PROPERTY
Fall, 2006
(L10.3014.003)

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INITIAL SYLLABUS

This syllabus is basically the same as those I have used in the past for property as a 1L course. It sets forth the areas I expect to cover and the order in which I expect to cover them and provides an accurate guide to the course. Because you are 2Ls, however, I expect to be able to cover more materials than is indicated below, so you should expect some additions and revisions as the semester proceeds.

Please note that supplemental readings will be available only on Blackboard (BB).

I will try to give you a detailed syllabus for each section of the course and will post one for the first section during Early Interview Week. I hope that they will enable you to prepare more efficiently for class, thereby allowing us to focus discussion on the areas that I believe are most important and interesting. These syllabi may also help you in review by reminding you of what I consider most important in the reading. If you have any doubts about what the assignment is for the next class, please do not hesitate to ask at the end of class.

I. Acquiring Property

A. Sovereignty

Johnson v. M’Intosh: Facts and Attorneys’ Arguments (BB)
Casebook (CB) 1-19 (Johnson v. M’Intosh)
Oneida v. Oneida Indian Nation (BB)
Mabo v. State of Queensland (BB)

B. The Significance of Labor and Possession

Eads v. Brazelton, Popov v. Hayashi (BB)
Excerpt from Eggertsson, “Open Access v. Common Property” (BB)

C. The Meaning of Ownership and Title in Land

CB 125-129 and 139-147 (for background)
Tapscott v. Lessee of Cobbs (BB)
D. Economic Perspectives on the Role of Property Rights

Excerpt from Demsetz, “Some Aspects of Property Rights,” 9 J. Law & Econ. 61, 62 (1966) (On BB)
CB 41-59 (Notes on economic analysis)
Parker & Edgerton v. Foote (BB)
Prah v. Maretti (BB)
Acton v. Blundell (BB)
Evans v. Merriweather (BB)
Mario Vargas Llosa, Foreword to The Other Path (BB)
Excerpt from Hernando de Soto, The Other Path, pp. 158-163 (BB)
Pennsylvania Coal Company v. Sanderson and Wife (BB)

II. Common Law Estates

A. Estates in Land

Fee Simple
CB 197-209 (read for understanding/background only)
CB 209-215

Life Estate
CB 221-239 (White v. Brown, Baker v. Weedon)

B. Controlling the Future

Defeasible Estates
CB 240-242 (starting at “Defeasible Estates” and ending at “Mahrenholz”)
White v. Metropolitan Dade County (BB)

Rule Against Perpetuities
CB 302-304
First Universalist Society of North Adams v. Boland (BB)
CB 313-329 (The Symphony Space, Inc. v. Pergola Properties, Inc.)

Trusts
CB 287-288
  *Farkas v. Williams, Blankenship v. Boyle* (BB)

C. **Concurrent Estates**

CB 339-345  
CB 345-350 (*Riddle v. Harmon*)  
CB 358-369 (*Delfino v. Vealencis*)

III. **Takings**

A. **The Concept of a “Taking”**

  **Categorical Rules**
  CB 1116-1140 (*Loretto v. Teleprompter Manhattan CATV Corp.* (with *Causby* note case) and *Hadacheck v. Sebastian*)
  CB 960-969 (*Euclid v. Ambler Realty*)
  CB 1171-1193 (*Lucas v. South Carolina Coastal Commission*)
  *Mariner Real Estate v. Nova Scotia* (BB)

  **Balancing**
  *Miller v. Schoene* (BB)
  CB 1140-1170 (*Pennsylvania Coal Co. v. Mahon* and *Penn Central Transportation Co. v. City of New York*)

B. **The Power of Eminent Domain: Sources and Rationales**

CB 1094-1116 (*Hawaii Housing Authority v. Midkiff* and *Poletown v. Detroit*)
*County of Wayne v. Hathcock* (BB)

IV. **Land Use Controls**

A. **Private Controls: Common Law Nuisance**


B. **Private Controls: Covenants, Servitudes, and Planned Communities**

CB 855-886 (*Sanborn* and *Neponsit*),
*Declaration of Covenants for Columbia, Maryland* (BB)
*Rhue v. Cheyenne Homes* (BB)
*Davis v. Huey* (BB)

C. **Public Controls: Zoning Doctrine and Process**
Introduction to Zoning
CB 951-974 (Review Euclid v. Ambler Realty)

Expanding the Aims (and Exercising the Muscle) of Zoning
CB 1010-1044 (Styoanoff v. Berkeley, Anderson v. City of Issaquah, and City of Ladue v. Gileo)
Sprenger, Grubb & Associates Inc. v. City of Hailey (BB)

Exclusionary Zoning
CB 893-905 (Molokai)