

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