

PROPERTY

CLASS INFORMATION & SYLLABUS

Spring 2024

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 10:00 a.m., 11:00 a.m. to noon, 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. 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.
- **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 8, 2024	Introduction & Class Procedure Property Defined – Generally	1-18
January 9, 2024	Property Defined – Generally (continued)	18-34
January 10, 2024	Attributes of Property – Exclusion Attributes of Property – Disposition	35-56 57-62
January 11, 2024	Classification of Property Role of Property in Society	63-78 79-99
January 15, 2024	MLK Day – No Class	
	PERSONAL PROPERTY	
January 16, 2024	Personal Property – Introduction Finding	101-102 103-124
January 17, 2024	Finding (continued)	124-140
January 18, 2024 [Class starts at 1:15 p.m.]	Bailments	141-148
January 22, 2024	Unauthorized Possession	149-168
January 23, 2024	Improving Another’s Property by Mistake	193-202
January 24, 2024	Bona Fide Purchase	203-212
January 25, 2024	Donative Transfers – Overview	213-219
January 29, 2024	Engagement Gifts Gifts Causa Mortis	219-222 222-235

<u>Date</u>	<u>Topic</u>	<u>Text</u>
January 30, 2024	Transfers Upon Death	258-267
TBA	Review Session & Practice for Mid-Term	
	PRIVATE INTERESTS IN LAND – INTRODUCTION	
January 31, 2024	Overview Historical Background	237 238-250
	FREEHOLD ESTATES & FUTURE INTERESTS	
February 1, 2024	Classification of Interests Fee Simple Absolute Life Estates	251-254 254-258 267-281
February 5, 2024	Defeasible Estates	281-300
February 6, 2024	Fee Simple Conditional and the Fee Tail Introduction to Future Interests Future Interests in the Grantor	300-305 307-308 308-312
February 7, 2024	Remainders	312-323
February 8, 2024	Remainders (continued)	312-323
February 12, 2024	Rule in Shelley’s Case Doctrine of Worthier Title	323-328 332-334
February 13, 2024	Executory Interests	334-346
February 14, 2024	Executory Interests (continued)	Reread 334-346
February 15, 2024	Rule Against Perpetuities	355-370
February 19, 2024	Rule Against Perpetuities (continued)	
	CONCURRENT OWNERSHIP	
February 20, 2024	Introduction Marital Estates	371-379 379-385
February 21, 2024	Creation and Attributes of Concurrent Ownership	385-395

<u>Date</u>	<u>Topic</u>	<u>Text</u>
February 22, 2024	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
	LANDLORD-TENANT	
February 26, 2024	Introduction Creation of Leasehold Estates Access to Rental Market	449 449-458 458-468
February 27, 2024	Tenant's Right to Possession Duration	468-474 474-488
February 28, 2024	Review Session for Mid-Term – Part 1	
February 29, 2024	Review Session for Mid-Term – Part 2	
March 1, 2024	Mid-Term Examination – 1-3 p.m.	
March 4, 2024	Condition of Premises Rent	488-501 501-507
	EASEMENTS, PROFITS, AND LICENSES	
March 5, 2024	Introduction Express Creation	559-561 561-571
March 6, 2024 [Virtual class]	Express Creation (continued) Creation by Implication	575-576 576-589
March 7, 2024 [Virtual class]	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 11-15, 2024	Spring Break – No Classes	
March 18, 2024	Creation by Prescription	589-603
March 19, 2024	Scope and Transferability Termination	603-612 612-617

<u>Date</u>	<u>Topic</u>	<u>Text</u>
	REAL COVENANTS & EQUITABLE SERVITUDES	
March 20, 2024	Introduction Elements of Real Covenants	617-618 618-634
March 21, 2024	Equitable Servitudes	634-642
March 25, 2024	Equitable Servitudes (continued) Limitations on Covenants and Servitudes	642-646 652-661
March 26, 2024	Construction, Administration, and Termination	662-672
	NON-VOLITIONAL (NATURAL) INTERESTS	
March 27, 2024	Nuisance Support of Land	673-679 691-698
March 28, 2024	Interests in Water – Introduction Drainage	698-706 706
April 1, 2024	Day of No Classes	
April 2, 2024	Water in Watercourses	706-713
April 3, 2024	Groundwater Oil & Gas	714-716 724-725
April 4, 2024.	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 8, 2024	Introduction Statute of Frauds “Standard” Written Contract	915-918 918-27 956-964
April 9, 2024	Time for Performance Financing Arrangements	964-973 979-986
April 10, 2024	Financing Arrangements (continued) Merchantable Title.	1002-1007
April 11, 2024	Tender Assignment Remedies	1016-1019 1019-1026 1029-1036

<u>Date</u>	<u>Topic</u>	<u>Text</u>
April 15, 2024	Equitable Conversion Risk of Loss Role of the Real Estate Broker	1036; 1042 1055-1057
April 16, 2024	The Deed	1069-1071; 1076-1080; 1089-1096; 1103-1109
April 17, 2024	The Recording System	1129-37; 1180-84
April 18, 2024	The Recording System (continued)	
April 22, 2024	Methods of Title Assurance (including adverse possession)	1189; 1206-1208; 1213-15; 1230-40; 1246-48; 1254-63; 1280-82
April 23, 2024 [Virtual class]]	Methods of Title Assurance (including adverse possession (continued))	
April 24, 2024	Review Session for Final Examination – Part 1	
April 25, 2024	Review Session for Final Examination – Part 2	
April 30, 2024	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 1, 2024 [40% of grade], and
- a two-hour final examination on April 30, 2024 [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.

Accommodations for Pregnant Students

Any pregnant student will be provided reasonable accommodations as would be provided a student with a temporary medical condition including: 1) ability to maintain a safe distance from hazardous substances, areas, or activities; 2) excused absences; 3) ability to make up missed assignments or assessments; 4) additional time for assignment completion; and 5) access to instructional materials and recordings of classes for which the student has an excused absence.

Any student who is pregnant or parenting a child up to age 18 may contact Texas Tech's designated Pregnancy and Parenting Liaison to discuss support available through the University. The Liaison can be reached by emailing titleix@ttu.edu or calling 742-7233. Additional information is available [online](#).

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 support and wellness resources. Additional information about student support is located [here](#).

Any student who faces challenges securing their food or housing and believes this may affect their performance is urged to contact the Associate Dean for Student Life for support. Furthermore, the Law School maintains a Food Pantry that is available to all law students. Law students may also visit [Raider Red’s Food Pantry](#) on main campus, which is located in Doak 117.

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). Additionally, the Center for Collegiate Recovery Communities at Texas tech offers students in recovery a nurturing and supportive community. Click [here](#) to learn more about the Center and the services it provides to students.

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.

Student Support Statement

The Office of Campus Access and Engagement works across Texas Tech University to foster, affirm, celebrate, engage, and strengthen all student communities. For more information about services, opportunities for participation, and ways in which Texas Tech can support your success in law school, please call main campus at (806) 742-7025 or contact the Law School's Associate Dean for Student Life.

COVID-19 University Mandated Syllabus Statements

Please keep in mind the following related to COVID-19: (1) Texas Tech University strongly recommends that all faculty, staff, and students be vaccinated for COVID-19 and receive the boosters(s) when eligible; (2) Face coverings are optional in all TTU facilities; (3) Students who are isolating with COVID-19 will be provided with makeup opportunities in a reasonable timeframe; and (4) Students will be advised in the event a class needs to shift online for a limited time period.