

PROPERTY

CLASS INFORMATION & SYLLABUS

Spring 2023

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).

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

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

Twitter: Gerry_Beyer

Instagram: Prof_Gerry

Office Hours (in-person or Zoom):

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

Monday through Thursday:

9:00 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. Please place my two e-mail addresses, gwb@professorbeyer.com and gerry.beyer@ttu.edu, in your “safe senders” list.

Attendance:

Your grade will be affected by class participation (details below) and attendance (in-person or virtual). 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 or on-line and ready to begin when class is scheduled to start. It is unprofessional and impolite to arrive or log-in 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.
- **Student Absence for Observance of 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.

- **Student Absence for Official University Business:** Department chairpersons, directors, or others responsible for a student representing the university on officially approved trips must notify the student's instructors of the departure and return schedules. The instructor so notified must not penalize the student, although the student is responsible for material missed. Any student absent because of university business must be allowed to make up missed work within a reasonable span of time or have alternate grades substituted for work due to an excused absence. Students absent because of university business must be given the same privileges as other students.

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 taken via TopHat.

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 unless you are using them for TopHat.
- 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.

<u>Date</u>	<u>Topic</u>	<u>Text</u>
	INTRODUCTION	
January 11, 2023	Introduction & Class Procedure Property Defined – Generally	1-18
January 12, 2023	Property Defined – Generally (continued)	18-34
January 16, 2023	MLK Day – No Class	
January 17, 2023	Attributes of Property – Exclusion Attributes of Property – Disposition	35-56 57-62
January 18, 2023	Classification of Property Role of Property in Society	63-78 79-99
	PERSONAL PROPERTY	
January 19, 2023	Personal Property – Introduction Finding	101-102 103-124
January 23, 2023	Finding (continued)	124-140
January 24, 2023	Bailments	141-148
January 25, 2023	Unauthorized Possession	149-168
January 26, 2023	Improving Another’s Property by Mistake	193-202
January 30, 2023	Bona Fide Purchase	203-212
January 31, 2023	Donative Transfers – Overview	213-219
February 1, 2023	Engagement Gifts Gifts Causa Mortis	219-222 222-235
February 2, 2023	Transfers Upon Death	258-267

<u>Date</u>	<u>Topic</u>	<u>Text</u>
TBA	Review Session & Practice for Mid-Term	
	PRIVATE INTERESTS IN LAND – INTRODUCTION	
February 6, 2023	Overview Historical Background	237 238-250
	FREEHOLD ESTATES & FUTURE INTERESTS	
February 7, 2023	Classification of Interests Fee Simple Absolute Life Estates	251-254 254-258 267-281
February 8, 2023	Defeasible Estates	281-300
February 9, 2023	Fee Simple Conditional and the Fee Tail Introduction to Future Interests Future Interests in the Grantor	300-305 307-308 308-312
February 13, 2023	Remainders	312-323
February 14, 2023	Remainders (continued)	312-323
February 15, 2023	Rule in Shelley’s Case Doctrine of Worthier Title	323-328 332-334
February 16, 2023 Class starts at 1:15 p.m.	Executory Interests	334-346
February 20, 2023	Executory Interests (continued)	Reread 334-346
February 21, 2023	Rule Against Perpetuities	355-370
February 22, 2023	Rule Against Perpetuities (continued)	
	CONCURRENT OWNERSHIP	
February 23, 2023	Introduction Marital Estates	371-379 379-385
February 27, 2023	Creation and Attributes of Concurrent Ownership	385-395

<u>Date</u>	<u>Topic</u>	<u>Text</u>
February 28, 2023	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	
March 1, 2023	Study Day for Mid-Term	
March 2, 2023	Study Day for Mid-Term	
March 3, 2023	Mid-Term Examination – 1-3 p.m.	
	LANDLORD-TENANT	
March 6, 2023	Introduction Creation of Leasehold Estates Access to Rental Market	449 449-458 458-468
March 7, 2023	Tenant’s Right to Possession Duration	468-474 474-488
March 8, 2023	Condition of Premises Rent	488-501 501-507
March 9, 2023	Use of Premises Injuries to Persons and Property Lessor’s Remedies Against Defaulting Tenant Transfers	507; 512; 516-517 517-525 525; 531-537; 543-546 546-547; 551-552; 557-58
March 13-17, 2023	Spring Break – No Classes	
	EASEMENTS, PROFITS, AND LICENSES	
March 20, 2023	Introduction Express Creation	559-561 561-571
March 21, 2023	Express Creation (continued) Creation by Implication	575-576 576-589
March 22, 2023	Creation by Prescription	589-603
March 23, 2023	Scope and Transferability Termination	603-612 612=617

<u>Date</u>	<u>Topic</u>	<u>Text</u>
	REAL COVENANTS & EQUITABLE SERVITUDES	
March 27, 2023	Introduction Elements of Real Covenants	617-618 618-634
March 28, 2023	Equitable Servitudes	634-642
March 29, 2023	Equitable Servitudes (continued) Limitations on Covenants and Servitudes	642-646 652-661
March 30, 2023	Construction, Administration, and Termination	662-672
	NON-VOLITIONAL (NATURAL) INTERESTS	
April 3, 2023	Nuisance Support of Land	673-679 691-698
April 4, 2023	Interests in Water – Introduction Drainage	698-706 706
April 5, 2023	Water in Watercourses	706-713
April 6, 2023	Groundwater Oil & Gas	714-716 724-725
April 10, 2023	Day of No Classes	
April 11, 2023.	Airspace & Sunlight	730-750
	PUBLIC INTERESTS IN LAND [Eminent domain and related issues are covered in your Constitutional Law course]	
	THE REAL ESTATE CONTRACT & RELATED MATTERS	
April 12, 2023	Introduction Statute of Frauds “Standard” Written Contract	915-918 918-27 956-964
April 13, 2023	Time for Performance Financing Arrangements	964-973 979-986
April 17, 2023	Financing Arrangements (continued) Merchantable Title.	1002-1007
April 18, 2023	Tender Assignment Remedies	1016-1019 1019-1026 1029-1036

<u>Date</u>	<u>Topic</u>	<u>Text</u>
April 19, 2023	Equitable Conversion Risk of Loss Role of the Real Estate Broker	1036; 1042 1055-1057
April 20, 2023	The Deed	1069-1071; 1076-1080; 1089-1096; 1103-1109
April 24, 2023	The Recording System	1129-37; 1180-84
April 25, 2023 [no in-person class; recorded lecture]	The Recording System (continued)	
April 26, 2023	Methods of Title Assurance (including adverse possession)	1189; 1206-1208; 1213-15; 1230-40; 1246-48; 1254- 63; 1280-82
April 27, 2023	Methods of Title Assurance (including adverse possession (continued) Conclusion Examination Information	
TBD	Review Session for Final Examination	
May 9, 2023	Final Examination – 8:00 – 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 TBA [0% of grade],
- a two-hour mid-term exam on March 3, 2023 [40% of grade], and
- a two-hour final examination on May 9, 2023 [40% of grade].

The exams will include essay and objective questions.

Class Preparation:

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

Criteria for Grade Determination:

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).

Academic Integrity

[Texas Tech University Operating Policy/Procedure 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 School of Law’s [Honor Code](#) and the [University’s Student Handbook](#), which includes the Code of 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.

Academic integrity is a personal choice to abide by the standards of intellectual honesty and responsibility. Because education is a shared effort to achieve learning through the exchange of ideas, students, faculty, and staff have the collective responsibility to build mutual trust and respect. Ethical behavior and independent thought are essential for the highest level of academic achievement, which then must be measured. Academic achievement includes scholarship, teaching, and learning, all of which are shared endeavors. Grades are a device used to quantify the successful accumulation of knowledge through learning. Adhering to the standards of academic integrity ensures grades are earned honestly. Academic integrity is the foundation upon which students, faculty, and staff build their educational and professional careers.

Reasonable Accommodations for Students with Disabilities

Any student who, because of disability, may require special arrangements in order to meet the course requirements should contact the Registrar's Office at the School of Law and provide appropriate verification from Student Disability Services. 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.

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).

Wellness Resources:

The Law School wants you to be successful—academically and personally. Thus, your well-being matters. Please seek help when you need it and encourage others to seek

help as well. The Associate Dean for Student Life and other members of the Law School community work with law students to resolve issues that might impact their wellness and ultimate success. Never hesitate to reach out!

Click [here](#) to view a “toolkit” with more information about the Law School’s wellness resources including counseling services, assistance with food/supplies, etc. Additional information about student support is located [here](#).

Also, don’t forget that the Texas Lawyers Assistance Program (TLAP) from the State Bar of Texas is a resource—not only for practicing lawyers, but for law students as well. TLAP offers confidential crisis counseling, referrals, and peer assistance relating to alcohol and drug abuse, mental health issues, and wellness. Contact TLAP through <https://tlaphelps.org> or by calling 800.343.8527 (available 24/7).

For an emergency after business hours, please call 911. And for a non-emergency situation, keep in mind that the TTU Crisis Helpline (806.742.5555) is available 24 hours a day, 365 days a year.

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.

Classroom Engagement & Interaction Statement

By its very design, some law 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 Allyship

The Office of LGBTQIA Education & Engagement 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. I identify as an ally to the LGBTQIA community, and I am available to listen and support you in an affirming manner. LGBTQIA services and resources are available through the Office of LGBTQIA Education & Engagement, Student Union Building Room 201, 806.742.5433, <https://www.depts.ttu.edu/lgbtqia/>.

COVID-19 University Mandated Syllabus Statements

Potential Changes: The University will continue to monitor CDC, State, and TTU System guidelines in continuing to manage the campus implications of COVID-19. Any changes affecting class policies or delivery modality will be in accordance with those guidelines and announced as soon as possible. If Texas Tech University campus operations are required to change because of health concerns related to the COVID-19 pandemic, it is possible that this course will move to a fully online delivery format. Should that be necessary, students will be advised of technical and equipment requirements, such as web cam, microphone, and remote proctoring software.

CDC Guidelines: Texas Tech University strongly recommends students adhere to CDC guidelines on COVID-19, including obtaining COVID-19 vaccinations and boosters when eligible. You can find information about the COVID-19 testing and vaccine availability [here](#).

Face Coverings: Face coverings are optional in all TTU facilities but are strongly recommended by CDC Guidelines for public indoor settings such as classrooms on campus. Face coverings are required for all visitors to the Student Health Clinic.

Social Distancing: There is not a mandated social distancing protocol for classroom seating, but social distancing is recommended in rooms that will enable it.

Personal Hygiene: Please continue practicing good personal hygiene including frequent hand washing, the use of hand sanitizers after touching high-touch points (e.g., door handles, shared keyboards, etc.), and covering your face when coughing or sneezing.

Illness-related Absences: Student absences due to illness are to be considered as they were prior to the pandemic, with consideration given to the fact that students who

are isolating with COVID-19 and students who are quarantining for symptoms or direct exposure may have extended days of absence, if necessary. Makeup opportunities will be provided in a reasonable timeframe.

In-Person Office Hours: For in-person office hours, masks are optional and welcome. Virtual office hours are also available.