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THE PROFESSOR

NAME: Maurice Hew, Jr.*

TELEPHONE: 713 313 1066 (I rarely ever check my phone messages.)**

EMAIL: Maurice.Hew@tmslaw.tsu.edu

OFFICE LOCATION: 106

OFFICE HOURS:
(By appointment only)

Class Meeting Days and Times: MWF 9:00-9:50 am.


January 10, 2022-January 21, 2022

Class Location: Room 206

Tentatively in person beginning January 24, 2022 to end of semester

NOTE FROM THE PROFESSOR:

* Professor of Law
Board Certified, Immigration and Nationality Law, Texas Board of Legal Specialization
Licensed in Texas, Louisiana, and before several federal courts, including the Supreme Court of
the United States.

**The best way to communicate with me is through email. I normally check my email once a day.

You may not tape, record, or otherwise electronically record this class without prior permission.

Cell phones, pagers, computer alarms, and other noise making devices must be turned off during
class. Students who disrupt the class will be asked to leave and will be counted absent for that
class.

This syllabus is subject to change at the discretion of the professor and
without notice to the student.

MY TUTOR

Teresa Estrada. t.estrada6424@student.tsu.

Tutorials are currently scheduled on Tuesdays from 10-11 am on Zoom.
COURSE BOOKS & MATERIAL

REQUIRED


This semester I plan to cover the following:

Chapter 7 The Law of Landlord and Tenant  
Chapter 8 The Land Transaction  
Chapter 9 Title Assurance  
Chapter 11 Servitudes  
Chapter 12 Zoning  
Chapter 13 Eminent Domain and Takings.

I do not recommend using an electronic version of this textbook in the classroom.
**COURSE DESCRIPTION & OBJECTIVE**

**DESCRIPTION:**

This two-part required introductory course covers the law governing real and personal property. Course topics include: what property rights consist of, how they are acquired, and the economic and philosophical basis of property rights; types of interests in land, including landlord and tenant, present and future estates, concurrent ownership, easements, and covenants running with the land; conveyancing of land, including contracts for sale, deeds, recording systems, title insurance, and mortgages; and the regulation of land use through nuisance law and zoning.

**OBJECTIVE:**

1) To familiarize the students sufficiently with property law to be able to pass the bar examination and to have a basic understanding of property law for effective, ethical, and responsible participation as a member of the legal profession
2) To help the students develop the analytical skills necessary to understand the law-making process and to function as competent practicing attorneys
STUDENT LEARNING OUTCOMES

Demonstrate proficiency in understanding the law of property through in-class responses and performance on essay and multiple-choice exams. Demonstrate proficiency in analytical ability, meaning the ability to present both sides of legal disputes through competing rules of law and policy justifications for the competing rules.
GRADING

There will be timed Quizzes, a mid-semester timed Essay, and Final. You will be expected to have an examination number for all of these assessments. You will be expected to bring a Number 2 lead pencil to fill in the bubbles. If you do not bring a pencil and there is a quiz, I will not supply you with a pencil. At my discretion, I might also issue timed unscheduled quiz.

I am also allowed to award 5% for participation/attendance. This 5% is not automatic. It must be earned by participating in class and being present in class. Attendance at the tutor sessions will also count to your participation grade. If you are not present in class, do not participate, or are unprepared, you cannot earn this 5%.

The midsemester essay examination, final examination, scheduled and random quizzes, and participation counts towards the professor’s grade for the semester. The professor’s grade accounts for 50% of the final grade for the semester.

The final examination will be 50% of the professor’s grade.
The midterm examination will be 25% of the professor’s grade.
The quizzes, scheduled and unscheduled will represent 25% of the professor’s grade.

The other 50% of the final grade is based on a comprehensive 60 multiple-choice examination taken by all first-year students at the end of each semester.

PROPERTY COMPREHENSIVE EXAM COVERAGE
SPRING SEMESTER

<table>
<thead>
<tr>
<th>Subject</th>
<th>Questions/Percentage</th>
<th>Chapter</th>
</tr>
</thead>
<tbody>
<tr>
<td>landlord &amp; tenant</td>
<td>11/18%</td>
<td>7</td>
</tr>
<tr>
<td>easements</td>
<td>10/17%</td>
<td>11</td>
</tr>
<tr>
<td>covenants/servitudes</td>
<td>10/17%</td>
<td>11</td>
</tr>
<tr>
<td>zoning</td>
<td>2/3%</td>
<td>12</td>
</tr>
<tr>
<td>real estate contracts</td>
<td>10/17%</td>
<td>8</td>
</tr>
<tr>
<td>deeds</td>
<td>6/10%</td>
<td>8</td>
</tr>
<tr>
<td>statute of frauds</td>
<td>2/3%</td>
<td>8</td>
</tr>
<tr>
<td>recording</td>
<td>4/7%</td>
<td>9</td>
</tr>
<tr>
<td>title insurance</td>
<td>2/3%</td>
<td>9</td>
</tr>
<tr>
<td>mortgages</td>
<td>3/5%</td>
<td>8</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>60/100%</strong></td>
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ACCOMMODATIONS

In accordance with TMSL Student Rules and Regulations and Student Accommodations Handbook.

TSU Student Accessibility Services Officer (SASO). Managed by Sharon Benavides, SASO, specializes in accommodation services and will provide efficient and professional services to Thurgood Law Students who may need accommodations. Contact SASO via email DISABILITYSERVICES@TSU.EDU or phone 713 313 4210
PARTICIPATION, ATTENDANCE & PROFESSIONALISM

Attendance will be taken at the start of each class. The Law School’s attendance policy will be enforced per the TMSL Student Rules and Regulations.

It is my understanding the Dean’s office can drop your final grade based on absences from class.

I do not differentiate between excused or unexcused absences. If you are absent from class, I do not need to know the reason why you are absent. I will simply mark you absent if you are not in class.

If you are not prepared for class, I reserve the right to mark you absent even though you are physically present. If you are not prepared for class, I cannot award you 5% for participation either.

At my discretion, I reserve the right to remove a student from the class who is disruptive and is not professional towards his professor or other classmates.

COVID-19 Policy

The law school has a Covid-19 policy which intersects with the attendance rules. They are posted Blackboard.
**ACADEMIC CALENDAR**

**THURGOOD MARSHALL SCHOOL OF LAW**

**TEXAS SOUTHERN UNIVERSITY**

**ACADEMIC CALENDAR 2021 – 2022**

**SPRING SEMESTER 2022**

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
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<tbody>
<tr>
<td><strong>SPRING SEMESTER 2022 (SEVENTY DAYS OF CLASSES)</strong></td>
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<tr>
<td>School Opens</td>
<td>Monday</td>
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<tr>
<td>First Day of Class</td>
<td>Monday</td>
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<tr>
<td>Last Day to ADD/DROP</td>
<td>Friday</td>
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<tr>
<td><strong>MLK Holiday (No Classes)</strong></td>
<td>Monday</td>
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<tr>
<td>Purge of all unpaid course selections</td>
<td>Monday</td>
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<tr>
<td>Mid Term Examinations</td>
<td>Mon – Fri</td>
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<tr>
<td>Spring Break</td>
<td>Mon – Fri</td>
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<tr>
<td>Last Day to Drop a Class</td>
<td>Monday</td>
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<tr>
<td><strong>Good Friday (No Classes)</strong></td>
<td>Friday</td>
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<tr>
<td>Last Day of Classes</td>
<td>Wednesday</td>
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<tr>
<td>First Year Professors' Grades Due</td>
<td>Wednesday</td>
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<tr>
<td><strong>Reading Period (No Classes)</strong></td>
<td>Thur – Sun</td>
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<tr>
<td>Final Examinations</td>
<td>Mon- Fri</td>
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<tr>
<td>Hooding Ceremony</td>
<td>Friday</td>
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<tr>
<td>Commencement Exercises</td>
<td>Saturday</td>
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<td>January 3, 2022</td>
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<td>January 10, 2022</td>
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<td>January 14, 2022</td>
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<td>January 17, 2022</td>
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<td>February 7, 2022</td>
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<td>March 7 - 11, 2022</td>
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<td>March 14 - 18, 2022</td>
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<td>April 11, 2022</td>
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<td>April 15, 2022</td>
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<td>April 27, 2022</td>
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<td>April 27, 2022</td>
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<td>April 28 - May 1, 2022</td>
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<td>May 2 – May 13, 2022</td>
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<td>May 13, 2022</td>
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<td>May 14, 2022</td>
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</tbody>
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Please note that the calendar events and/or dates are subject to change.
POLICIES & PROCEDURES

TITLE IX

Texas Southern University is committed towards encouraging and supporting a welcome inclusive university community where all community members enjoy a community free from sex discrimination, harassment and violence. As a result, you should know that university faculty members and staff are required to notify the University Title IX Coordinator of any instances of sex discrimination and harassment, sexual violence, dating violence, domestic violence, or stalking. Sharing this information ensures that those harmed are provided support resources. What this means is that as your professor, I am required to report any incidents that are directly disclosed to me, or of which I am somehow made aware. The University’s Counseling Center is available to you if you want to speak with someone confidentially. Please visit the University’s Counseling Center’s website www.tsu.edu/ucc for additional information.
READING ASSIGNMENTS

January 10, 12, 14, 19, 21, 24, 26, 28, 31 9
February 2, 4, 7, 9, 11, 14, 16, 18, 21, 23, 25, 28 12
March 2, 4, 7, 9, 11, 21, 23, 25, 28, 30 10
April 1, 4, 6, 8, 11, 13, 18, 20, 22, 25, 27 11
TOTAL 42


A. The Leasehold Estates
   1. The Term of Years
   2. The Periodic Tenancy
   Problems
   3. The Tenancy at Will
   Garner v. Gerrish
   Question and Problems
   4. The Tenancy at Sufferance: Holdovers

2. January 12, 2022 -- pp. 478-500

B. The Lease
C. Selection of Tenants (Herein of Unlawful Discrimination)
   Notes and Questions
D. Delivery of Possession
   Hannan v. Dusch
   Notes and Questions
   Problems
E. Subleases and Assignments
   Ernst v. Condit
   Notes and Problems
   Kendall v. Ernest Pestana, Inc.
   Notes and Questions
   Problems

What is a term of years? What is a periodic tenancy? What is a tenancy at will? What is a tenancy at sufferance? What is the difference between an assignment and a sublease? What are the practical differences?


F. The Tenant Who Defaults
   1. The Tenant in Possession
      Berg v. Wiley
Notes and Questions
Notes: Summary Proceedings—Purpose and Problems

Note: Landlord’s Remedies in Addition to Eviction
2. The Tenant Who Has Abandoned Possession
  Sommer v. Kriedel
Notes and Questions
Notes: Landlord’s Remedies and Security Devices

What is the common law and modern rule for self-help? What is the common law rule for mitigation of damages caused by a defaulting tenant? When does a landlord accept a tenant’s surrender of a lease?


G. Duties, Rights, and Remedies (Especially Regarding the Condition of the Leased Premises)
1. Landlord’s Duties; Tenant’s Rights and Remedies
   a. Quiet Enjoyment and Constructive Eviction
      Village Commons, LLC v. Marion County Prosecutor’s Office
      Notes and Questions
      Problems

5. January 21, 2022—pp. 532-552

   b. The Implied Warranty of Habitability
      Hilder v. St. Peter
      Notes, Questions, and Problems
      Note: Retaliatory Eviction
      Notes: Law Reform and the Problem of Decent Affordable Housing
      Note and Problems: Landlord’s Tort Liability

2. Tenant’s Duties; Landlord’s Rights and Remedies

What is the covenant of quiet enjoyment? What is the implied warranty of habitability? Why do we have two similar doctrines?

CHAPTER 8.

6. January 24, 2022—pp. 553-569

A. Introduction to Buying and Selling Real Estate
   Questions and Problems
B. The Contract of Sale
7. January 26, 2022-- pp. 569-581

1. The Statute of Frauds

_Hickey v. Green_
Notes and Problems
Note: The Statute of Frauds and Electronic Transactions

What are the basic steps for buying/selling a house? What is a Purchase and Sale Contract and for how long does it govern? What document transfers the property? How does the Statute of Frauds apply to property sales and what exceptions does it have?

2. Marketable Title

_Lohmeyer v. Bower_
Notes and Questions
Note: Equitable Conversion

What is a marketable title and how does it protect the buyer? How do restrictive covenants and municipal ordinances affect marketable title? What is an equitable conversion? What are the three approaches to the duties to disclose defects?


3. The Duty to Disclose Defects

_Stambosky v. Ackley_
_Johnson v. Davis_
Notes and Questions
Note: Merger

What is merger? What is the implied warranty of quality and when does it apply? What are the remedies to breach of the sales contract? If a purchaser defaults, what are the seller’s options? What are the elements of a deed and what are the 3 types of deeds?


C. The Deed

1. Warranties of Title
Notes and Questions: The Deed

_Brown v. Lober_
Questions
_Frimberger v. Anzellotti_
What are the present and future covenants? When do they respectively apply?

10. February 2, 2022-- pp. 611-623

2. Delivery

*Rosengrant v. Rosengrant*
Notes and Questions
D. Financing Real Estate Transactions

1. Introduction to Mortgages and the Mortgage Market
   Problem and Notes
2. Mortgage Foreclosure


*Murphy v. Fin. Dev. Corp.*
Grant S. Nelson & Dale A. Whitman, Real Estate
Finance Law §7.21
Notes and Questions
3. The Mortgage Crisis and the Great Recession
   *Commonwealth v. Fremont Investment & Loan*

12. February 7, 2022-- pp. 640-660

*U.S. Bank Natl. Assn. v. Ibanez*
Notes and Questions

How are mortgages created? How does priority work when multiple banks hold mortgages on the same property? What is a subprime mortgage? What are some of the factors that contributed to the mortgage crisis?

Mortgage Substitutes: The Installment Land Contract
*Sebastian v. Floyd*
Notes
14. February 11, 2022-- pp. 661-677

1. Introduction

2. The Indexes
   Luthi v. Evans

Notes and Questions
Note: Description by Government Survey
   What is title and how does one search it? What is the difference between a race, race notice, and notice jurisdiction? What are the three types of notice?

15. February 14, 2022-- pp. 678-692

   Orr v. Byers
   Notes and Problem
   3. Types of Recording Acts
   Problems and Note

16. February 16, 2022-- pp. 692-719

   4. Chain of Title Problems
   Board of Education of Minneapolis v. Hughes
   Questions and Problems

5. Persons Protected by the Recording System
   Lewis v. Superior Court
   Notes
   6. Inquiry Notice
   Harper v. Paradise
   Notes, Problem, and Questions

7. Marketable Title Acts
   Walter E. Barnett, Marketable Title Acts—Panacea or Pandemonium?
   Problem and Notes

8. Recording Systems and the Mortgage Meltdown
   B. Registration of Title

   Thomas J. Miceli & C.F. Sirmans, Torrens vs. Title
Chapter 11.

19. February 23, 2022 -- pp. 772-785
   Licenses: Holbrook v. Taylor, 772-777
   Notes and Questions
   Van Sandt v Royster
   Notes and Questions

20. February 25, 2022 -- pp. 785-799
   Implied Easements: Othen v. Rosier,
   Easements by Necessity & Prescription:
   Easements by Prescription:

Assignability of Easements: Miller v. Lutheran Conference & Camp Association,
Scope of Right Acquired: Brown v. Voss,
Marvin M. Brandt Revocable Trust v United States

What is an easement and how is it created? What is the difference between an easement
appurtenant and an easement in gross? What are the three types of implied easements? How is an
easement by estoppel created? What are the two types of easements by judicial implication and
how are they created under the common law?

COVENANTS

22. March 2, 2022 -- pp. 835-838
   Introduction to Covenants

23. March 4, 2022 -- pp. 838-853
   Equitable Servitudes: Tulk v. Moxhay,
   Neponsit Property Owners Assoc. v. Emigrant Industrial Savings Bank,
   Restatement (Third) Approach:

24. March 7, 2022 -- pp. 854-872
25. March 9, 2022-- pp. 873-894

_Nahrstedt v. Lakeside Village Condominium Association, Inc._
California Civil Code §1360.5
Notes and Questions
Problems
Timothy Egan, The Serene Fortress: Many Seek
Security in Private Communities

What are the four requirements for establishing a real covenant? How do two parties establish a horizontal privity? How do two parties establish a vertical privity? What kind of privity is required to make a burden run? What kind of privity is required to make a benefit run?

26. March 11, 2022-- MIDTERM EXAM over Chapters, 7,8,9,11

March 14-18: SPRING BREAK

CHAPTER 12

27. March 21, 2022-- pp. 895-914

Introduction, 898-899
_Village of Euclid v. Ambler Realty Co._
Enabling Legislation,
The “comprehensive plan”
The economics of zoning


Nonconforming uses: _Pa NW Distributors v. Zoning Hearing Board_,
Variances:
Special Exceptions: _Cope v. Inhabitants of the Town of Brunswick_,

29. March 25, 2022-- pp. 931-946

Zoning Amendments: _State v. City of Rochester_,
Expanding the Aims of Zoning
Aesthetic Regulations:
_State ex rel Stoyanoff v. Berkeley_
   Anderson v. Issaquah: 947-957
   Zoning and the First Amendment’s Free Speech Clause: Protection of religious uses

31. March 30, 2022 -- pp. 962-996
   Controls on Household Composition: Village of Belle Terre v. Boraas,
   Notes:
   Exclusionary Zoning: Southern Burlington County NAACP v. Township of Mt. Laurel,
   Notes:

   What is Euclidian zoning? Why are some people against zoning? What is a nonconforming use?
   What is amortization and is it permissible?
   What is a variance? What is the test for receiving a variance? What are the special exceptions?

32. April 1, 2022 — Comprehensive Quiz Including Chapter 12.

33. April 4, 2022 -- pp. 997-1008
   Introduction
   Kelo v. City of New London,
   Kelo supplement:
   Read Justice Kennedy’s concurring opinion

34. April 6, 2022 -- pp. 1008-1021 O’Connor Dissent

   Read Parts III-C, Part IV, and Final Paragraph of Justice Thomas’s dissenting opinion
   Notes, 1013-1017

   What is eminent domain and why does it exist? What are the three forms of public use that O’Connor identifies in her dissent? Where do we draw the line on public use?

35. April 8, 2022 -- pp. 1021-1042

   Implicit Takings:
   Loretto v. Teleprompter Manhattan CATV Corp.
   Horne v. U.S. Department of Agriculture
   Hadacheck v. Sebastian, 1035-1042

36. April 11, 2022 -- pp. 1042-1063

   Rules Based on Measuring and Balancing
   Pennsylvania Coal Co. v. Mahon

PROPERTY II
37. April 13, 2022-- pp. 1065-1088

Notes: Matters of Remedy

Another categorical rule
Lucas v. South Carolina Coastal Council
Notes and Questions

38. April 18, 2022-- pp. 1088-1102

Wisconsin v. Murr
Notes and Questions

39. April 20, 2022-- pp. 1102-1131

4. Takings of Personal Property
Horne v. Department of Agriculture
Notes and Questions
What is a regulatory taking? What is an inverse condemnation proceeding? What happens if the government permanently, physically invades someone's property? What happens if nuisance law causes the value of property law to drop?

5. Judicial Takings

Stop the Beach Renourishment, Inc. v. Florida Department of Environmental Protection
Notes and Questions

40. April 22, 2022-- pp. 1131-1148

6. Special Rules for Exactions
Koontz v. St. Johns River Water Management District
Notes and Questions

41. April 25, 2022—REVIEW

42. April 27, 2022-- FINAL