

PROPERTY

CLASS INFORMATION & SYLLABUS

Spring 2020

Dr. 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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E-mail: gwb@ProfessorBeyer.com

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

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

Twitter: Gerry_Beyer

Instagram: Prof_Gerry

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.
- **Absences due to Religious Holy Days and University Business:** Section 51.911(b) of the Texas Education Code provides excused absences for religious holy days, and Texas Tech Operating Policy and Procedure 34.04 provides excused absences for students conducting official university business, with proper notice to the faculty member. Please notify me if either of these will affect your attendance.

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, post on Instagram, 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.

Note: Classes marked with an asterisk (*) will be video classes via Panopto.

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills & Values</u>
	INTRODUCTION		
January 14, 2020	Introduction & Class Procedure Property Defined – Generally	1-18	
January 15, 2020	Property Defined – Generally (continued)	18-34	
January 16, 2020*	Attributes of Property – Exclusion Attributes of Property – Disposition	35-56 57-62	
January 20, 2020	Martin Luther King, Jr. Day – no class		
January 21, 2020	Classification of Property Role of Property in Society	63-78 79-99	
	PERSONAL PROPERTY		
January 22, 2020	Personal Property – Introduction Finding	101-102 103-124	1-2
January 23, 2020	Finding (continued)	124-140	
January 27, 2020	Bailments	141-148	
January 28, 2020	Unauthorized Possession	149-168	
January 29, 2020	Improving Another’s Property by Mistake	193-202	
January 30, 2020	Bona Fide Purchase	203-212	
February 3, 2020	Donative Transfers – Overview	213-219	7-9
February 4, 2020	Engagement Gifts Gifts Causa Mortis	219-222 222-235	
February 5, 2020	Transfers Upon Death	258-267	
TBD	Review Session & Practice Examination		
	PRIVATE INTERESTS IN LAND – INTRODUCTION		
February 6, 2020	Overview Historical Background	237 238-250	
	FREEHOLD ESTATES & FUTURE INTERESTS		
February 10, 2020	Classification of Interests Fee Simple Absolute Life Estates	251-254 254-258 267-281	59-64

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills & Values</u>
February 11, 2020	Defeasible Estates	281-300	
February 12, 2020	Fee Simple Conditional and the Fee Tail Introduction to Future Interests Future Interests in the Grantor	300-305 307-308 308-312	
February 13, 2020	Remainders	312-323	
February 17, 2020	Remainders (continued)	312-323	
February 18, 2020	Rule in Shelley's Case Doctrine of Worthier Title	323-328 332-334	
February 19, 2020	Executory Interests	334-346	
February 20, 2020 Class starts at 1:15 p.m.	Executory Interests (continued)	Reread 334-346	
February 24, 2020	Rule Against Perpetuities	355-370	
February 25, 2020	Rule Against Perpetuities (continued)		
	CONCURRENT OWNERSHIP		
February 26, 2020	Introduction Marital Estates	371-379 379-385	37-40
February 27, 2020	Creation and Attributes of Concurrent Ownership	385-395	17-19
March 2, 2020	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 3, 2020	Introduction Creation of Leasehold Estates Access to Rental Market	449 449-458 458-468	69-73
March 4, 2020*	Tenant's Right to Possession Duration	468-474 474-488	
March 5, 2020	Mid-Term Examination – 1:00 p.m. to 3:00 p.m.		
March 9, 2020*	Condition of Premises Rent	488-501 501-507	

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills & Values</u>
March 10, 2020	Use of Premises Injuries to Persons and Property	507; 512; 516-517 517-525	
March 11, 2020	Lessor's Remedies Against Defaulting Tenant Transfers	525; 531-537; 543-546 546-547; 551-552; 557-558	
EASEMENTS, PROFITS, AND LICENSES			
March 12, 2020	Introduction Express Creation	559-561 561-571	119-121
March 16-20, 2020	Spring Break – No classes		
March 23, 2020	Express Creation (continued) Creation by Implication	575-576 576-589	
March 24, 2020	Creation by Prescription	589-603	
March 25, 2020	Scope and Transferability Termination	603-612 612=617	
REAL COVENANTS & EQUITABLE SERVITUDES			
March 26, 2020	Introduction Elements of Real Covenants	617-618 618-634	127-129
March 30, 2020	Equitable Servitudes	634-642	
March 31, 2020	Equitable Servitudes (continued) Limitations on Covenants and Servitudes	642-646 652-661	
April 1, 2020	Construction, Administration, and Termination	662-672	
NON-VOLITIONAL (NATURAL) INTERESTS			
April 2, 2020	Nuisance Support of Land	673-679 691-698	49-53
April 6, 2020	Drainage Interests in Water – Introduction	698-706 706	
April 7, 2020	Water in Watercourses	706-713	
April 8, 2020	Groundwater Oil & Gas	714-716 724-725	
April 9, 2020.	Airspace & Sunlight	730-750	

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills & Values</u>
April 13, 2020	Day of No Classes		
	PUBLIC INTERESTS IN LAND [Eminent domain and related issues are covered in your Constitutional Law course]		
	THE REAL ESTATE CONTRACT & RELATED MATTERS		
April 14, 2020	Introduction Statute of Frauds “Standard” Written Contract	915-918 918-27; 936-45 956-964	81-85
April 15, 2020	Time for Performance Financing Arrangements	964-973 974-986	95-100
April 16, 2020	Financing Arrangements (continued) Merchantable Title Skills & Values: Property exercise due at 5:00 p.m.	1002-1007	
April 20, 2020	Tender Assignment Remedies	1016-1019 1019-1026 1029-1036	
April 21, 2020	Equitable Conversion Risk of Loss Role of the Real Estate Broker	1036; 1042 1055-1057	
April 22, 2020	The Deed	1069-1071; 1076-1080; 1089-1096; 1103-1109	
April 23, 2020	The Recording System	1129-38; 1146-55; 1158-65; 1180-84	105-108
April 27, 2020	The Recording System (continued)		
April 28, 2020*	Methods of Title Assurance (including adverse possession)	168-178; 1189; 1206-1208; 1213-15; 1230-40; 1246-48; 1254-63; 1280-82	
April 29, 2020	Methods of Title Assurance (including adverse possession (continued))		

<u>Date</u>	<u>Topic</u>	<u>Text</u>	<u>Skills & Values</u>
April 30, 2020	Conclusion Examination Information		
	Review Session for Final Examination – Time TBD		
May 12, 2020	<i>Final Examination</i> – 1:00 p.m. to 3:00 p.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 5, 2020 [40% of grade]
- a two hour final examination on May 12, 2020 [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 16, 2020 at 5:00 p.m. but early submissions are encouraged.

You may earn up to 30 “bonus” points on this assignment. These points will then be added to your examination and class preparation scores to determine your grade. Note that only exceptional papers will earn points in the upper range of points. Also note that for students on the “edge” between two grades, earning or failing to earn these points can be the determining factor in which grade the student receives.

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 Integrity

Texas Tech OP 34.12 addresses academic integrity and explains that “academic integrity is taking responsibility for one’s own class and/or course work, being individually accountable, and demonstrating intellectual honesty and ethical behavior.” Students must understand the principles of academic integrity and abide by them in all course work at the University; therefore, please review OP 34.12 for definitions of “cheating,” “plagiarism,” “collusion,” “falsifying academic records,” and “misrepresenting facts.” Like the legal profession, the School of Law is governed by ethical principles, which are set forth in the Texas Tech Law Honor Code and the Student Code of Professional Conduct. Please refer to these Codes so that you are familiar with the policies governing academic integrity. 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 Sofia Chapman, the Associate Dean for Student Life, as soon as possible to make any necessary arrangements. Students should present appropriate verification from Student Disability Services to Associate Dean Chapman. 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 (806)-742-SAFE (7233) or file a report online at <https://www.depts.ttu.edu/titleix/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 (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).

Civility Statement

Texas Tech University is a community of faculty, students, and staff that enjoys an expectation of cooperation, professionalism, and civility during the conduct of all forms

of university business, including the conduct of student–student and student–faculty interactions in and out of the classroom. Further, the classroom is a setting in which an exchange of ideas and creative thinking should be encouraged and where intellectual growth and development are fostered. Students who disrupt this classroom mission by rude, sarcastic, threatening, abusive or obscene language and/or behavior will be subject to appropriate sanctions according to university policy. Likewise, faculty members are expected to maintain the highest standards of professionalism in all interactions with all constituents of the university.

Diversity Statement

By its very design, some courses may engage topics that some students might find difficult and/or controversial. It is important that the instructor and students create an environment that values and nurtures individual and group differences and encourages engagement and interaction. Understanding and respecting multiple experiences and perspectives will serve to challenge and stimulate all participants to learn about others, about the larger world, and about themselves. By promoting diversity and intellectual exchange not only mirrors society as it is but also model society as it should and can be.

LGBTQIA Statement

Within the Center for Campus Life, the Office of LGBTQIA serves the Texas Tech community through facilitation and leadership of programming and advocacy efforts. This work is aimed at strengthening the lesbian, gay, bisexual, transgender, queer, intersex, and asexual (LGBTQIA) community and sustaining an inclusive campus that welcomes people of all sexual orientations, gender identities, and gender expressions. LGBTQIA resources are available through the Office of LGBTQIA within the Center for Campus Life, Student Union Building Room 201, 806.742.5433.