

INDIANA UNIVERSITY SCHOOL OF LAW—INDIANAPOLIS

PROPERTY SYLLABUS

N509 2611

FALL 2010

PROFESSOR FLORENCE WAGMAN ROISMAN

**Property Syllabus
August 13, 2010**

Tuesdays - 6:00 p.m. - 8:00 p.m.

Thursday - 5:30 p.m. - 7:30 p.m.

Room 375

Required:

- Casner, Leach, French, Korngold & VanderVelde, Cases and Texts on Property (Aspen 5th ed. 2004) (“C&L”).
- Florence Wagman Roisman, Property and Human Rights 2010 (“PHR”), available on Oncourse.
- Florence Wagman Roisman, Supplemental Materials for Property 2010 (“SM”), available on Oncourse.
- Copies of the Declaration of Independence, the Constitution of the United States, and the Universal Declaration of Human Rights, **to be brought to each class**. These are available on the Web.
Please read (or re-read) these before classes begin, so that you are generally familiar with them.
- William Strunk, Jr. & E.B. White, The Elements of Style (Allyn & Bacon 4th ed. 1999).
- Florence Wagman Roisman, Writing Memo, Fall 2010 (available on Oncourse).

Highly recommended for use, not necessarily purchase:

- Joseph W. Singer, Introduction to Property (Aspen 2d ed. 2005).
- William B. Stoebuck and Dale A. Whitman, The Law of Property (West 3d ed. 2000) (excellent hornbook, best consulted after we have finished each section of material).

Optional; Highly Recommended:

- Benjamin N. Cardozo, The Growth of the Law (Yale U. Press 1924).
- Benjamin N. Cardozo, The Nature of the Judicial Process (Yale U. Press 1921).

- James W. Ely, Jr., *The Guardian of Every Other Right: A Constitutional History of Property Rights* (Oxford U. Press 3d ed. 2007).
- Gerald Korngold and Andrew P. Morriss, eds., *Property Stories* (Foundation Press 2004).

Other Optional Material:

- Roger Bernhardt and Ann M. Burkhardt, *Real Property in a Nutshell* (West 5th ed. 2005).
- Roger Bernhardt and Ann M. Burkhardt, *Property* (West Black Letter Series 4th ed. 2003).
- Ray Andrews Brown, *The Law of Personal Property* (Callaghan 3d ed. 1975).
- Barlow Burke, *Personal Property in a Nutshell* (West 3d ed. 2003).
- Linda H. Edwards, *Estates in Land and Future Interests* (Wolters Kluwer 2009).
- Barlow Burke and Joseph A. Snoe, *Property: Examples and Explanations* (Aspen 3d ed. 2008).
- Linda H. Edwards, *Estates in Land and Future Interests; A Step-By-Step Guide* (Aspen 2d ed. 2005).
- Herbert Hovenkamp and Sheldon F. Kurtz, *Principles of Property Law* (West 6th ed. 2005).
- Cornelius J. Moynihan and Sheldon F. Kurtz, *Moynihan's Introduction to the Law of Real Property* (Thompson/West 4th ed. 2005).
- Robert Laurence and Pamela B. Minzner, *A Student's Guide to Estates in Land and Future Interests: Text, Examples, Problems and Answers* (Matthew Bender 2d ed. 2000).
- John Makdisi, and Daniel B. Bogart, *Estates in Land and Future Interests* (West 4th ed. 2004).
- John Copeland Nagle, *Questions and Answers: Property* (LexisNexis 2004).
- Robert B. Schwemm, *Housing Discrimination: Law & Litigation* (Clark Boardman Callaghan 2008).
- Stephen A. Siegel, *A Student's Guide to Easements, Real Covenants and Equitable Servitudes* (Matthew Bender 2d ed. 1999).
- Joseph William Singer, *Entitlement: The Paradoxes of Property* (Yale U. Press 2000).
- John G. Sprankling, *Understanding Property Law* (LexisNexis 2007).
- Lawrence W. Waggoner & Thomas P. Gallanis, *Estates in Land & Future Interests in a Nutshell* (West 3d ed. 2005).
- Peter T. Wendel, *A Possessory Estates and Future Interests Primer* (West 3d ed. 2007).

* * *

Property is one of the most interesting, challenging, and important subjects studied in law school. I hope that each of you will find this semester stimulating and rewarding. Property is a "survey course," touching on many different topics, most of which are covered in more detail in upper-class courses (such as Comparative Housing Law; Environmental Law; Family Law; Housing Discrimination and Segregation; Housing and Development Law; Intellectual Property; Land Use; Real Estate Transfer, Finance, and Development; Water Law; Art Law; Native American Law; and Trusts and Estates). My goal is to help you develop your legal skills and to give you a sense of the issues presented and ways of addressing them, so that you will feel

comfortable when you encounter these topics in other courses and in the real world.

Class attendance is required. "Attendance" means arrival before class begins and departure after class ends. A separate attendance sheet will be circulated at the beginning of each hour of each class. Anyone who arrives late is to note that on the second hour's attendance sheet, indicating when s/he arrived. Anyone who leaves early is to advise the assistant with whom I work, Ms. Mary Deer, that s/he has done so. (Ms. Deer is located in the Faculty Wing on the 3rd floor. Her phone number is 317-274-1909. Her e-mail address is mdeer1@iupui.edu.) If lateness or early departure is long, frequent, or unjustified (in my judgment), I may consider lateness or early departure the equivalent of an absence.

Each student is to sign for only herself or himself on the attendance sheets that will be distributed at each class. Signing for another person or falsely indicating full-time presence is a serious offense that may lead to expulsion from the law school or lesser penalties. Anyone who believes that another student is violating these rules is obligated under the Honor Code, to advise me of that belief.

If any student is absent from more than five hours of class, I will almost certainly have that student involuntarily withdrawn from the course. I would make an exception to this rule only upon a showing of extraordinarily good cause for each absence. Thus, any student who thinks it possible s/he might be required to be absent on several occasions for extraordinarily good reasons never should be absent for any less compelling reason. I also may impose any lesser penalty for excessive absences. Involuntary withdrawal means that the student receives an "F" for the course, unless s/he successfully petitions the Student Affairs Committee to be allowed a "W" instead. In either event, the student must repeat the course.

Please do not ask me to "excuse" absences. It is each student's responsibility to be careful to provide for possible emergencies by not using absences for trivial purposes. Only if all absences have been caused by personal illness or the illness of a child or other intimately related person, or absolutely unavoidable work obligations will I even consider relief from involuntary withdrawal. **PLEASE DO NOT CALL OR E-MAIL TO TELL ME YOU WILL BE ABSENT FROM CLASS.** It is your responsibility to assure that you do not exceed the permitted number of absences.

Thorough preparation for class is essential if each of you is to derive maximum benefit from class, and each individual's preparation and participation enhances the learning experience for everyone. I will call on people at random, although I may announce at the beginning of class who will be the interlocutors for that session. It is better for you to come to class unprepared than to miss class, but I do not expect people to be unprepared more than once or twice in the semester. Excessive unpreparedness may be considered the equivalent of non-attendance, at my discretion.

When you are in class, you are to pay attention to me and the persons to whom I am speaking. You should put yourself in the position of each of my interlocutors. Any students who talks to other students in class or engages in other conduct I consider disruptive may be excluded from the class, temporarily or permanently.

- **Special Note: NO LAPTOPS MAY BE USED DURING CLASSES***
- **Cell phones and pagers must be "off" during class. "Off" means off – not on "vibrate." Violation of these rules may result in exclusion from the class, temporarily or permanently. It is as disruptive to a class as it would be to a stage performance to have the flow of the event interrupted by extraneous noises, and your full attention should be on the class discussion.**

To prepare for each class, you should read each case three times, brief each case, and think about each case in light of the notes that follow it. I recommend that you not consult any hornbooks, nutshells, or treatises until after you have wrestled with the cases on your own. When you see a word or phrase you do not understand, look up the word or phrase. Among the questions you should ask yourself about each case are:

1. What is this disagreement about?
2. What are the facts? Which are undisputed? As to those in dispute, who says what?
3. What is the procedural history of each case? (Pay attention to what court is deciding it – federal or state, trial, intermediate or highest appellate court.)
4. What are the legal standards on which each side relies, and what are the sources of those standards (federal or state constitution, statute, regulation, common law)?
5. What standard of review is the court applying? Does everyone agree about what is the appropriate standard of review?
6. What are the "human interest" arguments on each side?
7. What are the policy arguments on each side?
8. What are the differences, and the bases (expressed and apparent) for the differences when judges (on the same or different courts) disagree about a particular case or issue?
9. Where are the judges finding the rules they are applying?

Briefing a case means setting out the pertinent facts of each case, the claims of each party, the proceedings in the trial and appellate courts, the decision of the court whose opinion you are reading, and the bases for that decision, including the bases for any dissenting or concurring views expressed by judges on that court. (Deciding which facts are pertinent is high art.)

Your goals should be to master the rules that the courts consider and apply, and then to understand how the lawyers for each side do or should use the rules – and the facts and policy arguments – to construct arguments. For each case, you should understand what rule (or rules) of law are understood to control the case by the court and each of the parties. (Sometimes all will agree about what the governing rule of law is, but will disagree about how it applies to the facts.) You also should understand how each of the parties and the court considers the governing rule(s) to apply to the pertinent facts of this case.

*Exceptions may be made for students with documented disabilities. See Ms. Sonja Rice, Interim Director for Student Services, about this. I will make no exceptions other than those required for students with documented disabilities.

Assignments will not always be the same length for each class; a relatively light assignment may be followed by a relatively heavy one. You must take this into account in organizing your time.

In general, we will adhere to the syllabus. The better prepared you all are, the more thoroughly we can discuss the material assigned for each day. You are responsible for all material assigned, whether or not we discuss it in class. On occasion, we will not reach a case that was assigned for a particular day, and discussion of that case may be put over until the next class. Always re-read the case carefully before the next class. You will find that you see new things in each opinion each time you read it. The best reading is re-reading.**

The supplemental materials are of several types. Most of them are either Indiana cases and statutes or other important cases (not from Indiana) that are not in the casebook. (Some are in the casebook, but are not edited as I want them to be.) Since many of you will practice in Indiana, some Indiana cases and statutes have been provided but not required.

This semester's grade will be determined by the final exam, the writing assignments, and class participation. To reach the final grade, I may raise or lower the final exam grade by one level (e.g., B to B+ or B-) based on class participation and one level based on timely and competent submission of written assignments. The exams will be entirely open book, probably a combination of essay, objective, and short answer questions. Copies of my old exams and "feedback" memoranda are available on Oncourse.

There are several writing assignments, including the reflection for the first class and some problem sets from the casebook. I will not grade these, but I will look at them, to see how much you are learning of what I am trying to teach. Doing these assignments will improve your ability to do well on the exam and in practice. Failure to submit these on time and evidencing substantial work will affect your grade significantly. For all writing assignments, you must submit a printed copy. Please DO NOT E-MAIL material to me or to Ms. Deer. Each assignment is due not later than the beginning of the class on the due date.

Landlord-Tenant Assignment:

As part of our study of landlord-tenant law, each student is to observe at least one session of landlord-tenant court and submit, not later than **Nov. 4**, a report on her or his landlord-tenant court observation. Each report is to be typewritten, double-spaced, not more than 5 pages in length. It should describe what the observer saw and heard in landlord-tenant court and how that relates to the legal doctrines and policies reflected in the case law and statutes studied and then discussed in class. Students should evaluate both process and substance, and suggest any changes they consider appropriate.

Landlord-Tenant Court (part of Small Claims Court) in Center Township is at the City-

**See Vladimir Nabokov, Lectures on Literature 3 (1980) "[O]ne cannot *read* a book: one can only reread it. A good reader, a major reader, an active and creative reader[,] is a rereader.").

County Building at 200 E. Washington Street, Suite G5, West Wing. It usually is scheduled to begin at 8:30 a.m., usually on Tuesdays. Please tell the constable when you arrive that you are a law student. Often, the judge will want to speak with law students after court is dismissed. It is very hard to hear the proceedings in landlord-tenant court, at least in Center Township. You should plan to arrive by 8:00 a.m., to allow time to go through the metal detectors and to be able to sit in the front row so that you can hear the proceedings. Note that you cannot take pocket knives into the building – leave them at home. It is wise to check with the court to be sure of the schedule for landlord-tenant cases. The phone number is 327-5060. Since Landlord-Tenant Court in Center Township usually is on Tuesday, and **you should not miss any class to attend Landlord-Tenant Court**, alternative sites or Fall Break may be your best options. Try not to put the assignment off until October: the court officials do not like to have scores of students appear at the same time. **You should NOT miss any class in order to attend Landlord-Tenant Court. You may attend landlord-tenant court elsewhere**, if you wish.

If for any reason you think it impossible for you to observe any landlord-tenant proceeding, please provide me with a full explanation in writing – **NOT BY E-MAIL, PLEASE**. It takes us too long to print e-mails.

I generally am in my office (Room 303, in the West Wing of the third floor). I try to do my own reading and writing in the mornings, and therefore prefer to see or hear from students in the afternoons, but you should feel free to contact me at any time in emergencies. My phone number is 317/274-4479; my e-mail address is froisman@iupui.edu; my FAX number is 317/278-3326. I will have regular office hours on **Tuesdays from 4:30 to 5:30 p.m. and Wednesdays from 4:00 to 5:00 p.m.**; barring emergencies, I will be in my office specifically for the purpose of seeing students at these times. Since I know that evening students often have very tight schedules. I will be glad to make appointments to see students at other times, including weekends. Please e-mail me with such requests. **Except for office hours, please DO NOT call or visit my office in the mornings except in real emergencies.**

Please note that I will not have office hours or respond to students' inquiries after the semester's classes end. I am pleased to help you learn; I am not interested in helping you cram for exams.

If you have procedural questions, or questions about the availability of materials, please address them to Ms. Deer. If you are not sure whether to address a question to her or to me, please ask her first. She will tell you if it involves a matter about which I should be consulted. Material relevant to the course will be posted on Oncourse. You are responsible for checking Oncourse regularly.

Since you have all assignments in advance, you should prepare them in advance, and should organize your time to accommodate the demands of LARC and other classes. I will not accept papers after the date due except in truly extraordinary circumstances. **It is a sign of very bad judgment to miss class because a LARC assignment is due that day or the next.**

It is fine to record classes. No one need ask permission to do so. If any student objects to this policy, s/he should so advise me during the first week of class. (It is unlikely that any student's voice could be identified on such a recording.)

I thank Mary Deer and Victoria Anderson for their invaluable assistance in creating this syllabus and the materials.

Class #	Date	Assignment
1.	<p>Tuesday, Aug. 24</p> <p>As you encounter references to the Declaration of Independence, the Constitution, statutes, or other documents, read carefully – indeed, <u>study</u> – the provisions to which reference is made.</p> <p>As you study Dred Scott, ask yourself not only the questions on p. 4 above but also: What am I supposed to learn from this case? (Ask this question of every case you read.) Why is it the first case we read in this course?</p> <p>Also, please ask of all four cases – what do they have in common with one another? Why do we study them – together – in this first class?</p>	<p>Initial Assignment to be Submitted at the First Class:</p> <p>Before you begin the reading for this course, please write a short statement of your understanding of "property" -- what the concept means; what property law is or ought to be; what you think about the social, economic, political, moral, or other aspects of the subject.</p> <p>This statement should be typed, double spaced, in not more than five pages. You should keep a copy of what you submit to me.</p> <p>One purpose of this assignment is to enable each of you to see how your thinking may be reinforced or changed during the year’s studies.</p> <p>Please read Strunk and White and my writing memo and use them in writing this and everything else you write.</p> <p>Please submit a printed copy to me or to Ms. Deer before class. <u>DO NOT e-mail papers to either of us.</u></p> <p>I. What is Property?</p> <ul style="list-style-type: none"> <input type="checkbox"/> *Dred Scott v. Sandford, 60 U.S. 393 (1856) (PHR 1-9) <input type="checkbox"/> *Newman v. Sathyavaglswaran, 287 F.3d 786 (9th Cir. 2002), cert. denied, 537 U.S. 1029 (2002) (PHR 10-21) <input type="checkbox"/> *Town of Castle Rock, Colorado v. Gonzales, 545 U.S. 748 (2005) (PHR 22-38) <input type="checkbox"/> Note re: Town of Castle Rock, Colorado v. Gonzales (PHR 39-40) <input type="checkbox"/> Thorstein Veblen, The Theory of the Leisure Class: An Economic Study of Institutions (1899) (excerpt) (SM 1) <input type="checkbox"/> Excerpt from novel (SM 1) <input type="checkbox"/> *U.S. v. Willow River Power Co., 324 U.S. 499 (1945) (SM 2-8) <p style="text-align: right;"><i>More of Class 1 is on the next page.</i></p>

*Denotes material that will be the focus of discussion.

Class #	Date	Assignment
1.	Tuesday, Aug. 24	<p>What is Property? (continued)</p> <p><u>Optional Recommended Reading:</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Don E. Fehrenbacher, <i>The Dred Scott Case: Its Significance in American Law and Politics</i> (Oxford U. Press 1978); Don E. Fehrenbacher, <i>The Dred Scott Case in Historical Perspective</i> (Oxford U. Press 1981) (an abridgement of <i>The Dred Scott Case: Its Significance in American Law and Politics</i>) <input type="checkbox"/> Karen E. Bravo, <i>Exploring the Analogy between Modern Trafficking in Humans and the Trans-Atlantic Slave Trade</i>, 25 B.U. Int'l L.J. 207 (2007) <input type="checkbox"/> <i>The Scope and Nature of Modern-Day Slavery</i>, 9 Dept. of State Ann. Trafficking Rep. 7 (2009) (on Oncourse) <input type="checkbox"/> C&L 266-4 (<i>Moore v. The Regents of the Univ. of CA</i>) <input type="checkbox"/> Clarian Health "Informed" Consent Form (on Oncourse)
2.	Thursday, Aug. 26	<p>II. Power over Property - A: Exclusion</p> <ul style="list-style-type: none"> <input type="checkbox"/> C&L 4-19 (*<i>Jacque v. Steenberg Homes</i>; *<i>State v. Shack</i>) <input type="checkbox"/> <i>Franceschina v. Morgan</i>, 346 F.Supp. 833 (S.D. IN 1972) (SM 9-14) <p>Power Over Property - B: Nuisance</p> <ul style="list-style-type: none"> <input type="checkbox"/> C&L 846-67 (<i>Boomer, Spur</i>) <input type="checkbox"/> <i>Armory Park Neighborhood Assoc. v. Episcopal Community Services in Arizona</i>, 712 P.2d 914 (AZ 1985) (PHR 41-48) <input type="checkbox"/> Excerpt from Helen Hershkoff, <i>Transforming Legal Theory in the Light of Practice: The Judicial Application of Social and Economic Rights to Private Orderings</i>, in <i>COURTING SOCIAL JUSTICE: JUDICIAL ENFORCEMENT OF SOCIAL AND ECONOMIC RIGHTS IN THE DEVELOPING WORLD</i> 294-99 (Varun Gauri & Brinks, eds., Cambridge U. Press 2009) (PHR 49-53) <p><u>Optional:</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> <i>Bonewitz v. Parker</i>, 912 N.E.2d 378 (IN App. 2009) <input type="checkbox"/> <i>City of Gary, IN v. Smith and Wesson Corp.</i>, 801 N.E.2d 1222 (IN App. 2003) (SM 15-23)

Class #	Date	Assignment
3.	Tuesday, Aug. 31	<p>Power Over Property – C: Water Law</p> <ul style="list-style-type: none"> <input type="checkbox"/> Re-read Willow River (Class #1) <input type="checkbox"/> *Pickett v. Brown, 569 N.E.2d 706 (IN App. 1991) (SM 24-25) <input type="checkbox"/> *Wiggins v. Brazil Coal & Clay Corp., 452 N.E.2d 958 (IN 1983) (SM 26-36) <input type="checkbox"/> *City of Valparaiso v. Defler, 694 N.E.2d 1177 (IN App. 1998) (SM 37-42) <input type="checkbox"/> Allstate Ins. Co. v. Dana Corp., 759 N.E.2d 1049 (IN 2001) (SM 43-45) <p><u>Optional re: Lateral & Subjacent Support</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Spall v. Janota, 406 N.E.2d 378 (IN App. 1980) <input type="checkbox"/> Haseman v. Orman, 680 N.E.2d 531 (IN 1997)
4.	Thursday, Sept. 2	<p>III. Estates in Land - A: Introduction and Defeasible Fees</p> <p>I. C&L 299-332 (*Station Assoc. v. Dare County); 343-45</p> <ul style="list-style-type: none"> <input type="checkbox"/> *Station Associates, Inc. v. Dare County, 501 S.E.2d 705 (NC App. 1998) (SM 46-47) <input type="checkbox"/> *Etheridge v. U.S., 218 F. Supp. 809 (E.D. NC 1963) (SM 48-51) <input type="checkbox"/> Charlotte Park and Recreation Commission v. Barringer, 88 S.E.2d 114 (NC 1955), cert. denied, 350 U.S. 983 (1956) (SM 52-53) <input type="checkbox"/> *Lindsay v. Wigal, 250 N.E.2d 755 (IN App. 1969) (SM 54-55) <input type="checkbox"/> *Bruch v. Centerview Community Church, Inc., 379 N.E.2d 508 (IN App. 1978) (SM 56-58) <input type="checkbox"/> Hermitage Methodist Homes v. Dominion Trust Co., 387 S.E.2d 740 (Va. 1990) (PHR 54-57)

Class #	Date	Assignment
5.	Tuesday, Sept. 7	<p>Estates in Land - B: Life Estates</p> <ul style="list-style-type: none"> <input type="checkbox"/> *C&L 345-49 (*Nelson v. Parker); 358-61 <p>Estates in Land - C: Remainders, Reversions, Executory Interests, the Trust, and Perpetuities</p> <ul style="list-style-type: none"> <input type="checkbox"/> *C&L 361-65; 372-73 <input type="checkbox"/> C&L 471-73 (¶s 3, 4, 5) <input type="checkbox"/> *C&L 373-80 <input type="checkbox"/> IN Code §§ 32-17-8-3, 32-17-8-5 (SM 59-60) <input type="checkbox"/> *Buck v. Banks, 668 N.E.2d 1259 (IN App. 1996) (SM 61-63) <input type="checkbox"/> *Francis v. Yates, 700 N.E.2d 504 (IN App. 1998) (SM 64-66)
6.	Thursday, Sept. 9	<p>Estates in Land - D: Fees Simple</p> <ul style="list-style-type: none"> <input type="checkbox"/> C&L 621-23 <input type="checkbox"/> *Irving Trust Co. v. Day, 314 U.S. 556 (1942) (SM 67-70) <input type="checkbox"/> *Hodel v. Irving, 481 U.S. 704 (1987) (SM 71-79) <input type="checkbox"/> IN Code §§ 29-1-2-1 (Intestate Succession); 29-1-3-1 (Taking Against a Will and Rights of Pretermitted Heirs) (SM 81-90) <p><u>Optional:</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> In re: Mary Stewart v. JPMorgan Chase Bank, N.A. Case No. 1:08-bk-71338 (W.D. AK 2010) (SM 91-90)
7.	<p>Tuesday, Sept. 14</p> <p>Be sure to answer Problem 1 on p. 630.</p>	<p>IV: Concurrent Estates (and Introduction to Gifts)</p> <ul style="list-style-type: none"> <input type="checkbox"/> *C&L 553-58, 568-78, 580-83, 588 <input type="checkbox"/> *U.S. v. Craft, 535 U.S. 274 (2002) (SM 91-101) <input type="checkbox"/> C&L 625-33, 635-36, 642 ¶2-44, 648-54 (Gruen v. Gruen) <p><u>Optional Re: Partition</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Mayfair Investment Corp. v. Bryant, 922 N.E.2d 123 (IN App. 2010) (SM 102-120)

Class #	Date	Assignment
8.	Thursday, Sept. 16	<p data-bbox="532 268 1078 302">Concurrent Estates & Gifts - Continued</p> <ul style="list-style-type: none"> <li data-bbox="532 344 1365 378">❑ Shourek v. Stirling, 621 N.E.2d 1107 (IN 1993) (SM 121-23) <li data-bbox="532 382 1459 415">❑ Parke State Bank v. Akers, 659 N.E.2d 1031 (IN 1995) (SM 124-27) <li data-bbox="532 420 1451 491">❑ Leazenby v. Clinton County Bank & Trust Co., 355 N.E.2d 861 (IN App. 1976) (SM 128-33) <li data-bbox="532 495 1344 529">❑ Walker v. Lawson, 526 N.E.2d 968 (IN 1988) (SM 134-36) <li data-bbox="532 533 984 567">❑ IN Code § 32-17-2-1 (SM 137)

Class #	Date	Assignment
9.	Tuesday, Sept. 21	<p>V. Race, Inequality, and Property - A: Explicit Racial Zoning</p> <ul style="list-style-type: none"> <input type="checkbox"/> In Re Lee Sing, 43 F. 359 (N.D. CA 1990) (PHR 58-59) <input type="checkbox"/> Dean E. Murphy, This Land is Made, Finally, for Chinese Settlers, N.Y. Times, June 29, 2003, A17 (SM 138-41) <input type="checkbox"/> *Buchanan v. Warley, 245 U.S. 60 (1917) (PHR 60-65) <input type="checkbox"/> *City of Birmingham v. Monk, 185 F.2d 859 (5th Cir. 1950) (PHR 66-67) <input type="checkbox"/> J. Mills Thornton, III, Dividing Lines: Municipal Politics and the Struggle for Civil Rights in Montgomery, Birmingham, and Selma (U. AL Press 2002), pp. 158-64 (PHR 68-72) <p>Race, Inequality, and Property - B: Racially Restrictive Covenants</p> <ul style="list-style-type: none"> <input type="checkbox"/> *Shelley v. Kraemer, 334 U.S. 1 (1948) (PHR 73-80) <input type="checkbox"/> *Hurd v. Hodge, 334 U.S. 24 (1948) (PHR 81-84) <input type="checkbox"/> Lorraine Hansberry, To Be Young, Gifted and Black (Vintage 1969), pp. 20-21 (PHR 85-86) <input type="checkbox"/> Mr. J.D. Shelley, I Ain't Moving Nowhere!, in Peter Irons, The Courage of Their Convictions (Free Press 1988), pp. 73-79 (PHR 87-90) <input type="checkbox"/> Virginia Man Must Pay For Housing Discrimination, N.Y. Times, Dec. 10, 2005, at A12 (SM 142) <p><u>Optional Recommended Reading:</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Leonard J. Moore, Citizen Klansmen: The Ku Klux Klan in Indiana 1921-1928 (U. NC Press 1991), pp. 144-45 <input type="checkbox"/> Clement Vose, Caucasians Only: The Supreme Court, The NAACP, and the Restrictive Covenant Cases (U. CA Press 1959) <input type="checkbox"/> Gena McNeil, Groundwork: Charles Hamilton Houston and The Struggle for Civil Rights (U. PA Press 1983) <input type="checkbox"/> Carol Rose, Property Stories: Shelley v. Kraemer, in Gerald Korngold & Andrew P. Morriss, eds., Property Stories (Foundation Press 2004), pp. 169-200 <input type="checkbox"/> Langston Hughes, Restrictive Covenants in The Collected Poems of Langston Hughes (Knopf 1995), pp. 361-62

Class #	Date	Assignment
<p>10.</p>	<p>Thursday, Sept. 23</p> <p>DVD: Eyes on the Prize</p> <p>3 – Ain't Scared of Your Jails (Sit-ins)</p> <p>4 – No Easy Walk</p>	<p>Race, Inequality, and Property - C: The Federal Government and "Private" Property - 1</p> <ul style="list-style-type: none"> <input type="checkbox"/> * Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964) (PHR 91-99) <input type="checkbox"/> *Katzenbach v. McClung, 379 U.S. 294 (1964) (PHR 100-104) <input type="checkbox"/> The Supreme Court in Conference, 1940-1985: The Private Discussions Behind Nearly 300 Supreme Court Decisions (Del Dickson ed.) (Oxford U. Press 2001), pp. 726-27; 731-33 (SM 143-47) <input type="checkbox"/> Wikipedia: Saturday Night Massacre, re: William Ruckelshaus, Elliot Richardson, Archibald Cox (SM 148-49) <p><u>Optional Recommended Reading:</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Richard C. Cortner, Civil Rights and Public Accommodations: The Heart of Atlanta and McClung Cases (U. Press KS 2001)
<p>11.</p>	<p>Tuesday, Sept. 28</p>	<p>Race, Inequality, and Property - D: The Federal Government and "Private" Property - 2</p> <ul style="list-style-type: none"> <input type="checkbox"/> *Levitt v. Division Against Discrimination, 31 N.J. 514, 158 A.2d 177 (NJ 1960), app. dis., 363 U.S. 418 (1960) (PHR 105-107) <input type="checkbox"/> David B. Bittan, Ordeal In Levittown: "A Flaming Cross": Pennsylvania, August 1957-August 1958, in Reporting Civil Rights: Part One: American Journalism 1941-1963 (Library of America 2003), pp. 406-09 (PHR 108-10) <input type="checkbox"/> Jones v. Mayer, 379 F.2d 33 (8th Cir. 1967) (PHR 111-14) <input type="checkbox"/> Linda Greenhouse, Becoming Justice Blackmun: Harry Blackmun's Supreme Court Journey (Times Books 2005), pp. 29-30 (PHR 115) <input type="checkbox"/> *Jones v. Mayer, 392 U.S. 409 (1968) (PHR 116-24) <input type="checkbox"/> 42 U.S.C. §§ 1981, 1982, and 1983 (PHR 125) <input type="checkbox"/> Timeline With Respect to Jones v. Mayer and the Enactment of Title VIII (PHR 126-27) <input type="checkbox"/> Florence Wagman Roisman, Affirmatively Furthering Fair Housing in Regional Housing Markets: The Baltimore Public Housing Desegregation Litigation, 42 Wake Forest L. Rev. 333, 360-63 (2007) (SM 150-53) <input type="checkbox"/> *Melvin Oliver & Thomas Shapiro, Black Wealth/White Wealth: A New Perspective on Racial Inequality (Routledge 1995), pp. 1-10, 15-18 (PHR 128-36)

Class #	Date	Assignment
12.	<p>Thursday, Sept. 30</p> <p>Professor Carlton Waterhouse will be our guest professor.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> 20 Ga. L. Rev. 917 (1986), The Constitution and Human Values: The Unfinished Agenda Minorities and the Social Contract by Vine Deloria, Jr. (will be on Oncourse) <input type="checkbox"/> Everything for Sale by Robert Kuttner, pp 1-8 (will be on Oncourse) <input type="checkbox"/> Hobbes, Leviathan Chapters 13 (State of Nature) and 17 (Commonwealth) (will be on Oncourse) <input type="checkbox"/> Locke, 2nd Treatise on Government Chapter 5 (Property) and Chapter 7 (Civil Societies) paragraph 87 to Chapter 9 (The Ends of Government) (will be on Oncourse) <input type="checkbox"/> Rousseau, The Social Contract Book 1 Chapter 6 (Social Pact) – Chapter 10 (Real Property) and Book 2 Chapter 6 (The Law) (will be on Oncourse)
13.	<p>Tuesday, Oct. 5</p> <p>For every case, ask to what the court looks to decide the case.</p> <p>In considering Hannah v. Peel, ask yourself what fact(s) one would have to change to make it likely that the result would change.</p> <p>With regard to Benjamin v. Lindner, be sure you understand what standard of review the appellate court is applying to each issue it considers.</p>	<p>VI. Acquisition of Property - A: Capture</p> <ul style="list-style-type: none"> <input type="checkbox"/> C&L 34-46 (Pierson v. Post) <p>Acquisition of Property - B: Finders</p> <ul style="list-style-type: none"> <input type="checkbox"/> C&L 76-80, 83-88 (*Armory v. Delamirie; *Hannah v. Peel; McAvoy v. Medina) <input type="checkbox"/> C&L 88-100 (*Benjamin v. Lindner Aviation and notes) <input type="checkbox"/> Iowa Code ch. 556F Lost Property (SM 154)
14.	<p>Thursday, Oct. 7</p> <p>Professor Eric Dannenmaier will be our guest professor.</p>	<p>Acquisition of Property - C: Conquest and Indigenous Peoples' Property Rights</p> <ul style="list-style-type: none"> <input type="checkbox"/> Eric Dannenmaier, Beyond Indigenous Property Rights: Exploring the Emergence of a Distinctive Connection Doctrine, 86 Wash. U. L. Rev. 53 (2008) (SM 155-212) <input type="checkbox"/> C&L 115-25 (*Johnson & Graham's Lessee v. M'Intosh) <input type="checkbox"/> George M. Fredrickson, White Supremacy: A Comparative Study in American and South African History (Oxford U. Press 1981), pp. 14-17 (SM 213-15)

Class #	Date	Assignment
	Oct. 11-15	Fall Recess - No Classes
15.	Tuesday, Oct. 19	<p>Acquisition of Property - D: Adverse Possession</p> <p>RE: Adverse Possession: Which Indiana statute sets the limitation for claims for possession of land?</p> <ul style="list-style-type: none"> <input type="checkbox"/> *C&L 125-27 <input type="checkbox"/> IN Code §§ 32-21-7-1; 32-21-7-2; 34-11-1-2; 34-11-2-4; 34-11-2-7; 34-11-2-11; 34-11-4-1; 34-11-4-2; 34-11-5-1; 34-11-6-1; 34-11-6-2 (SM 216-20) <input type="checkbox"/> Fraley v. Minger, 829 N.E.2d 476 (IN 2005) (SM 221-34)
16.	Thursday, Oct. 21	<p>VII. Landlord-Tenant - A: Duty to Deliver Possession; B: Kinds of Tenancies</p> <p>If you have a lease, please read it carefully, and bring it to class. If you have any questions or comments about your lease, please identify and discuss them in a note or e-mail to me. (I will not identify any particular person with any particular issue.)</p> <p>Consider and be prepared to discuss: What kind of tenant was Mr. Selk?</p> <ul style="list-style-type: none"> <input type="checkbox"/> C&L 403-12 (Text and *Teitelbaum) <input type="checkbox"/> *David Properties, Inc. v. Selk, 151 So.2d 334 (Fla. App. 1963) (PHR 137-44) <input type="checkbox"/> *Cotton v. Alexian Brothers Bonaventure House, 2003 WL 22110501 (N.D. Ill. 2003) (PHR 145-54) <p>C: Condition of the Premises</p> <ul style="list-style-type: none"> <input type="checkbox"/> Timeline With Respect to Development of the Implied Warranty of Habitability (PHR 155-57) <input type="checkbox"/> *Johnson v. Scandia Assoc., Inc., 717 N.E.2d 24 (IN 1999) (PHR 158-65) <input type="checkbox"/> City of Vincennes v. Emmons, 841 N.E.2d 155 (IN 2006) (Concurrence by Chief Justice Shepard) (SM 234) <input type="checkbox"/> IN Codes §§ 32-31-5-1 (SM 235) <input type="checkbox"/> IN Codes 32-31-7-1 to -7; 32-31-8-1, -3 to -6 (SM 235-40) <p><u>Optional Re: Indiana's Security Deposit Law</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Reeves v. Downin, 915 N.E.2d 556 (IN App. 2009) (SM 241-45)
17.	Tuesday, Oct. 26	<p>Landlord-Tenant - D: Discrimination</p> <ul style="list-style-type: none"> <input type="checkbox"/> *Jancik v. HUD, 44 F.3d 553 (7th Cir. 1995) (PHR 166-69) <input type="checkbox"/> *Dicenso v. Cisneros, 96 F.3d 1004 (7th Cir. 1996) (PHR 170-75) <input type="checkbox"/> Title VIII of the Civil Rights Act of 1968 (PHR176) <input type="checkbox"/> *Giebeler v. M & B Associates, 343 F.3D 1143 (9th Cir. 2003) (PHR 186-200)

Class #	Date	Assignment
18.	Thursday, Oct. 28	<p>Landlord-Tenant - E: Subleasing, Assignment, and “Running Covenants”</p> <p><input type="checkbox"/> C&L 536-51 (*American v. Newman; *Julian v. Christopher)</p>
19.	Tuesday, Nov. 2	<p>VIII: Servitudes - A: Easements</p> <p><input type="checkbox"/> C&L 527-36 (*Kelly v. Tri-Cities)</p> <p><input type="checkbox"/> C&L 889-94 (Introduction); 902-3 (text) (read just to appreciate complexity)</p> <p><input type="checkbox"/> C&L 906-10 (*Van Sandt); 920-21 (text)</p> <p><input type="checkbox"/> C&L 929 (text), 943 (text), 946-47 (text), 949-50 (text), 954 (text)</p> <p><u>Optional:</u></p> <p><input type="checkbox"/> *Lobato v. Taylor, 71 P.3d 938 (CO en banc 2002)</p>
20.	<p>Thursday, Nov. 4</p> <p>Landlord-Tenant Court Report Due</p>	<p>Servitudes - B: Covenants</p> <p><input type="checkbox"/> C&L 954-76 (Introduction and *Runyon) and see 535 n. 4 and 998</p> <p><input type="checkbox"/> C&L 980-86 (text), 801-09 (Damien)</p> <p><u>Optional:</u></p> <p><input type="checkbox"/> Highland Springs South Homeowners Assn., Inc. v. Reinstatler, 907 N.E.2d 1067 (IN App. 2009)</p> <p>[Pleasurable assignment for the weekend: Watch the movie, “It’s a Wonderful Life.”]</p>

Class #	Date	Assignment
21.	Tuesday, Nov. 9	<p>IX. Modern Real Estate Transactions - A</p> <ul style="list-style-type: none"> <input type="checkbox"/> C&L 675-90 (*Tristram's Landing, Statute of Frauds) <input type="checkbox"/> *Brown v. Branch, 758 N.E.2d 48 (IN 2001) (SM 246-49) <input type="checkbox"/> IN Code §§ 32-21-1-1; 32-21-1-13 (SM 250) <input type="checkbox"/> Consolidation Services, Inc. v. Keybank Nat'l Assn., 185 F.3d 817 (7th Cir. 1999) (SM 251-54) <input type="checkbox"/> Wells Fargo Bank NA v. Tippecanoe Associates, 923 N.E.2d 423 (IN App. 2010) (SM 255-59) <input type="checkbox"/> C&L 712-33 (Remedies, The Deed): (Overview, Delivery and Covenants for Title) <input type="checkbox"/> C&L 744-51, 766-68 (Recording) <input type="checkbox"/> IN Code § 32-30-10-3 (SM 260) <input type="checkbox"/> C&L 734-40 (Mortgages); 699 (Installment Land Sales Contracts) <input type="checkbox"/> U.S. Bank National Ass'n v. Ibañez, 2009 WL 3297551 (MA Land Ct. Oct. 14, 2009) (SM 261-74) <p><u>Optional:</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Link v. Breen, 649 N.E.2d 126 (IN App. 1995)
22.	Thurs., Nov. 11	<p>Modern Real Estate Transactions - B</p> <ul style="list-style-type: none"> <input type="checkbox"/> Citizens State Bank of New Castle v. Countrywide Home Loans, Inc., 922 N.E.2d 655 (IN App. 2010) (SM 275-79) <input type="checkbox"/> Associates Home Equity Group, Inc. v. Troup, 343 N.J.Super. 254, 778 A.2d 529 (2001) (SM 280-92) <input type="checkbox"/> Coleman v. Hoffman, 115 Wash. App. 853, 64 P.3d 65 (2003) (SM 293-98) <input type="checkbox"/> Grant S. Nelson, Dale A. Whitman, Ann Burkart, R. Wilson Freyermuth, Real Estate Transfer, Finance, and Development Cases & Materials (Thompson Reuters 8th ed. 2009), pp. 912-13, 928-29, 772-75 (SM 299-305) <p><u>Optional:</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Myers v. Leedy, 915 N.E.2d 133 (IN 2009) (SM 306-13) <input type="checkbox"/> Elliott v. JPMorgan Chase Bank, 920 N.E.2d 793 (IN 2010) (SM 314-23) <input type="checkbox"/> Jeff Swiatek, Appeals Court Sides With Greenfield Homeowner, Indianapolis Star, Feb. 8, 2010, A8 (SM 324)

Class #	Date	Assignment
23.	Tuesday, Nov. 16	<p>Modern Real Estate Transactions - C</p> <ul style="list-style-type: none"> <input type="checkbox"/> Garza v. Lorch, 705 N.E.2d 468 (IN App. 1998) (SM 325-28) <input type="checkbox"/> Keybank National Association v. NBD Bank, 699 N.E.2d 322 (IN 1998) (SM 329-32) <input type="checkbox"/> IN Code 32-21-3-3, 32-21-4-1, 32-29-1-3 (SM 333-34) <input type="checkbox"/> C&L 771-72 (Title Protection) <input type="checkbox"/> U.S. Bank, N.A. v. Integrity Land Title Corp., IN Sup. Ct., No. 17S03-1002-CV-120) (June 29, 2010) (SM 335-340) <input type="checkbox"/> IN Code §§ 32-27-2-7 to -10 (SM 341-43) <p>Optional:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Lloyd T. Wilson, Fulfilling the Deterrent and Restitutionary Goals of the Security Deposits and Other Developments in Indiana Property Law, 35 Ind. Law Review 1524-27 (2002) <input type="checkbox"/> Shaila Dewan & Robbie Brown, Illnesses Afflict Homes With a Criminal Past, N.Y. Times, July 14, 2009, at A1 (SM 344-46) <input type="checkbox"/> Theis v. Heuer, 280 N.E.2d 300 (IN 1972) <input type="checkbox"/> Barnes v. Mac Brown & Co. Inc., 342 N.E.2d 619 (IN 1976)
24.	Thurs., Nov. 18	<p>X. Eminent Domain</p> <ul style="list-style-type: none"> <input type="checkbox"/> *Kelo v. City of New London, 545 U.S. 469 (2005) (PHR 201-15) <input type="checkbox"/> Charles v. Bagli, Court Upholds Columbia Campus Expansion , N.Y. Times, June 23 (SM 347-49) <input type="checkbox"/> Andy Grammill, IPS Project Would Uproot 7 Eastside Homeowners, Indpls. Star, July 21, 10, B1 (SM 350-51) <input type="checkbox"/> Andrew Jacobs, Chinese Businesses Resist Eviction by Developers, N.Y. Times, Dec. 31, 2009, A8 (SM 352-55) <p>Optional:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Edward Wong, Chinese Artist Who Led Protest Has Been Jailed, His Wife Says, N.Y. Times, July 9, 2010, A7 (SM 356-57) <p>XI. Land Use Regulation - A</p> <ul style="list-style-type: none"> <input type="checkbox"/> *C&L 1109-13; 1115-27 (Mahon, Euclid), 1138-42 (text) <input type="checkbox"/> Paragraph omitted from Mahon (SM 358) <input type="checkbox"/> Sentence omitted from C&L 1124 (Euclid) (PHR 216)
	Nov. 23-26	Thanksgiving - No Classes

Class #	Date	Assignment
25.	Tuesday, Nov. 30	<p>Land Use Regulation - B</p> <ul style="list-style-type: none"> <input type="checkbox"/> Please re-read Hodel v. Irving, Class #10 <input type="checkbox"/> *C&L 1168-83 (Lucas) <input type="checkbox"/> *C&L 1205-22 (Nollan & Dolan)
26.	Thursday, Dec. 2	<p>Land Use Regulation - C</p> <ul style="list-style-type: none"> <input type="checkbox"/> C&L 1223-24; 1230-39 (*Belle Terre, *Moore v. City of East Cleveland) <input type="checkbox"/> *City of Edmonds v. Oxford House, 514 U.S. 725 (1995) (PHR 217-23) <input type="checkbox"/> *Huntington Branch N.A.A.C.P. v. Town of Huntington, 844 F.2d 926 (2nd Cir. 1988), aff'd in part, 488 U.S. 15 (1988) (<i>per curiam</i>) (PHR 224-36) <p><u>Optional:</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Scott County Area Plan Cmsn. v. Townes Half-way House, Inc., 2009 WL 1873049 (IN App. 2009) (IN App. 2009) Scott is not for publication.
	<p>Monday, Dec. 13</p> <p>5:30 - 8:30 p.m.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Final Exam