

REQ 7160 PROPERTY

Spring 2024, Oakes Hall 012

Monday, Wednesday, Friday 9:55am– 11:10am

Instructor: Professor Guanchi Zhang

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Office Hours

I will hold drop-in office hours on Mondays during the semester from 11:15 am to 12:30 pm. I am also available to meet by appointment, either in person or on Teams. Please email me to set up an appointment.

Required Materials

The casebook for the class is Singer, Berger, Davidson, Penalver, Property Law: Rules, Policies, and Practices, Eighth Edition. I may sometimes hand out additional materials in class, or post them on the course website. I will also post the slides that I use during class on the course website.

Evaluation

Class Participation (1% per week, or 10% total)

I will not use the Socratic method in class. Instead, I will use Canvas posting and class attendance to evaluate class participation. You will post thoughts on the reading in a short, 3-5 sentence posting on the course site for one class in each of **ten** weeks of the course (meaning you can choose a number of weeks “off”). I will use these postings to gauge what interests you and organize class discussions. **Only those who make postings will be called.**

Your posting is due by **8 am** on the day of class. You will only earn the point if you are in class on the day for which you make your posting or have emailed me about your absence in advance. You should feel free to engage with each other’s postings. The first **twenty** students who make a posting and come to class get the credit. Remember, you are always welcome to engage in discussions on the Canvas course page, but only the first eighteen get participation credit. Credit for each week is capped at one point.

If you would like to opt out of posting for a particular week, but still earn the point, you must email me to volunteer to be called by **8 am** on the day of class.

Intellectual Property Search Project (5%)

To deepen our understanding from the classroom and hone a skill vital for many attorneys—researching in relevant intellectual property databases—you are tasked with finding any patent, copyright, or trademark of your choice. Your task is to submit a copy of it and compose a brief reflection on the role of “property” in this context. Timely submission of this reflection ensures full credit.

Deed and Title Search Project or Housing Court Project (5%)

You have the opportunity to choose between two projects for earning these points. For Option 1, engage in a two-stage task: select one or two properties (such as your childhood home, a past residence, your current home, or a favorite restaurant) and create a concise title history for your chosen property. Additionally, find a deed that piques your interest—either from local land records or through personal connections—and pair it with a worksheet for submission. Option 2 involves watching media related to Housing Court, followed by completing a worksheet with your insights and observations. In both options, prompt submission guarantees full credit.

News Project (10%)

This course aims to enhance your understanding and participation in debates on property-related topics. For this project, choose a news article concerning a property issue anywhere around the world. Write a two-page analysis, reflecting on the issue and expressing your viewpoint. Draw upon readings and class sessions to support your reflection. You will get full credit if turning in the reflection on time.

Final Exam (70%)

This exam offers an opportunity for you to showcase the skills you have developed in this course and that you will use as an attorney. We will devote much of our time in the classroom to practicing the types of questions you will see on the final. I will also assign unscored practice questions throughout the semester to help you prepare for the midterm.

Classroom Norms

Attendance. Class attendance is required. The attendance policy is explained in more detail in the Vermont Law and Graduate School Student Handbook §II(A). Failure to attend class will have a detrimental effect on your understanding of the material and your grade. It could also result in a grade of F-Wd. Read the attendance policy posted in the Handbook before the beginning of the term.

Use of devices. Use of a computer, tablet, e-reader, or other comparable device is ONLY allowed for the purposes of notetaking or accessing the textbook if you have purchased the digital version. There are many good reasons to take notes by hand. Messaging, emailing, web browsing, and other uses are prohibited. Your responsible use of devices is a skill you should practice.

Be prepared to be uncomfortable at times. The subject matter in our course can be difficult, morally contested, politically treacherous, and full of ambiguity, uncertainty, and ambivalence. Please try not to be afraid to be wrong, unsure, or to misstep. At various points, each of us will be wrong, misstep, or articulate an idea in a way that is not quite as eloquent as we might like. That is an inevitable part of engaging with difficult material. Be kind, charitable, generous, and respectful of yourself and others.

Be engaged, but patient. Each student will have many opportunities to be called on during the semester. Please do your part to help keep the distribution equal. Unless I ask for volunteers, please let your fellow students answer questions asked without raising your hand. I may not call on students when hands are raised for reasons of class flow, progression, and pacing. It is not an indication that I do not see a raised hand or that I am uninterested in your thoughts or questions. If I misspeak or something is truly unclear, it is entirely fine to ask for clarification.

Positions, not people. In class, I may ask students to articulate a particular argument or viewpoint. Very often, that perspective is not what the student believes. Indeed, I will almost never ask for your personal viewpoint in class, and I ask that you try not to reveal it as you answer questions. In the classroom environment, my goal is

to split off arguments and ideas from the person articulating them so that we may have a full and robust discussion—exploring, criticizing, and rejecting views without criticizing or rejecting each other.

Recording and accommodation. All materials (written and recorded) in this course, including those on the course website, are copyrighted. This also includes any recording of the class by the professor, any student, or any other person. These materials are only for the use of the individual student enrolled in this course and may not be reproduced or distributed without the express written consent of the professor.

If you would like to request accommodation, please review our Disability Policy at Vermont Law and Graduate School at: <https://www.vermontlaw.edu/community/students/academic-success/accommodations>. If you have questions, please make an appointment with Dean Ryan.

Syllabus & Assignments

A tentative syllabus follows. We may proceed more quickly or slowly through the course materials. I may amend or change this syllabus and the assignment schedule at any time as needed throughout the semester.

You are required to complete reading assignments in time to be prepared for class discussion. Although I will not call on students who do not post on Canvas on the class day, I will sometimes ask for volunteers. Completing all assigned cases and notes is one of the best ways to prepare yourself and succeed in class.

Theme	Topic	Question	Date	Readings & Assignments	
Introduction: right to exclude	Right to exclude v. right to access: general	When is my house my castle?	1/17	<i>State v. Shack</i> (3-9) • Note 1-9 (14-22) <i>Jacque v. Steenberg</i> (36-39) • Notes 1-2 (39) §1.4 The Relational Nature of Property Rights (39-40)	
	Right to exclude v. right to access: business property	Can a business open to the public exclude certain individuals?	1/19	<i>Uston v. Resorts International Hotel, Inc.</i> (23-26) • Notes 1-3 (26-30) <i>Lloyd Corporation, Ltd. v. Tanner</i> (69-73) • Notes 1-3 (73-75)	Weekly reading response?
	Public accommodation	Could H&M refuse to let Ilhan Omar in its store because “real Muslims don’t wear tank-tops”?	1/22	§2.1 The Antidiscrimination Principle (40-47) <i>McClure Management, LLC v. Taylor</i> (48-57) • Notes 1-3 (57-60)	Weekly reading response?
Who should own it?	Law of capture	Can I take a stray Poodle home as my own?	1/24	<i>Pierson v. Post</i> (150-154) • Notes 1-6 (154-155) <i>Popov v. Hayashi</i> (156-159) • Notes 1-6 (156-159) <i>Elliff v. Texon Drilling Co.</i> (161- 164) • Notes (164-165)	Weekly reading response?
	Law of discovery (aka. Sovereignty and Property)	Might = Right?	1/26	<i>Johnson v. McIntosh</i> (96-104) • Notes 1-6 (104-106) Competing justifications for property rights (106-109)	Weekly reading response?

				Past Wrongs, Present Remedies: Modern Indian Land Claims (109-112)	
	Labor	Do I own the meme I created?	1/29	The Second Treatise of Civil Government (excerpt) <i>International News Service v. Associated Press</i> (126-134) • Notes 1-6 (134-137)	Weekly reading response?
	Law of finders and adverse possession	First in time, first in right?	1/31	<i>Armory v. Delamirie</i> (168-169) • Notes 1-5 (169-171) <i>Charrier v. Bell</i> (171-174) • Notes 1-3 (174-175) <i>Brown v. Gobble</i> (309-315) • Notes 1-12 (315-321)	Weekly reading response?
	Adverse possession (continued)	How long do I have to sleep in Cornell Library before I own it?	2/2	<i>Nome 2000 v. Fagerstrom</i> (325-331) • Notes 1-3 (331-332)	Weekly reading response?
Property objects	Human	Does it even deserve discussion?	2/5	<i>The Antelope</i> (113-117) • Notes 1-4 (117- 119) <i>Moore v. Regents of the University of California</i> (203-210) • Notes 1-3 (210-211)	Weekly reading response?
	Community property and identity	Is privatization inevitable?	2/7	§2.2 Commonly Owned Property: Tragedy or Comedy? (138-140) NPR, The Island No One Owns (podcast HERE) <i>Wana the Bear v. Community Construction, Inc</i> (235-237) • Notes 1-6 (237-240)	Weekly reading response?
	Intellectual Property	Are exclusive rights the best reward for innovation?	2/9	§ 4.2 Theories of Intellectual Property (250-254) <i>Qualitex Co. v. Jacobson Products Co.</i> (256-259) • Notes 1-5 (259-263) <i>Association for Molecular Pathology v. Myriad Genetics, Inc.</i> (291-295)	Weekly reading response?

				• Notes 1-5 (299-301)	
Nuisance	Nuisance: intro, liability, and remedies	Is a candy-cane paint house a nuisance?	2/12	The reciprocal nature of conflicting land uses (364-365) <i>Dobbs v. Wiggins</i> (366-372) • Notes 1-10 (372-380)	Weekly reading response?
	Nuisance: Remedies	Who should win, free use or quiet enjoyment?	2/14	§ 2.2 Nuisance Remedies (381-383) <i>Bommer v. Atlantic Cement Co.</i> (383-386) • Notes 1-3 (386-387) Law and economics analysis of nuisance (406-416)	Weekly reading response?
	Nuisance: light, air, and water	Can your parents add a second floor to the house and block the neighbor's view?	2/16	<i>Fontainebleau Hotel Corp. v. Forty-Five Twenty-Five, Inc.</i> (395-398) <i>Prab v. Maretti</i> (398-404) • Notes 1-3 (404-406) <i>Armstrong v. Francis Corp.</i> (416-420) • Notes 1-3 (420-421)	Weekly reading response? IP Search Project Due 2/16
Servitudes	Intro to servitudes; easements: creation & interpretation	How can I get rights in my neighbor's land?	2/19	Servitudes (535-537) Easements (537-539) <i>Green v. Lupo</i> (542-544) • Notes 1-4 (544-546) <i>Cox v. Glenbrook Co.</i> (546-551) • Notes 1-8 (551-556)	Weekly reading response?
	Easement by prescription and estoppel	How long do I have to cross my neighbor's lawn before I have a right to cross it forever?	2/21	<i>Frech v. Piontkowski</i> (336-340) • Notes 1-6 (340-342) <i>Lobato v. Taylor</i> (557-564) • Notes 1-4 (564-567)	Weekly reading response?
	Easements implied from prior use and necessity	When does a necessity become a right?	2/23	<i>Granite Properties Limited Partnership v. Manns</i> (567-573) • Notes 1-2 (573-574) <i>Finn v. Williams</i> (574-576)	Weekly reading response?

				<ul style="list-style-type: none"> • Notes 1-2 (576-578) Modifying & terminating easements (579)	
	Covenants	When am I bound by an old promise of some stranger?	2/26	§ 3.1 Definition and Background (579-582) <i>Neponsit Property Owners' Association v. Emigrant Industrial Savings Bank</i> (583-586) <ul style="list-style-type: none"> • Notes 1-8 (586-592) § 4.1 Implied Reciprocal Negative Servitudes in Residential Subdivisions (600-601) <i>Evans v. Pollock</i> (601-604) <ul style="list-style-type: none"> • Notes 1-4 (604-607) 	Weekly reading response?
	Property governance of condo and homeowner associations	How many cats can I have in my condo?	2/28	§ 4.2 Common Interest Developments and Property Owners Associations (608-612) <i>Nabrstedt v. Lakeside Village</i> (625-631) <i>Apple Valley Gardens Assoc. v. MacHutta</i> (636-641) <ul style="list-style-type: none"> • Notes 1-3 (646-647) 	Weekly reading response?
	Limitations on covenants	What if there is a racially restrictive covenant in the deed?	3/1	<i>Shelley v. Kraemer</i> (648-655) <ul style="list-style-type: none"> • Notes 1-6 (655-658) <i>Northwest Real Estate Co. v. Serio</i> (661-663) <ul style="list-style-type: none"> • Notes 1-7 (663-666) 	Weekly reading response?
	Midterm Review		3/11		
	Real estate transactions	Introduction to real estate transactions; breach of the purchase and sale agreement;	3/13	§1 Real estate transactions: structure and roles (921-931) <i>Johnson v. Davis</i> (946-950) <ul style="list-style-type: none"> • Notes 1-5 (950-954) 	Weekly reading response?
	Deeds and real estate financing	Should the mortgage terms be regulated?	3/15	§3 Deeds (960-966) §4.1-4.2 (966- 969)	Weekly reading response?

				<i>Commonwealth v. Fremont Investment & Loan</i> (969-976) • Notes 1-5 (976-978)	
	Mortgage regulation, foreclosures	What is a foreclosure? Why are homeowners afraid of it?	3/18	<i>Baskurt v. Beal</i> (988-991) • Notes 1-6 (991-996) A. Installment Land Contracts (996-997) <i>Sebastian v. Floyd</i> (997-998) • Notes 1-4 (998-1002)	Weekly reading response?
	Recording system	Why are there vaults full of deeds in every jurisdiction across the country?	3/20	§ 5.1 Recording acts (1005-1011) <i>Sabo v. Horvath</i> (1012-1014) • Notes 1-7 (1011-1017) Optional: Andro Linklater, Measuring America: How the United States Was Shaped By the Greatest Land Sale in History • Chapter 11 and 12	Weekly reading response?
Sharing property	Joint ownership: Forms; sharing rights & responsibilities	You think you have problems with your roommate?	3/22	§2.1 Forms of Concurrent Tenancies (684-688) §2.2 Sharing Rights and Responsibilities Between Co-Owners (690-692) <i>Carr v. Deking</i> (694-695) <i>Tenbet v. Boswell</i> (696-700) <i>Sawada v. Endo</i> (701-705)	Weekly reading response?
	Partition/heir property; entity property	What is the benefit of splitting property?	3/25	<i>Ark Land Co. v. Harper</i> (707-712) • Notes 1-3 (712-713) Michelle Chen, Black Lands Matter HERE §4 Entity Property (742-746)	
	Fee simple interests	Would you convey your heart to me in fee simple absolute?	3/27	§1 Division of ownership over time (755-757) §3 The contemporary estate system (764-769)	Weekly reading response?

	Life estates and future interests	Can I get grandma to devise her house to mom for life and then to me if I have graduated from law school?	3/29	§3.2 Life estates (769-772) <i>Edwards v. Bradley</i> (775-777) • Notes 1-5 (777-779)	Weekly reading response?
	Private and public trust	What happens if a public park is a result of a racially restrictive trust?	4/1	<i>Phillips v. Estate of Holzmann</i> (786-787) • Notes 1-4 (787-789) <i>Evans v. Abney</i> (790-796) • Notes 1-4 (796-798)	Weekly reading response? Deed and Title Search OR Housing Court Project Due 4/1
Landlord/tenant law	Introduction; tenancy or not	Am I a tenant if I live in a college dorm?	4/3	§1.1 Categories of tenancies (831-833) §1.3 Regulation of Landlord-Tenant Relationships (834-836) <i>Vasquez v. Glassboro Service Associations, Inc.</i> (837-842) • Notes 1-4 (842-846)	Weekly reading response?
	Conflicts about rent and quiet enjoyment	Just how bad is my landlord?	4/5	§3.1- §3.2 (872-873) <i>Sommer v. Kridel</i> (874-878) • Notes 1-6 (878-881) <i>Minjak Co v. Randolph</i> (884-887) • Notes 1-7 (887-890)	Weekly reading response?
	Habitable premises	Does imposing minimum standards on landlords make premises more habitable?	4/8	§4.2 Warranty of Habitability (891-892) <i>Javins v. First National Realty Corp.</i> (892-898) • Notes 1-6 (989-909) §4.5 Minimum Standards Revisited (916-918)	Weekly reading response?
Fair housing law	Fair Housing Act, disparate treatment, disparate impact	Can you refuse to rent to 19-year-old college students?	4/10	§1.1-1.2 (1027-1034) 24 C.F.R. §100.500 (1080) • Note 3 (1083-1085)	Weekly reading response?

				<i>MHLANY Management, Inc. v. County of Nassau</i> (1086-1094)	
Zoning	Introduction	Do we have a love-hate relationship with single-family zoning?	4/12	<i>Village of Euclid v. Ambler Realty Co.</i> (448-454) • Note 1-5 (454-459) § 1.3-1.5 (459-462)	Weekly reading response?
	Prior nonconforming uses; variances; special exceptions; rezoning	What happens if zoning is used to exclude certain kinds of people?	4/15	<i>Town of Belleville v. Parrillo's, Inc.</i> (463-466) • Note 1-3 (466-467) <i>Krummenacher v. Minnetonka</i> (473-477) • Note 1-3 (477-479) § 3.2-3.3 (479-484)	Weekly reading response?
	Constitutional & statutory limits	What could zoning ever achieve?	4/17	<i>Southern Burlington County NAACP v. Township of Mount Laurel</i> (488-494) • Note 1-5 (494-498) <i>Village of Belle Terre v. Boraas</i> (498-501) • Note 1-4 (506-508)	Weekly reading response?
Takings	Public use	Could the government take my house for a Four Seasons hotel?	4/19	<i>Kelo v. City of New London</i> (1125-1140) • Note 1-8 (1140-1145)	Weekly reading response?
	Regulatory takings: general	How can I tell if something has been “taken”?	4/22	Regulatory Takings (1158-1162) <i>Penn Central Transportation Co. v. New York City</i> (1163-1171) • Note 1-4 (1171-1177)	Weekly reading response?
	Regulatory takings: the “ <i>per se</i> ” test	Does a regulation allowing labor organizer access to farms count as regulatory taking?	4/24	<i>Lucas v. South Carolina Coastal Council</i> (majority opinion, 1178-1187) <i>Cedar Point Nursery v. Hassid</i> (1202-1209) • Note 1-2 (1209-1215)	Weekly reading response?

	Zoning exactions	When does the government have to pay you for limiting your right to exclude?	4/26	<i>Dolan v. City of Tigard</i> (1229-1240) <ul style="list-style-type: none"> • Note 1-5 (1240-1244) 	Weekly reading response?
Wrap-Up & Final Review!			4/29		News Project Due 4/30