

PROPERTY I & II

LAW 506 / SECTION 4

2016-17

PROFESSOR ASMARA M. TEKLE

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THE PROFESSOR

NAME: Asmara M. Tekle

TELEPHONE: 713-313-1154

EMAIL: atekle@tmslaw.tsu.edu

NOTES FROM THE PROFESSOR:

Blackboard Page: texasu.blackboard.edu (16 Fall – Property 1-Section04)

Facebook: <http://www.facebook.com/asmara.tekle> (Please send a friend request so that we can communicate.)

Feedback Fridays and Express Feedback Option-Issue Statements and Practice IRACs:

These collaborative sessions may take place on select Fridays and are intended to focus on applying IRAC in legal essay writing and articulating legal issues, skills that you likely will be expected to demonstrate competently as soon as your 1L summer on the job. Express feedback is available if you can't make a live session. Simply give me your practice IRAC, brief, or issue statement after class or place them under my office door, and I will return them to you as soon as possible.

Teaching Assistants and Tutorials: Maurice Rice and Madaline Smith may be reached at mauricerice2@gmail.com and madalinesmith22@gmail.com. They are available via Facebook, e-mail, and in weekly tutorials to assist each student. It is strongly recommended that students attend tutorial weekly.

Administrative Assistant: Kathy J. McKenzie, 713-313-7246 kjmckenzie@tmslaw.tsu.edu

COURSE BOOKS & MATERIAL

- (1) Property, A Contemporary Approach (3rd Ed., West);
- (2) “The Purple Workbook” - A Student’s Guide to Estates in Land and Future Interests (3rd Ed., Matthew Bender);
- (3) Property Law Simulations (West); and
- (4) Open Book-Succeeding on Exams from the First Day of Law School (Wolters Kluwer) (recommended)

GUIDING VALUES & OBJECTIVES

Guiding Values: Our class will center around four values:

1. Inquiry
2. Collaboration
3. Integrity
4. Professionalism

OBJECTIVES:

1. To acquire a proficient understanding of general property law in preparation for the multi-state bar exam and legal practice.
2. To reinforce some of the legal writing skills introduced and acquired in Lawyering Process, including distinguishing between relevant and irrelevant facts, organizing writing in IRAC format, and articulating legal issues. Fifty percent of the Texas bar exam is writing, and much of legal practice involves legal writing.
3. To hone reading and analysis of judicial opinions, the foundation of the common law.
4. To practice and develop professional skills such as being on time, engaging in active listening and public speaking, being prepared, and being ethical.
5. To experience and simulate as much as possible key aspects of real property law practice, including adverse possession, concurrent ownership, leaseholds, real property sales, nuisance law, and servitudes.

STUDENT LEARNING OUTCOMES

A. Skills

1. Dissect a legal opinion and identify its key components.
2. Distinguish between relevant and irrelevant facts.
3. Articulate the legal issue in a legal opinion or presented by a fact pattern that includes a reference to the rule or law, the appropriate legal term of art, or an articulation of legal choices and the key competing facts.
4. Accurately derive rules from legal cases.
5. Synthesize related cases.
6. Analogize to similar facts, reasoning, and policy in authority.
7. Distinguish between dissimilar facts, reasoning, and policy in authority.
8. Organize and explain issues using IRAC format and appropriate writing conventions.
9. Apply appropriate authority to resolve the issues arising from a fact pattern.
10. Present analysis in proper order (affirmative arguments prior to counter-arguments prior to rebuttal)
11. Organize and express ideas in writing with precision, clarity, logic, and economy.

B. Substantive Law

a. PROPERTY I (First Semester):

1. Understand expectations for property class and law school. (Weeks 1-3)
2. Know how to study for law school. (Weeks 1-3)
3. Explain IRAC. (Weeks 1-3)
4. Understand the five theories of property. (Weeks 1-2)
5. Define rule of capture. (Weeks 2-3)
6. Define and distinguish between the right to transfer, right to exclude, right to use, and right to destroy. (Weeks 2-3)
7. Define the elements of adverse possession and the rights acquired under adverse possession. (Week 3)
8. Understand the order of many real estate transactions, especially those involving the purchase and sale of land. (Weeks 4-8)
9. Review a residential real estate contract. (Weeks 4-8)
10. Identify how and when real estate contract must conform to the statute of frauds. (Weeks 4-8)
11. Define equitable conversion. (Weeks 4-8)
12. Identify the seller's implied duty in the real estate contract to convey to buyer "marketable title" and the remedies available to buyer when the seller breaches this duty. (Weeks 4-8)

13. Identify the seller's duty to disclose all known defects (duty to disclose defects) and remedies available to buyer when a seller breaches this duty (rescission or damages). (Weeks 4-8)
14. Recognize the doctrine of merger in real estate transactions. (Weeks 4-8)
15. Explain how a deed must conform to the statute of frauds. (Weeks 4-8)
16. Identify and distinguish between the three types of deeds (general warranty, special warranty, and quitclaim). (Weeks 4-8)
17. Recognize the covenants of title contained in each type of deed and the remedies available to the grantee for breach of the covenants of title. (Weeks 4-8)
18. Identify the doctrine of estoppel by deed. (Weeks 4-8)
19. Distinguish a bona fide purchaser from titleholders who acquire property through devise, gift, inheritance, or adverse possession. (Weeks 4-8)
20. Define and distinguish between notice, race-notice, and race recording acts. (Weeks 4-8)
21. Recognize when a bona fide subsequent purchaser prevails over a prior interest holder. (Weeks 4-8)
22. Understand how the acquisition of real property may be financed (mortgages and deeds of trust). (Weeks 4-8)
23. Define and distinguish between a judicial and a non-judicial or power of sale foreclosure. (Weeks 4-8)
24. Distinguish the three types of concurrent estates and how they are created. (Weeks 9-10)
25. Recognize how each of the three types of concurrent estates may be destroyed. (Weeks 9-10)
26. Understand the rights and liabilities of co-tenants in each of the three concurrent estates. (Weeks 9-10)
27. Distinguish between the different types of tenancies (periodic tenancy, tenancy for years, tenancy at will, and the holdover tenancy) and how they are created. (Weeks 11-15)
28. Understand the rights and duties of the landlord and tenant in each of the different types of tenancies. (Weeks 11-15)
29. Recognize how each of the different types of tenancies may be destroyed. (Weeks 11-15)
30. Contrast a sublease from an assignment and the liabilities of parties under each. (Weeks 11-15)
31. Identify the covenants and warranties that may be implied in residential and commercial leases (covenant of quiet enjoyment and the warranty of habitability) and when there is a breach. (Weeks 11-15)
32. State the methods of eviction and the defenses to eviction. (Weeks 11-15)
33. Determine a fixture. (Weeks 11-15)
34. State when a landlord must mitigate damages when a leasehold is broken. (Weeks 11-15)

b. PROPERTY II (Second Semester):

35. Understand expectations for second semester and study habits. (Week 16)
36. Know and distinguish the different types of present estates and future interests in property. (Weeks 16-20)
37. State the actual present and future interests in property upon application of the rule against perpetuities. (Weeks 16-20)
38. Understand the concept of waste, especially in relation to the holder of a future interest such as a remainderman or a landlord. (Weeks 16-20)
39. Describe an easement. (Weeks 21-29)
40. Distinguish between an easement in gross and an appurtenant easement. (Weeks 21-29)
41. Distinguish between an affirmative and a negative easement. (Weeks 21-29)
42. Define and distinguish the different types of basic easements. (Weeks 21-29)
43. State how easements may be created. (Weeks 21-29)
44. State how easements may be extinguished. (Weeks 21-29)
45. Differentiate between an easement and a license. (Weeks 21-29)
46. Define and distinguish between a real covenant and an equitable servitude. (Weeks 21-29)
47. Identify the requirements for a covenant to run at law and in equity (equitable servitude). (Weeks 21-29)
48. Analyze when a covenant touches and concerns the land. (Weeks 21-29)
49. Identify a common scheme. (Weeks 21-29)
50. Define a private nuisance. (Weeks 2, 28-29)
51. Define and distinguish between the remedies for nuisance. (Weeks 28-29)
52. Define the origins and constitutionality of zoning. (Weeks 30-31)
53. Identify the typical zoning ordinance. (Weeks 30-31)
54. Define nonconforming uses. (Weeks 30-31)
55. Recognize how nonconforming uses can be terminated. (Weeks 30-31)
56. Define public use. (Weeks 30-31)
57. Identify the scope of public use. (Weeks 30-31)

GRADING

1. 10% Professionalism (5% each semester)
2. 10% Quizzes (Multiple Choice)
3. 80% Tests
 - 20% Test #1 – Fall (Essay/Multiple Choice)
 - 20% Test #2 – Fall (Essay/Multiple Choice)
 - 20% Test #3 – Spring (Essay/Multiple Choice)
 - 20% Test #4 – Spring (Multiple Choice)

Perfect Attendance Bonus –2 points per semester for a possible total of 4 points added onto the final grade.

Half of students' final grade in property is determined by their performance in this class; the other half is determined by their performance on the property comprehensive exam (commonly called "the Comp"). A disclosure statement of the topics tested on the Comp is available on this course's Blackboard page

ACCOMMODATIONS

If you require special accommodations, please fill out the necessary forms with the Dean's office. Your application and documentation will remain confidential. Your prompt attention will allow the law school to accommodate you, as soon as it has been made aware of your situation.

Please see:

http://www.tsulaw.edu/student_affairs/docs/2011-2012AccommodationsHandbook.pdf

PROFESSIONALISM & ATTENDANCE

PROFESSIONALISM:

Because law school is a professional program, students are expected to act professionally. Acting professionally includes coming to class prepared and having read and thoroughly digested the reading assigned for homework. It also means avoiding disruptive conduct during class, such as talking, using cell phones, coming in late, leaving the classroom during class (absent extraordinary circumstances), or surfing the internet. Please review “The Texas Lawyer’s Creed: A Mandate for Professionalism” to understand the level of professionalism expected of lawyers in Texas, available at https://www.legalethicstexas.com/Downloads/Texas-Lawyers-Creed/Texas_Lawyers_Creed.aspx

Professionalism is graded and includes (1) demonstration of professional behavior and choices, (2) the preparation of written briefs or other written assignments such as problem sets, negotiation plans, deeds, judicial opinions; and (3) oral demonstration to my satisfaction of having digested the assigned reading. Students are welcome to review their professionalism performance at any point in the school year.

Written Briefs: Written briefs ordinarily are required for each case assigned, are to be in the **student’s handwriting** and to be of a reasonable length, and include **ALL** of the elements below. Students, therefore, are strongly encouraged to use the downloadable brief template on this course’s Blackboard page. Students must make their briefs as visible as reasonably possible to the professor during class or turn them into the professor upon request. Typed briefs are not permitted absent an institutional accommodation.

- Key Facts, including what happened procedurally.
- Issue-What is the legal question (or the question that the court is trying to answer)? The general formula is reference to the rule/use of legal “term of art”/legal choice + key competing fact(s).
- Holding-The court’s answer to the legal question. (Yes/No)
- Rule-The rule articulated by the court, i.e. the “black letter law.” It is very important to frame the rule in your own words, but to include the appropriate legal “term(s) of art” or choices, as these acts demonstrate comprehension of the rule and will aid in recall of the rule, especially at exam time.
- Analysis-Brief summary of the court’s reasoning, or why or how the court came to its holding. (1-3 sentences)

Oral Recitation: On any given day with or without notice, students may be asked to recite and/or to prepare orally to my satisfaction, a case, cases, or practice problems either before the entire class or in a small or paired grouping. In addition, students are required to have the current editions of the required textbooks. In order for students to gain as much practice as possible reading and analyzing cases, in preparation for legal practice, the only reference materials allowed during class, unless provided otherwise, are the texts, professor’s handouts,

and the student's personal notes. Please note that students who meet the standards for the written briefs (i.e. who have the relevant handwritten briefs for the assigned cases) still may not satisfy the professionalism requirement if they cannot demonstrate that they are prepared orally when called upon.

ATTENDANCE:

Per the Student Rules of Matriculation, students missing more than five (5) classes per semester, totaling eleven (11) or more absences for the academic year, may have their grades reduced by up to two letter grades or be administratively withdrawn from the course. The roll is called at the start of every class period and attendance taken then. Students who are not present or who do not respond **when their names are called are absent**. In addition, the Student Rules and Regulations do **not** provide for excused absences under any circumstance(s).

Students who achieve perfect attendance each semester are eligible for a bonus of two points per semester, for a possible total of four points for the year that are added onto the final grade.

ACADEMIC CALENDAR

FALL SEMESTER 2016 (SEVENTY DAYS OF CLASSES)

Orientation	Monday-Friday	August 8-12, 2016
First Day of Class	Monday	August 15, 2016
Last Day to ADD/DROP	Wednesday	August 17, 2016
Labor Day (NO CLASSES)	Monday	September 5, 2016
<i>Purge of all unpaid course selections</i>	Thursday	September 15, 2016
Mid Term Examinations	Mon – Fri	October 10-14, 2016
VETERANS DAY (NO CLASSES)	Friday	NOVEMBER 11, 2016
Last Day of Classes	Tuesday	November 22, 2016
Last Day to Drop a Class	Tuesday	November 22, 2016
First Year Professors' Grades due	Tuesday	November 22, 2016
Reading Period (NO CLASS)	Wednesday	November 23, 2016
Thanksgiving Holiday	Thurs – Fri	November 24-25, 2016
Reading Period	Sat-Sun	November 26-27, 2016
Final Examinations	Mon –Fri	November 28-Dec. 9, 2016
Commencement	Saturday	December 10, 2016

SPRING SEMESTER 2017 (SEVENTY DAYS OF CLASSES)

School Opens	Monday	January 2, 2017
First Day of Class	Monday	January 9, 2017
Last Day to ADD/DROP	Wednesday	January 11, 2017
M L K Holiday (No Classes)	Monday	January 16, 2017
<i>Purge of all unpaid course selections</i>	Wednesday	February 8, 2017
President's Day Holiday (No Classes)	Monday	February 20, 2017
Mid Term Examinations	Mon – Fri	March 6– 10, 2017
Spring Break	Mon – Fri	March 13 – 17, 2017
Good Friday (No Classes)	Friday	April 14, 2017
Last Day of Classes	Wednesday	April 26, 2017
Last Day to Drop a Class	Wednesday	April 26, 2017
First Year Professors' Grades due	Wednesday	April 26, 2017
Reading Period (No Classes)	Thur. – Sun	April 27 - 30, 2017
Final Examinations	Mon- Fri	May 1 – May 12, 2017
Hooding Ceremony	Friday	May 12, 2017
Commencement	Saturday	May 13, 2017

Please note that the calendar events and /or dates are subject to change.

TMSLAW REGISTRAR
March 2016

POLICIES & PROCEDURES

Please refer to the Thurgood Marshall School of Law's [Student Rules and Regulations Handbook](#).

SoftTest: All quizzes and tests will be administered using SoftTest, the software used on the Texas bar exam essays. As is the case with the bar exam, it is the **student's responsibility** to secure a laptop with the software downloaded for each quiz and test administered, know her username and password, familiarize herself with the software and the experience of taking exams using it, and to contact Examsoft for technical support. Please contact the Law School's Technology Department at TMSL-Help@tmsl.tsu.edu or at 713-313-1120 if you need help or a laptop.

Make-Up Classes: There may be times when make-up classes will be held when class may not be held at the regularly scheduled class hour. Times for these sessions will be posted on Facebook or announced in class.

Syllabus: This syllabus is subject to change with or without notice, and it is not a contract.

READING ASSIGNMENTS

Please Note: The list of reading assignments below is provided as a general guide. Specific reading assignments will ordinarily be provided each week. In addition, topics covered each week are subject to change, to account for days on which quizzes may be given, a need to cancel class, or other contingencies.

<u>WEEK</u>	<u>ASSIGNMENT</u>
1	Setting Law School Expectations & Study Habits; An Intro to Legal Writing & IRAC; <u>Open Book</u> -pp. xiii-15; Ch. 3 (IRAC); <u>Property</u> -Ch. 1
2	<u>Property</u> -Ch. 1; <u>Open Book</u> -Ch. 4-7 (each part of IRAC deconstructed)
3	<u>Property</u> - Ch. 2-Adverse Possession, Tacking, and Disabilities
4	<u>Property</u> -Ch. 8-Selling Real Property; NO CLASS – 9/5 – LABOR DAY
5	<u>Property</u> -Ch. 8-Selling Real Property
6	<u>Property</u> -Ch. 8-Selling Real Property
7	<u>Property</u> -Ch. 8-Selling Real Property
8	<u>Property</u> -Ch. 8-Selling Real Property
9	<u>Property</u> -Ch. 6 (Concurrent Ownership & Marital Property); TEST #1 – 10/5
10	<u>Property</u> -Ch. 6 (Concurrent Ownership & Marital Property)

WEEK

ASSIGNMENT

11	<u>Property-Ch.7 (Leasing Real Property)</u>
12	<u>Property-Ch.7 (Leasing Real Property)</u>
13	NO CLASS-11/11-Veterans Day; <u>Property-Ch.7 (Leasing Real Property)</u>
14	<u>Property-Ch.7 (Leasing Real Property)</u>
15	Catch-Up – Last Day – First Semester - 11/21
16	Second Semester Expectations & Study Habits; Review <u>Open Book</u> ; Begin Estates in Land & Future Interests – Purple Workbook
17	Estates in Land & Future Interests-Purple Workbook
18	Estates in Land & Future Interests-Purple Workbook
19	Estates in Land & Future Interests-Purple Workbook
20	Estates in Land & Future Interests-Purple Workbook
21	<u>Property-Ch. 9-Private Land Use Planning</u>
22	<u>Property-Ch.9-Private Land Use Planning</u> ; NO CLASS - 2/20-Presidents Day
23	<u>Property-Ch. 9-Land Use Planning</u> ; TEST #3 – 3/3
24	<u>Property-Ch. 9-Private Land Use Planning</u>
25	SPRING BREAK – 3/13-3/17
26	<u>Property-Ch. 9-Private Land Use Planning</u>
27	<u>Property-Ch. 9-Private Land Use Planning</u>

WEEK

ASSIGNMENT

28	<u>Property-Ch. 9-Private Land Use Planning & Nuisance</u>
29	<u>Property-Ch. 9-Private Land Use Planning & Nuisance</u>
30	<u>Property-Ch. 10-Land Use Regulation;</u> <u>Property-Ch.12-Eminent Domain; TEST #4 – 4/17</u>
31	<u>Property-Ch. 12-Eminent Domain; LAST DAY- 4/26</u>