.

“Scholastic dishonesty” includes, but it not limited to, cheating, plagiarism, collusion, falsifying academic records, misrepresenting facts, and any act designed to give unfair academic advantage to the student (such as, but not limited to, submission of essentially the same written assignment for two courses without the prior permission of the instructor) or the attempt to commit such an act.

a. “Cheating” includes, but is not limited to:

- (1) Copying from another student’s test paper;
- (2) Using during a test materials not authorized by the person giving the test;
- (3) Failing to comply with instructions given by the person administering the test;
- (4) Possession during a test of materials that are not authorized by the person giving the test, such as class notes or specifically designed “crib notes.” The presence of textbooks constitutes a violation only if they have been specifically prohibited by the person administering the test.
- (5) Using, buying, stealing, transporting, or soliciting in whole or in part the contents of an unadministered test, test key, homework solution, or computer program;
- (6) Collaborating with or seeking aid or receiving assistance from another student or individual during a test or in conjunction with other assignment without authority;
- (7) Discussing the contents of an examination with another student who will take the examination;

- (8) Divulging the contents of an examination for the purpose of preserving questions for use by another when the instructor has designated that the examination is not to be removed from the examination room or not to be returned to or kept by the student;
- (9) Substituting for another person or permitting another person to substitute for oneself to take a course, a test, or any course-related assignment;
- (10) Paying or offering money or other valuable thing to or coercing another person to obtain an unadministered test, test key, homework solution, or computer program, or information about an unadministered test, test key, homework solution, or computer program;
- (11) Falsifying research data, laboratory reports, and/or other academic work offered for credit; and
- (12) Taking, keeping, misplacing, or damaging the property of the university or of another if the student knows or reasonably should know that an unfair academic advantage would be gained by such conduct.

b. “Plagiarism” includes, but is not limited to, the appropriation of, buying, receiving as a gift, or obtaining by any means material that is attributable in whole or in part to another source, including words, ideas, illustrations, structure, computer code, other expression and media, and presenting that material as one’s own academic work being offered for credit.

c. “Collusion” includes, but is not limited to, the unauthorized collaboration with another person in preparing academic assignments offered for credit or collaboration with another person to commit a violation of any section of the rules on scholastic dishonesty.

d. “Falsifying academic records” includes, but is not limited to, altering or assisting in the altering of any official record of the university and/or submitting false information or omitting requested information that is required for or related to any academic record of the university. Academic records include, but are not limited to, applications for admission, the awarding of a degree, grade reports, test papers, registration materials, grade change forms, and reporting forms used by the Office of the Registrar. A former student who engages in such conduct is subject to a bar against readmission, revocation of a degree, and withdrawal of a diploma.

e. “Misrepresenting facts” to the university or an agent of the university includes, but is not limited to, providing false grades or resumes; providing false or misleading information in an effort to receive a postponement or an extension on a test, quiz, or other

assignment for the purpose of obtaining an academic or financial benefit for oneself or another individual; or providing false or misleading information in an effort to injure another student academically or financially.

Disability Statement: OP 34.22

Any student who, because of a disability, may require special arrangements in order to meet the course requirements should contact the Assistant Dean for Student Life John Delony as soon as possible to make any necessary arrangements. Students should present appropriate verification from Student Disability Services during the Assistant Dean's office hours. Please note that classroom accommodations cannot be provided to a student until appropriate verification from Student Disability Services has been submitted. For additional information, you may contact the Student Disability Services office in 335 West Hall or 806-742-2405.

Observance of a Religious Holy Day

Texas House Bill 256 requires institutions of higher education to excuse a student from attending classes or other required activities, including examinations, for the observance of a religious holy day. The student shall also be excused for time necessary to travel. An institution may not penalize the student for the absence and allows for the student to take an exam or complete an assignment from which the student is excused. No prior notification of the instructor is required. However, the student must notify the professor at some point to make sure that the absence is not counted against him or her.