PROPERTY

COURSE 506 SECTION 1

FALL 2021-SPRING 2022

PROFESSOR THOMAS KLEVEN
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THE PROFESSOR

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OFFICE HOURS: MWF 9-11, TR 9-11 (All other times by appointment only)

NOTE FROM THE PROFESSOR:

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COURSE BOOKS & MATERIAL

Kleven, Property Law, vol. 1 & vol. 2
Bernhardt & Burkhart, Property, 6th ed.
COURSE DESCRIPTION & OBJECTIVE

DESCRIPTION:
An introduction to 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 students sufficiently with property law to be able to pass the bar exam and to have a basic understanding of property upon entering practice; and (2) to help 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**

Each semester there will be a mid-semester essay exam and a final exam consisting of multiple choice questions and an explanation of the reasoning process in selecting the answer. The mid-semester and final exams each count 50% of the professor’s grade for the semester. The professor’s grade accounts for 50% of the final grade for the semester. The other 50% of the final grade is based on a comprehensive multiple choice exam taken by all first year students at the end of each semester.
ACCOMMODATIONS

In accordance with TMSL Student Rules and Regulations and Student Accommodations Handbook.
PARTICIPATION, ATTENDANCE & PROFESSIONALISM

Attendance will be taken at the start of each class based on a seating chart or roll call. The Law School’s attendance policy will be enforced per the TMSL Student Rules and Regulations.
ACADEMIC CALENDAR

FALL SEMESTER 2021 (SEVENTY DAYS OF CLASSES)

Orientation Monday-Friday August 9-13, 2021
First Day of Class Monday August 16, 2021
Last Day to ADD/DROP Wednesday August 18, 2021
Labor Day (NO CLASSES) Monday September 6, 2021
Purge of all unpaid course selections Wednesday September 15, 2021
Mid Term Examinations Mon – Fri October 11-15, 2021
Last Day to Drop a Class Friday November 5, 2021
Last Day of Classes Tuesday November 23, 2021
First Year Professors’ Grades due Tuesday November 23, 2021
Reading Period Wed November 24, 2021
Thanksgiving Holiday Thurs – Fri November 25-26, 2021
Reading Period Sat- Sun November 27-28, 2021
Final Examinations Monday - Friday November 29-Dec. 10, 2021
Commencement Exercises Saturday December 11, 2021

SPRING SEMESTER 2022 (SEVENTY DAYS OF CLASSES)

School Opens Monday January 3, 2022
First Day of Class Monday January 10, 2022
Last Day to ADD/DROP Friday January 14, 2022
M L K Holiday (No Classes) Monday January 17, 2022
Purge of all unpaid course selections Monday February 7, 2022
Mid Term Examinations Mon – Fri March 7 - 11, 2022
Spring Break Mon – Fri March 14 - 18, 2022
Last Day to Drop a Class Monday April 11, 2022
Good Friday (No Classes) Friday April 15, 2022
Last Day of Classes Wednesday April 27, 2022
First Year Professors’ Grades Due Wednesday April 27, 2022
Reading Period (No Classes) Thur – Sun April 28 - May 1, 2022
Final Examinations Mon- Fri May 2 – May 13, 2022
Hooding Ceremony Friday May 13, 2022
Commencement Exercises Saturday May 14, 2022
POLICIES & PROCEDURES

In accordance with University and TMSL Student Rules and Regulations.

Texas Southern University is committed to fostering a safe learning environment for its students. Toward that end, I am required as your professor to report to the University Title IX Coordinator any information you choose to share with me or of which I become aware regarding discrimination based on sex, including sexual harassment, sexual violence, dating violence, domestic violence, and stalking. Other than so reporting, I will seek to keep any information you share with me private and confidential. The University encourages students who have experienced sexual misconduct to report it to the Title IX Coordinator, although students are not required to do so if they choose not to. Students who need help in coping with sexual misconduct can obtain it through the University Counseling Center.
READING ASSIGNMENTS

PROPERTY LAW
PROFESSOR KLEVEN
SYLLABUS

I. Ownership Through Occupancy

A. Possession
1. John Locke I.A.1
5. Pennsylvania Law I.A.11

B. Discovery and Conquest
2. United States v. Percheman I.B.7-I.B.10
3. Tee-Hit-Ton Indians v. United States I.B.11-I.B.14

C. Adverse Possession
1. Statutes of Limitation I.C.1-I.C.2
8. Bernhardt & Burkhart 63-82

II. The Attributes of Ownership

A. The Right to Possess
1. Jeffries v. The Great Western Railway Co. II.A.1-II.A.2
3. Tapscott v. Cobbs II.A.6-II.A.8
4. Winchester v. City of Stevens Point II.A.9-II.A.11
5. Bernhardt & Burkhart 46-51

B. The Right to Exclude
1. Geragosian v. Union Realty Co. II.B.1-II.B.3
2. Somerville v. Jacobs II.B.4-II.B.7
3. State v. Shack II.B.8-II.B.12
III. Theories of Property

A. Human Dignity
1. Dred Scott v. Sanford III.A.1-III.A.8
5. Board of Regents v. Roth III.A.40-III.A.45

B. The Labor Theory
1. International News Service v. Associated Press III.B.1-III.B.9
2. Sony Corp. v. Universal City Studios III.B.10-III.B.18

C. Social Utility
1. Boomer v. Atlantic Cement Co. III.C.1-III.C.6
3. The Clean Air Act III.C.14-III.C.15
D. Private Versus Public Property
1. Henry George III.D.1-III.D.2
2. Lake Michigan Federation v. Army Corps of Engineers III.D.3-III.D.6
3. Raleigh Avenue Beach Ass’n v. Atlantis Beach Club, Inc. III.D.7-III.D.9
5. Pruneyard Shopping Center v. Robins III.D.15-III.D.19

IV. Property Rights in Natural Resources

A. Below the Surface
1. Edwards v. Sims IV.A.1-IV.A.4
2. Edwards v. Lee's Administrator IV.A.5-IV.A.7
3. Elliff v. Texas Drilling Co. IV.A.8-IV.A.11
4. Ohio Oil Co. v. State of Indiana IV.A.12-IV.A.14
6. Bernhardt & Burkhart 342-344

B. Above the Surface
1. Hinman v. Pacific Air Transport IV.B.1-IV.B.5
2. United States v. Causby IV.B.6-IV.B.10
3. Thornburg v. Port of Portland IV.B.11-IV.B.16
4. Bernhardt & Burkhart 350-351

C. Water
1. Collens v. New Canaan Waer Co. IV.C.1-IV.C.4
2. Coffin v. The Left Hand Ditch Co. IV.C.5-IV.C.6
5. Bernhardt & Burkhart 337-341

V. Estates in Land

A. Present and Future Estates
1. Types of Estates
   a. Storke v. Penn Mutual Life Insurance Co. V.A.1-V.A.4
   b. Browning v. Sacrison V.A.5-V.A.7
   c. Brokaw v. Fairchild V.A.8-V.A.11
   d. Brokaw v. Fairchild V.A.12-V.A.13
   e. Baker v. Weedon V.A.14-V.A.17
2. Restraints on Alienation
   b. Funk v. Funk V.A.21-V.A.25
   c. Gale v. York Center Community Cooperative V.A.26-V.A.28
   d. Bernhardt & Burkhart 117-119, 188-189

3. The Rule Against Perpetuities
   a. City of Klamath Falls v. Bell V.A.29-V.A.33
   c. Berry v. Union National Bank V.A.40-V.A.42
   d. Bernhardt & Burkhart 100-109

B. Concurrent Estates

Bernhardt & Burkhart 123-147

1. Types of Estates
   a. People v. Nogarr V.B.1-V.B.3
   b. Miller v. Reigler V.B.4-V.B.7
   c. Holbrook v. Holbrook V.B.8-V.B.9

2. The Relationship Among Cotenants
   b. Giles v. Sheridan V.B.14-V.B.16
   c. Massey v. Prothero V.B.17-V.B.19
   d. Baird v. Moore V.B.20-V.B.24
   e. Johnson v. Hendrickson V.B.25-V.B.28
   f. Carr v. Deking V.B.29-V.B.30
   g. White v. Smyth V.B.31-V.B.36

VI. Landlord and Tenant

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A. Types of Leaseholds
   1. Providence Land Services v. Jones VI.A.1-VI.A.3
B. Landlord's Remedies
2. Bass v. Boetel & Co. VI.B.3-VI.B.6
3. The Liberty Plan Co. v. Adwan VI.B.7-VI.B.9

C. Fitness of the Leased Premises
1. Actual and Constructive Eviction
   a. Suydam v. Jackson VI.C.1-VI.C.2
   b. Barash v. Pennsylvania Terminal Real Estate Corp. VI.C.3-VI.C.6
   c. Reste Realty Corp. v. Cooper VI.C.7-VI.C.12
   d. Blackett v. Olanoff VI.C.13a-VI.C.13b
   e. Charles E. Burt, Inc. v. Seven Grand Corporation VI.C.14a-VI.C.14b
2. Implied Warranty: The Inception of the Lease
   a. Hannan v. Dusch VI.C.15-VI.C.17
   c. Warshawsky v. American Automotive Parts Co. VI.C.21-VI.C.23
   d. Lemle v. Breeden VI.C.24-VI.C.28
   e. Brown v. Southall Realty Co. VI.C.29-VI.C.30
3. Implied Warranty: During the Term of the Lease
   a. Javins v. First National Realty Corp. VI.C.31-VI.C.35
   b. Chicago Board of Realtors, Inc. v. City of Chicago VI.C.36-VI.C.39
   c. Davidow v. Inwood North Professional Group VI.C.40-VI.C.42
   d. Lindsey v. Normet VI.C.43-VI.C.45
   e. Robinson v. Diamond Housing VI.C.46-VI.C.51
   f. Foisy v. Wyman VI.C.52-VI.C.53

D. Rental Housing as a Public Utility
1. Cotati Alliance for Better Housing v. Cotati VI.D.1-VI.D.5
2. 152 Valparaiso Associates v. City of Cotati VI.D.6-VI.D.9
3. 447 Associates v. Miranda VI.D.10-VI.D.14
4. Loeterman v. Town of Brookline VI.D.15-VI.D.17

VII. Easements

A. The Nature of Easements
1. Deterding v. United States VII.A.1-VII.A.4
2. Evans v. Holloway Sand and Gravel, Inc. VII.A.5-VII.A.8
3. Todd v. Krollick VII.A.9-VII.A.11
4. Waldrop v. Town of Brevard VII.A.12-VII.A.14
5. United States v. Blackman VII.A.15-VII.A.20
6. Bernhardt & Burkhart 201-203

B. Extent of and Limitations on Use
1. Hayes v. Aquia Marina, Inc. VII.B.1-VII.B.3
2. Brown v. Voss VII.B.4-VII.B.7
3. Geffine v. Thompson VII.B.8-VII.B.10
4. Stanton v. T.L. Herbert & Sons VII.B.11-VII.B.13
5. Martin v. Music VII.B.14-VII.B.16
8. Bernhardt & Burkhart 210-215

C. Creation and Extinguishment
1. Stoner v. Zucker VII.C.1-VII.C.3
2. Roy v. Euro-Holland Vastgoed, B.V. VII.C.4-VII.C.6
3. Van Sandt v. Royster VII.C.7-VII.C.10
4. Interior Trails Preservation Coalition v. Swope VII.C.11-VII.C.12
5. State ex. rel Haman v. Fox VII.C.14-VII.C.17
7. Frenning v. Dow VII.C.24-VII.C.25
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2. Gerber v. Pecht VIII.A.7-VIII.A.8
5. Burton v. Chesapeake Box & Lumber Corp. VIII.A.15-VIII.A.18
6. Bernhardt & Burkhart 190-193

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2. Trustees of Columbia College v. Lynch VIII.B.5-VIII.B.8
5. Davidson Bros., Inc. v. D. Katz & Sons, Inc. VIII.B.17-VIII.B.22
7. Bernhardt & Burkhart 222-231

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2. Graham v. Beemunder VIII.C.5-VIII.C.9
3. Rodgers v. Reimann VIII.C.10-VIII.C.12
4. Snow v. Van Dam VIII.C.13-VIII.C.15
5. Riley v. Bear Creek Planning Committee VIII.C.16-VIII.C.20
8. Bernhardt & Burkhart 231-236

D. Termination and Extinguishment
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4. Armstrong v. Ledges Homeowners Ass'n, Inc. VIII.D.7-VIII.D.11
5. Cherry v. Board of Home Missions VIII.D.12-VIII.D.14
7. Western Land Co. v. Truskolaski VIII.D.17-VIII.D.19
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A. Guiding Community Development and Character
1. Village of Euclid v. Ambler Realty IX.A.1-IX.A.6
2. State ex rel Stoyanoff v. Berkeley IX.A.7-IX.A.9
3. Golden v. Planning Board of Town of Ramapo IX.A.10-IX.A.15
4. Lucas v. South Carolina Coastal Council
   IX.A.16-IX.A.25
5. Tahoe-Sierra Preservation Council, Inc.
   v. Tahoe Regional Planning Agency IX.A.26-IX.A.29
6. Bernhardt & Burkhart  360-384

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2. Village of Arlington Heights v. Metropolitan Housing Development Corp.  IX.B.5-IX.B.8
3. Huntington Branch NAACP v. Town of Huntington  IX.B.9-IX.B.15
5. Hills Development Co. v. Township of Bernards IX.B.23-IX.B.25
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   b. Robben v. Obering X.A.4-X.A.6
   c. Salter v. Hamiter X.A.7-X.A.10
   d. First National Bank & Trust Co. of Woodbury v. Scott X.A.11-X.A.13
   e. Clevenger v. Moore X.A.14-X.A.17
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   e. Osin v. Johnson X.B.10-X.B.12
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   e. Mugaas v. Smith X.B.32-X.B.33
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   a. Uniform Land Transactions Act X.D.5
   b. Cash v. Maddox X.D.6-X.D.7
   c. Wiley v. Tom Howell & Associates, Inc. X.D.8-X.D.10
   d. Shaughnessy v. Eidsmo X.D.11-X.D.14
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   d. Luette v. Bank of Italy National Trust & Saving Asso. X.D.35-X.D.36
   e. Hebb v. Severson X.D.37-X.D.40
   f. Conklin v. Davi X.D.41-X.D.43
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   c. Donovan v. Bachstadt X.D.53-X.D.56
   d. Orr v. Godwin X.D.57-X.D.59
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   2. Bruyere v. Jade Realty Corp. X.E.4
   3. Introduction to Mortgage Financing X.E.5-X.E.8
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   5. Wallenkamp v. Bank of America X.E.10-X.E.15
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