

PROPERTY

CLASS INFORMATION & SYLLABUS

Fall 2007

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 (8th ed. 2002).

Contact Information:

Office: Law 310

Telephone (office): (806) 742-3990, ext. 302 (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

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

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

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

Office Hours:

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

Monday through Thursday:

11:00 a.m. to noon; 1:00 p.m. to 1:30 p.m.; 3:00 p.m. to 4:30 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.
- **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 such as cellular telephones and pagers 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, work on your Facebook or MySpace page, etc.

Syllabus:

Assignments are subject to change. The syllabus below is current as of August 20, 2007. Updates will be sent to all students via e-mail.

<u>Date</u>	<u>Topic</u>	<u>Text</u>
	INTRODUCTION	
August 20, 2007	Introduction & Class Procedure Property Law Practice Property Defined – Generally	79-81 1-16
August 21, 2007	Property Defined – Generally (continued) Attributes of Property	16-22 23-37
August 22, 2007	Traditional Classification of Property Non-traditional Classification of Property	38-49 50-62
August 23, 2007	Role of Property in Society	63-78
	PERSONAL PROPERTY	
August 27, 2007	Personal Property – Introduction Finding	83-84 85-99
August 28, 2007	Finding (continued)	99-113
August 29, 2007	Bailments	114-121
August 30, 2007	Bona Fide Purchase Outlining Seminar (optional) 4:00 p.m. to 5:00 p.m. – Room 105	122-131
September 3, 2007	Labor Day – No class	
September 4, 2007	Unauthorized Possession	132-150
September 5, 2007	Improving Another’s Property by Mistake	151-159
September 6, 2007	Donative Transfers – Overview	160-166

<u>Date</u>	<u>Topic</u>	<u>Text</u>
September 10, 2007	Gifts Causa Mortis Engagement Gifts	166-179 179-181
September 11, 2007	Transfers Upon Death Examination Skills Seminar (optional) 4:00 p.m. to 5:00 p.m. – Room 109	203-212
	PRIVATE INTERESTS IN LAND – INTRODUCTION	
September 12, 2007	Overview Historical Background	183-184 185-196
	FREEHOLD ESTATES	
September 13, 2007	Classification of Interests Fee Simple Absolute Life Estates	197-200 200-203 212-225
September 17, 2007	Defeasible Estates	225-247
September 18, 2007	Fee Simple Conditional and the Fee Tail Introduction to Future Interests Practice Exam 4:00 p.m. to 5:00 p.m. – Room 109	247-252 253
	FUTURE INTERESTS	
September 19, 2007	Remainders	253-262
September 20, 2007	Rule in Shelley’s Case Doctrine of Worthier Title	262-268 268-274
September 24, 2007	Executory Interests	274-289
September 25, 2007	Executory Interests (continued)	274-289
September 26, 2007	Rule Against Perpetuities	298-310
	CONCURRENT OWNERSHIP	
September 27, 2007	Introduction Marital Estates	311-319 319-324
October 1, 2007	General Aspects of Concurrent Ownership	325-336

<u>Date</u>	<u>Topic</u>	<u>Text</u>
October 2, 2007	Creation and Attributes of Concurrent Ownership Condominiums and Time-Shares [end of material covered on mid-term exam]	337-342, 349-352, 364-369 369-371
	LANDLORD-TENANT	
October 3, 2007	Introduction Creation of Leasehold Estates Access to Rental Market	385 385-394 395-404
October 4, 2007	Tenant's Right to Possession Duration	404-409 409-423
October 8, 2007	Condition of Premises Rent	423-435 435-441
October 9, 2007	Use of Premises Injuries to Persons and Property	441, 445-446, 450-451 451-457
October 10, 2007	Lessor's Remedies Against Defaulting Tenant Transfers	458, 464-469, 476-478 478, 484, 487, 489- 490
	EASEMENTS, PROFITS, AND LICENSES	
October 11, 2007	Introduction Express Creation	491-493 493-502
October 12, 2007	Mid-Term Examination 3:00 p.m. to 5:30 p.m.	
October 15, 2007	Express Creation (continued) Creation by Implication	512-513 514-525
October 16, 2007	Creation by Prescription	526-539
October 17, 2007	Scope and Transferability	539-548
October 18, 2007	Termination	548-552
	REAL COVENANTS & EQUITABLE SERVITUDES	
October 22, 2007	Introduction Elements of Real Covenants	553 553-569
October 23, 2007	Equitable Servitudes	569-580
October 24, 2007	Equitable Servitudes (continued) Limitations on Covenants and Servitudes	587-595

<u>Date</u>	<u>Topic</u>	<u>Text</u>
October 25, 2007	Construction, Administration, and Termination	595-606
	NON-VOLITIONAL (NATURAL) INTERESTS	
October 29, 2007	Nuisance Support of Land	608-614 626-633
October 30, 2007	Drainage Interests in Water – Introduction	633-641 641
October 31, 2007	Water in Watercourses	641-651
November 1, 2007	Prof. Beyer at Fall ACTEC Meeting – No class	
November 5, 2007	ACTEC Meeting Update Groundwater Oil & Gas	651-654 663-664
November 6, 2007	Airspace & Sunlight	669-690
	PUBLIC INTERESTS IN LAND	
November 7, 2007	Introduction Zoning	691-692 693-703
November 8, 2007	Regulation of the Subdivision of Land Reservation of Land for Public Acquisition Public Ownership	706-708 711-714 714-720
November 12, 2007	Regulatory Takings	745-771
November 13, 2007	Regulatory Takings (continued)	771-803
	THE REAL ESTATE CONTRACT & RELATED MATTERS	
November 14, 2007	Introduction Statute of Frauds “Standard” Written Contract	847-850 850-859, 867-876 887-891
November 15, 2007	Time for Performance Financing Arrangements	891-901 901-913
November 19, 2007	Merchantable Title Tender Assignment Remedies	928-932, 935-936 941-944 945-950 954-960

<u>Date</u>	<u>Topic</u>	<u>Text</u>
November 20, 2007	Equitable Conversion Risk of Loss Role of the Real Estate Broker	960-961, 966-967 979-981 991-993, 999-1000, 1005-1008
November 21, 2007	Thanksgiving Wednesday – No class	
November 22, 2007	Thanksgiving – No class	
November 26, 2007	The Deed	1009-1011, 1016- 1020, 1029-1036, 1042-1050
November 27, 2006	The Recording System	1069-1077, 1078- 1079, 1086-1095, 1098-1104, 1119-1123
November 28, 2007	Methods of Title Assurance	1128-1129, 1135- 1146, 1168-1179, 1184-1187, 1192- 1197, 1213-1215, 1220-1226
November 29, 2007	Conclusion Examination Information	
December 4, 2007	Final Examination 1:00 p.m. to 3:30 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.
- 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.
- Determine the validity of zoning regulations.
- Ascertain whether a regulatory taking has occurred.
- 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:

Three exams will be given: a 1 hour practice exam on September 18, 2007, a 2½ hour mid-term exam on October 12, 2007, and a 2½ hour final examination on December 4, 2007. The exams will include essay and objective questions.

Criteria for Grade Determination:

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).

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.

Accommodations for Disabilities

Students with disabilities requiring accommodations should contact Prof. Calvin L. Lewis, Associate Dean for Student Affairs & Diversity (if accommodations need to remain confidential), or me (if the accommodations need not remain confidential).

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.