Expected Readings for Spring Semester 2020
Property II - Professor Cox
All pages are from: Property: A Contemporary Approach, Sprankling & Coletta, 4th Ed.

This list of expected readings is subject to change. Changes will be announced in class or posted on the course TWEN page or both.

Selling Real Estate = Sessions 1 - 8

Session #1 = Jan 13
Read 535-44 = RE sales contract formation issues; substitute enforceable doctrines
Read 545-51 = marketable title issues

Session #2 = Jan 15
Read 551-56 = risk of loss (equitable conversion)
Read 556-68 = duties to disclose
Read 569-80 = delivery of deed [we may not be able to complete all this material this session]

Session #3 = Jan 17 (note that this Friday session takes the place of the Monday MLK holiday; we will meet at regular place and time = 9:00 in room 204)
[any leftover material from session #2 re: delivery of deed]
Read 580-86 = remedies for breach
Read 586-95 = intro to title assurance, with focus on title covenants

Session #4 = Jan 22
Read 596-99 = intro to recording system
Read 600-07 = property description’s relation to recording notice
Read 607-17 = intro to BFP issues under different priority regimes

Session #5 = Jan 27
Read 617-25 = continued consideration of chain of title issues and problems

Session #6 = Jan 29
Read 626-32 = what constitutes notice
Read 632-39 = title insurance issues

Session #7 = Feb 3
Read 643-52 = intro to mortgage basics
Read 652-57 = mortgage substitutes (deed of trust; installment sales)
Read 658-64 = equitable mortgage [if we do not get to all of the equitable mortgage material this session, we will carry it over to the next]

Session #8 = Feb 5
[Read 658-64 = equitable mortgage (if we were unable to get to all of the material in the prior session)]
Read 664-79 = foreclosure issues
Intro to Intellectual Property = Sessions 9 - 11

Session #9 = Feb 10
Read 229-35 = intro to IP issues, including limited protections under common law
Read 235-36; 268-69; 285-86 = overview of three different types of federal IP protection [NB: We will focus just on copyright and trademark, but you need to see a little how patent also fits in; hence these two (2) pages about patent law]
Read 240, notes d & e (length of valid copyright)
Read 241-42 (start at bottom half of 241) = what is required for a valid copyright
Read 242-49 = originality requirement
Read 259, first two paragraphs = what is required to prove copyright infringement
NB: We are modifying the 3rd requirement to be instead that the defendant has substantially appropriated the copyright-protected material

Session #10 = Feb 12
Read 259-67 = copyright infringement, especially the copying requirement
Read 249-58 = defenses, especially fair use
NB: I am suggesting you read this in the indicated reverse order, to emphasize that fair use profitably can be viewed as a defense to what otherwise might be considered copyright infringement

Session #11 = Feb 17
Read 285-300 = Trademark requirements, infringement, dilution, and defenses

Intro to Environmental Law Constraints & Obligations re: Property Use = Sessions 12 - 13

Session #12 = Feb 19
Read 873-77 = ecological perspective on property rights
Read 878-85 = public trust doctrine
Read 885-92 = CWA reach over waters of the U.S.

Session #13 = Feb 24
Read 892-901 = the long, strong reach of CERCLA liability
Read 901-08 = ESA obligations re: habitat
Read 915, notes b-e = upcoming climate change issues

Intro to Public Land Use (Zoning Law) Constraints on Private Property = Sessions 14 - 16

Session #14 = Feb 26
Read 805-08 = intro to zoning
Read 808-16 = constitutionality of Euclidean zoning
Read 817-25 = protection for pre-existing non-conforming uses
Mid-terms are the week of March 2-6
Our mid term exam is expected presumptively to be worth 20% of total course grade, will be closed book, is expected to be a mix of multiple choice and essay questions, and can include any material assigned through the first 14 class sessions.

Spring Break is the week after mid-terms = March 7 - March 15

Session #15 = Mar 16
Read 825-32 = zoning amendment and potential spot zoning problems
Read 832-39 = variances
Read 839-40 = conditional uses (special exceptions)
Read 840-42 = modern zoning approaches

Session #16 = Mar 18
Read 842-50 = zoning for aesthetics
Read 856-60 = zoning as restriction on families
Read 861-69 = zoning as restriction on growth

Takings Law as a limit on Government Regulation of Property = Sessions 17-18

Session #17 = Mar 23
Read 943-44 = intro to development of takings law
Read 952 (notes a-d), 953 (note f), 954 (note j) = the vague Penn Coal v Mahon test
Read 956-72 = the Penn Central balancing test

Session #18 = Mar 25
Read 972 = categorical situations where no Penn Central balancing is required (we will skip detailed consideration re: permanent physical occupation)
Read 982-98 = Lucas and regulatory takings
Read 998-1000 = exactions under SCOTUS case law

Eminent Domain as a Way for Government to Trump Private Land Use = Session 19

Session #19 = Mar 30
Read 919-21 = intro to eminent domain
Read 921-28 = Midkiff opens up possibilities
Read 928-42 = Kelo confirms broad government possibilities as to public use

Private Land Use Controls that Burden Property or Restrict Its Use = Sessions 20 - 26

Session #20 = Apr 1
Read 683-90 = intro, plus easement vs license
Read 690-97 = easement by prior use
Session #21 = Apr 6
Read 697-703 = easement by necessity
Read 703-11 = prescriptive easement
Read 711-18 = easement by estoppel

Session #22 = Apr 8
Read 718-26 = nature/scope of the easement
Read 726-34 = terminating easements
Read 734-35 = negative easements, especially for conservation purposes

Session #23 = Apr 13
Read 736-39 = intro to real covenants
Read 739-52 = real covenants vs equitable servitudes

Session #24 = Apr 15
Read 752-63 = general validity of CC&R’s
Read 763-75 = abandonment or changed conditions and CC&R’s

Session #25 = Apr 20
Read 775-82 = governance issues and modification of purposes
Read 782-87 = privacy limits on CC&R’s

Session #26 = Apr 22
Read 787-802 = nuisance law

Our final exam is scheduled for Friday, May 1, is expected presumptively to be worth 80% of the total course grade, will be closed book, is expected to be a mix of multiple choice and essay questions, and can include any material assigned from the whole course