PROPERTY SYLLABUS INSTALLMENT I

Fall 2013

Professor Ann Tweedy
Office: 218E
Email: atweedy01@hamline.edu
Phone: 523-2076

I. Course Description:

We will examine the concept of real and personal property in the American legal system, at times looking at the largely English roots of current property concepts. Much of our time will be spent on real property concepts, including estates in land, future interests, types of ownership, servitudes, and landlord-tenant law.

II. Learning Objectives:

A. Case analysis, legal reasoning, and problem solving.

1. Property is a common law subject, meaning that it is largely based on cases rather than statutes. Because of this, (a) understanding the subtleties of cases and (b) being able to argue for or against their application to new situations are particularly important. Therefore, knowledge of the holdings and reasoning of the cases we study will be emphasized. Honing these skills will help develop your prowess as a litigator.

2. Lawyers also need to be able to develop creative ways to solve problems out of court. Solving problems out of court can save your client the often prohibitive costs and substantial time commitment associated with litigation and may enable clients to preserve valuable relationships that would be destroyed by acrimonious litigation. Accordingly, some attention will be paid in the course to development of such creative solutions.

B. Evaluation of policy issues.

1. In a variety of situations, such as serving as legislative counsel, serving as a judge, and advocating for legislative change at the state, local, or federal levels, lawyers also need to evaluate the policy implications of laws. Accordingly, attention will be devoted to the policy implications of cases and statutes. Students will be expected to make arguments based on considerations of justice, cost, potential deterrent effects, and other policy bases.

C. Collaborative learning and public communication skills.

III. Text:

A. Required Text: JOSEPH WILLIAM SINGER, PROPERTY LAW: RULES, POLICIES & PRACTICES (5th ed. 2010).

B. Recommended Text: JOHN SPRANKLING, UNDERSTANDING PROPERTY LAW.

IV. Office Hours: TBA

No appointment is needed to stop in during regular office hours. If you cannot make the regularly scheduled office hours, please make an appointment to see me by emailing, calling, or scheduling one in person. I strongly encourage any student who needs help with a particular topic, who would like to discuss an issue further, or who has any feedback to meet with me outside of class.

V. Class Rules and Information.

A. Attendance and Punctuality.

Regular and punctual attendance is required. Missing more than 2 classes is grounds for being withdrawn from the class. Missing 2 classes will be factored negatively into your class participation assessment, while attending all classes will be positively factored in. Punctuality is also important, as late arrivals are disruptive to class. Finally, if you have to leave class early for any reason, please let me know in advance.

B. Grades and Class Participation.

Your grades will be primarily determined by an exam at the end of the semester. However, class participation is also important. I reserve the right to increase grades based on consistent and high quality class participation and to lower grades based on excessive absences, multiple late arrivals, lack of preparation or effort in class, violation of the laptop policy, or any other disruption to class, such as talking, whispering, or laughing in class. <u>It is distracting to me and other students and disrespectful to disrupt the class in any way, and such actions will not be tolerated</u>.

Class participation includes attendance, punctuality, volunteering to answer questions, answering questions when called on, and participation in any in-class exercises, as well as completion of the practice mid-term, any practice quizzes, and any practice problems. <u>Please note that completion of the practice mid-term is mandatory</u>. You should contact me to reschedule if there is some reason that you can't take it on the scheduled day.

Class participation may result in raising or lowering your grade up to one half grade (*e.g.* A- to A).

To facilitate full participation, each of you will have a name card. Display your name card in each class. If you misplace your name card, please provide a substitute. Non-use of your name card will be included in evaluation of your participation. If I mispronounce your name, please let me know.

If you have special circumstances that affect your participation, please let me know so that we can arrange for special accommodations. Also, I usually refer to

students as Mr. or Ms. in class; please inform me if my use of one of those terms conflicts with your gender identity.

If something comes up and you cannot participate on a given day, please email me at least 30 minutes before the class. You have a maximum of one such pass per semester.

C. Laptop Use.

Laptops are only permitted for note-taking. If you are discovered utilizing the computer for purposes unrelated to class (such as emailing, participating in chat rooms, surfing the web etc.), your grade for the course may be lowered by one half grade. If you believe you will have difficulty following the laptop policy, bring a pad of paper and your pen to class instead of your computer.

D. TWEN.

You are required to register for the TWEN course page. The password will be announced on the first day of class.

E. Profile Form.

Please fill out the profile form posted on TWEN and return it to me electronically or as a hard copy by September 8. This will help me get to know you. If you object to the profile form for any reason and do not wish to fill one out, please let me know.

F. Assignments.

The first few assignments are listed below. Generally, we will cover all the material assigned for each class during that class, but some adjustments will be made dependent on the pace of the class. All assignments are from the Singer textbook unless otherwise indicated. This syllabus is subject to change.

Class Meeting	**Topics**		**Read for This Class**
Class 1	I.	Introduction to Property	"A Guide to the Book" pp. xliii-lvi
	II.	Conflicts Between the Right to Exclude and the Right of Access	
		A. Trespass	*State v. Shack*; *Desnick v. ABC* pp. 3-16

		B.	Common Law Right of Access to Property Open to the Public	*Uston v. Resorts Int'l Hotel* pp. 16-23
		C.	Trespass Remedies	*Glavin v. Eckman*; *Jacque v. Steenberg Homes, Inc.* pp. 24-32
		D.	Free Speech Limits on the Right to Exclude	pp. 52-56
Class 2		E.	Limitations on the Right to Exclude from Beaches and Shorelines: The Public Trust and Related Doctrines	*Matthews v. Bay Head Improvement Ass'n* pp. 56-66
		F.	Excludability and the Right to Be Somewhere: The Homeless and Other Vulnerable Populations	*Pottinger v. City of Miami* pp. 66-69; PERSPECTIVES ON PROPERTY LAW (2d ed. 1995) (Ellickson *et al*. eds.) pp. 1-8 **On Reserve at the Library**
	II.	Methods of Acquiring Property		
		A.	Conquest, "Discovery" of Land, and Transactions with, and Seizures from, Indigenous Inhabitants	*Johnson v. M'Intosh* pp. 97-109 *Tee-Hit -Ton Indians v. U.S.*; *U.S. v. Sioux Nation* pp. 109-116; 120-21 (through Note 5) & **Handout** (on recent developments in *Sioux Nation*)
		B.	Gifts and Inheritance	pp.151-52
		C.	Possession of Different Types of Property	
			1. Wild Animals and Baseballs	*Pierson v. Post*; *Popov v. Hayashi* pp. 152-160; Daniel R. Ernst, "*Pierson v. Post*: The New Learning," 13 GREEN BAG 2d 31 (2009) **Please download from Westlaw**