

# PROPERTY

## CLASS INFORMATION & SYLLABUS

Spring 2017

*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 (9<sup>th</sup> 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.)

Fax: (978) 285-7941

Cell/Text: (806) 392-6998

Home: (806) 698-9334 (If I am not home, please leave a message with Margaret or on our answering machine and I will return your call.)

E-mail: [gwb@ProfessorBeyer.com](mailto:gwb@ProfessorBeyer.com)

Website: <http://www.ProfessorBeyer.com>

Blog: <http://www.BeyerBlog.com>

Twitter: Gerry\_Beyer

### 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:**

Your grade will be affected by class participation (details below) and attendance. I reserve the right to raise or lower your grade based on class participation and/or absences. I also reserve the right to lower grades for students whose absences exceed my policy. This includes the possibility of being removed from the class prior to the final exam and not receiving credit for the course.

- 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.
- Twenty percent of your grade is based on short in-class quizzes.

The American Bar Association standards for accrediting law schools contain a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310(b)(1), a “credit hour” is “an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time....” This is a four-credit class, meaning that we will spend four 50-minute blocks of time together in the classroom each week and you will spend at least two hours working outside of the classroom for each class. All told, applying the ABA standard to the number of credits offered for this class, you should plan on spending a minimum of **12 hours per week (4 in class and at least 8 preparing for class) on course-related work.**

**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, tweet, etc.

**Syllabus:**

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

Classes marked with an asterisk will be (1) video classes via Panopto, (2) substituted for tutoring sessions, or (3) made up during evening sessions (times and dates to be announced).

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills &amp; Values</u>
	<b>INTRODUCTION</b>		
January 18, 2017	Introduction & Class Procedure Property Defined – Generally	1-18	
January 19, 2017	Property Defined – Generally (continued)	18-34	

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills &amp; Values</u>
January 23, 2017	Attributes of Property – Exclusion Attributes of Property – Disposition	35-56 57-62	
January 24, 2017	Classification of Property Role of Property in Society	63-78 79-99	
	<b>PERSONAL PROPERTY</b>		
January 25, 2017	Personal Property – Introduction Finding	101-102 103-124	1-2
January 26, 2017	Finding (continued)	124-140	
January 30, 2017	Bailments	141-148	
January 31, 2017	Unauthorized Possession	149-168	
February 1, 2017	Improving Another’s Property by Mistake	193-202	
February 2, 2017*	Bona Fide Purchase	203-212	
February 6, 2017	Donative Transfers – Overview	213-219	7-9
February 7, 2017	Engagement Gifts Gifts Causa Mortis	219-222 222-235	
February 8, 2017	Transfers Upon Death	258-267	
TBD	<b>Review Session &amp; Practice Examination</b>		
	<b>PRIVATE INTERESTS IN LAND – INTRODUCTION</b>		
February 9, 2017	Overview Historical Background	237 238-250	
	<b>FREEHOLD ESTATES &amp; FUTURE INTERESTS</b>		
February 13, 2017	Classification of Interests Fee Simple Absolute Life Estates	251-254 254-258 267-281	59-64
February 14, 2017	Defeasible Estates	281-300	
February 15, 2017	Fee Simple Conditional and the Fee Tail Introduction to Future Interests Future Interests in the Grantor	300-305 307-308 308-312	
February 16, 2017	Remainders	312-323	

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills &amp; Values</u>
February 20, 2017	Remainders (continued)	312-323	
February 21, 2017	Rule in Shelley’s Case Doctrine of Worthier Title	323-328 328-334	
February 22, 2017	Executory Interests	334-346	
February 23, 2017	Executory Interests	Reread 334-346	
February 27, 2017	Rule Against Perpetuities	355-370	
February 28, 2017	Rule Against Perpetuities (continued)		
	<b>CONCURRENT OWNERSHIP</b>		
March 1, 2017	Introduction Marital Estates	371-379 379-385	37-40
March 2, 2017	Creation and Attributes of Concurrent Ownership	385-395	17-19
March 6, 2017	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	<b>Review Session for Mid-Term Examination</b>		
	<b>LANDLORD-TENANT</b>		
March 7, 2017	Introduction Creation of Leasehold Estates Access to Rental Market	449 449-458 458-468	69-73
March 8, 2017	Tenant’s Right to Possession Duration	468-474 474-488	
March 9, 2017*	Condition of Premises Rent	488-501 501-507	
March 13-17, 2017	Spring Break – No classes		
March 20, 2017	Use of Premises Injuries to Persons and Property	507; 512; 516-517 517-525	
March 21, 2017*	Lessor’s Remedies Against Defaulting Tenant  Transfers	525; 531-537; 543-546 546-547; 551-552; 557-558	

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills &amp; Values</u>
	<b>EASEMENTS, PROFITS, AND LICENSES</b>		
March 22, 2017*	Introduction Express Creation	559-561 561-571	119-121
March 23, 2017*	Express Creation (continued) Creation by Implication	575-576 576-589	
March 27, 2017	Creation by Prescription	589-603	
March 28, 2017	Scope and Transferability	603-612	
March 28, 2017	<b>Mid-Term Examination</b> – 2:30 p.m. to 4:30 p.m.		
March 29, 2017	Termination	612-617	
	<b>REAL COVENANTS &amp; EQUITABLE SERVITUDES</b>		
March 30, 2017	Introduction Elements of Real Covenants	617-618 618-634	127-129
April 3, 2017	Equitable Servitudes	634-642	
April 4, 2017	Equitable Servitudes (continued) Limitations on Covenants and Servitudes	642-646 652-661	
April 5, 2017	Construction, Administration, and Termination	662-672	
	<b>NON-VOLITIONAL (NATURAL) INTERESTS</b>		
April 6, 2017	Nuisance Support of Land	673-679 691-698	49-53
April 10, 2017	Drainage Interests in Water – Introduction	698-706 706	
April 11, 2017	Water in Watercourses	706-713	
April 12, 2017	Groundwater Oil & Gas	714-716 724-725	
April 13, 2017*	Airspace & Sunlight	730-750	
April 17, 2017	Day of No classes		
	<b>PUBLIC INTERESTS IN LAND</b> [Eminent domain and related issues are covered in your Constitutional Law course]		

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills &amp; Values</u>
	<b>THE REAL ESTATE CONTRACT &amp; RELATED MATTERS</b>		
April 18, 2017	Introduction Statute of Frauds “Standard” Written Contract	915-918 918-27; 936-45 956-964	81-85
April 19, 2017	Time for Performance Financing Arrangements	964-973 974-986	95-100
April 20, 2017	Financing Arrangements (continued) Merchantable Title	1002-1007	
April 24, 2017	Tender Assignment Remedies	1016-1019 1019-1026 1029-1036	
April 25, 2017*	Equitable Conversion Risk of Loss Role of the Real Estate Broker	1036; 1042 1055-1057	
April 26, 2017	The Deed	1069-1071; 1076-1080; 1089-1096; 1103-1109	
April 27, 2017	The Recording System	1129-1138; 1146-1155; 1158-1165; 1180-1184	105-108
April 28, 2017	<b>Skills &amp; Values: Property exercise due at 5:00 p.m.</b>		
May 1, 2017	The Recording System (continued)		
May 2, 2017	Methods of Title Assurance (including adverse possession)	168-178; 1189; 1206- 1208; 1213- 1215; 1230- 1240; 1246- 1248; 1254- 1263; 1280- 1282	
May 3, 2017	Methods of Title Assurance (including adverse possession) (continued)		
May 4, 2017	Conclusion Examination Information		
	<b>Review Session for Final Examination – Time TBD</b>		

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills &amp; Values</u>
May 8, 2017	<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.
- Critique 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.
- Recognize 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.
- Explain the basic operation of landlord-tenant law.
- Summarize how to create, classify, interpret, and enforce easements, profits, and licenses.
- Identify, distinguish, interpret, and enforce real covenants and equitable servitudes.
- Discuss 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.
- Describe how to buy, sell, and transfer real property.



- Resolve conflicts that may arise in the transfer of real property.
- Identify the elements of a valid deed.
- Prioritize the rights of conflicting claimants to the same parcel of real property.
- Explain the 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 28, 2017 [40% of grade]
- a two hour final examination on May 8, 2017 [40% of grade].

The exams will include essay and objective questions.

#### **Class Preparation:**

- Brief in-class quizzes (not announced ahead of time) (20%).

#### **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 28, 2017 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 and class preparation scores to determine your grade.

### **Criteria for Grade Determination:**

#### **Examinations and Quizzes:**

The following factors will be considered in grading the examinations and quizzes: 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**

Academic honesty is required at all times. Please review Texas Tech OP 34.12. Like the legal profession, the School of Law is governed by ethical principles, which are set forth in the School of Law's Honor Code. Attempts by students to present as their own work any work that they have not honestly performed is regarded by the faculty and administration as a serious offense and renders offenders liable to serious consequences, including even suspension or expulsion from the School of Law.

### **Disability Statement: OP 34.22**

Any student who, because of disability, may require special arrangements in order to meet the course requirements should contact John Delony, Associate Dean for Student Life, as soon as possible to make any necessary arrangements. Students should present appropriate verification from Student Disability Services to Dean Delony. 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 at 335 West Hall or 806-742-2405.

### **Observance of a Religious Holy Day**

Section 51.911(b) of the Texas Education Code, which is reflected in TTU OP 34.19, provides excused absences for religious holy days. A student who intends to observe a religious holy day should make that intention known in writing to the professor prior to the absence. A student who is absent from class for the observation of a religious holy day shall be allowed to take an examination or complete an assignment scheduled for that day within a reasonable time after the absence. A student who is excused from class under this policy may not be penalized for the absence; however, the professor may respond appropriately if the student fails to complete the assignment satisfactorily.

## **Discrimination, Harassment, and Sexual Violence**

Texas Tech University is committed to providing and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from gender and/or sex discrimination of any kind. Sexual assault, discrimination, harassment, and other Title IX violations are not tolerated by the University. Report any incidents to the Office for Student Rights & Resolution, (806)-742-SAFE (7233) or file a report online at [titleix.ttu.edu/students](http://titleix.ttu.edu/students). Faculty and staff members at TTU are committed to connecting you to resources on campus. Some of these available resources are: TTU Student Counseling Center, 806-742-3674, <https://www.depts.ttu.edu/scc/> (Provides confidential support on campus.) TTU 24-hour Crisis Helpline, 806-742-5555, (Assists students who are experiencing a mental health or interpersonal violence crisis. If you call the helpline, you will speak with a mental health counselor.) Voice of Hope Lubbock Rape Crisis Center, 806-763-7273, [voiceofhopelubbock.org](http://voiceofhopelubbock.org) (24-hour hotline that provides support for survivors of sexual violence.) The Risk, Intervention, Safety and Education (RISE) Office, 806-742-2110, <https://www.depts.ttu.edu/rise/> (Provides a range of resources and support options focused on prevention education and student wellness.) Texas Tech Police Department, 806-742-3931, <http://www.depts.ttu.edu/ttpd/> (To report criminal activity that occurs on or near Texas Tech campus.)