



# PROPERTY LAW SYLLABUS

ERICKA KELSAW

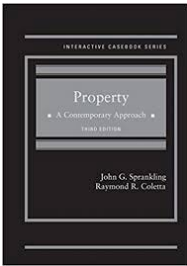
Spring 2023

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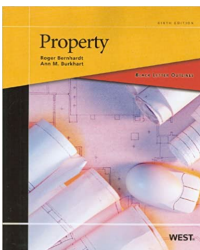
Class Hours: Mondays, Wednesdays & Fridays—1 PM to 1:50 PM

Office hours: Room 236K, Hours TBA (online or in office; for in-office meetings, a mask is mandatory)

Required Literature:



John C. Sprankling & Raymond R. Coletta, *PROPERTY, A CONTEMPORARY APPROACH* (Fifth Ed. 2021), including access to the electronic materials associated with the textbook.



Bernhardt & Burkhardt, *BLACK LETTER OUTLINE ON PROPERTY* (6<sup>th</sup> Ed. 2012), ISBN: 978-1-63459-058-7

## Objective

Property is a first year-required course. Property law is the law that in the common law legal system governs the various forms of ownership in real property and in personal property. Modern law, in the form of torts and contracts-based doctrines, also influences property law. It is the objective of this course to help students navigate through these influences. A multidimensional series of cases, statutes, essays, short answer questions, quizzes, and exams will be administered to help formulate and gauge the students' understanding. By the end of the academic year, students will have the tools to successfully pass the comprehensive exams and will have acquired the knowledge and skills required for the bar exam as well.

## Purpose

The purpose of this syllabus is to provide students a roadmap of the course to help prepare for class. This syllabus is not intended to answer all the questions that will arise during the semester; therefore, it is also the students' responsibility to ask questions.

**NOTE: ALL INSTRUCTIONAL LESSONS AND EXAMS IN THIS SYLLABUS ARE SUBJECT TO CHANGE.**

## Class Guidance

Always read the points for discussion following the cases and work any problems. Bring hard copies of your briefs to class (not just book briefing) and be ready to identify:

- 1) the facts (background facts and key facts),
- 2) the issue (**under** the overall rule, **does/did/was** the subrule met, **when** the key facts happened),
- 3) the rule of law (including the overall rule and the subrules), and
- 4) the court's reasoning (marry the subrule/test and the key facts together).

## Grades

### **PROFESSOR'S SCORES—50%**

**Class Reading Quizzes: 10%** (100 points) (10-point bonus if score top score on every quiz)

**Fall Midterm: 25%** (250 points) (essay + multiple-choice)

**Fall Final: 60%** (600 points) (multiple-choice)

**Participation & Professionalism: 5%** (50 points)

**Extra Credit: TBA during the semester** (examples include Fuischa's tutorials, class case briefs, post-exam reviews, speakers, top score on every quiz, and Learning Library questions)

- **FURTHER NOTE** – The grading break-down, just like *anything* in this syllabus, is subject to change by the Professor. In this event, notice will be provided to students.

### **COMP EXAM SCORE—50%**

#### **Spring Comp Exam Coverage by Chapter:**

1. Leasing Real Property (Landlord & Tenant) (Ch. 7) (9 comp questions)
2. Private Land Use Planning (Ch. 10) (20 comp questions)
3. Land Use Regulation (Ch. 11) (2 comp questions)
4. Selling Real Property (Ch. 8) (24 comp questions)
5. Financing Real Property (Ch. 9) (3 comp questions)

#### **Spring Comp Exam Coverage by Topic**

<b>Subject</b>	<b>Questions/Percentage</b>
landlord & tenant	11/18%
easements	10/17%
covenants/servitudes	10/17%
zoning	2/3%
real estate contracts	10/17%
deeds	6/10%
statute of frauds	2/3%
recording	4/7%
title insurance	2/3%
mortgages	3/5%
<b>TOTAL</b>	<b>60/100%</b>

## SECTION 1. CH. 7 LEASING REAL PROPERTY (LANDLORD & TENANT)

### —11 QUESTIONS ON COMP

<p><b><u>First Day of Spring Semester</u></b> 1/9/23</p>	<ul style="list-style-type: none"> <li>➤ Congratulations on a Successful Fall Semester!! Let's recap the Fall and look ahead to the Spring!</li> <li>➤ Extra credit to all in attendance.</li> </ul>
<p><b><u>Ch. 7 Leasing Real Property</u></b></p> <ul style="list-style-type: none"> <li>• <b>Creating the Tenancy/Selecting the Tenant</b> 1/11/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 411-421</li> <li>➤ <i>Texas Dept of Housing &amp; Community Affairs v. Inclusive Communities Project, Inc.</i></li> <li>➤ <i>Neithamer v. Breneman Property Services, Inc.</i></li> <li>➤ Quiz #1</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Creating the Tenancy/Selecting the Tenant</b> 1/13/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 422-426</li> <li>➤ <i>Fair Housing Council of San Fernando Valley v. Roommate.com, LLC</i></li> <li>➤ Quiz #2</li> </ul>
<p>MLK HOLIDAY 1/16/23</p>	
<ul style="list-style-type: none"> <li>• <b>Creating the Tenancy/Selecting the Estate</b> 1/18/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 427-433</li> <li>➤ <i>Effel v. Rosberg</i></li> <li>➤ Quiz #3</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Creating the Tenancy/Selecting the Estate/Negotiating the Lease/Delivering Possession</b></li> <li>• <b>Condition of the Premises/Substandard Housing/Constructive Eviction</b> 1/20/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 433-441</li> <li>➤ <i>Keydata Corp. v. United States</i></li> <li>➤ <i>In re Clark</i></li> <li>➤ Quiz #4</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Condition of the Premises/Constructive Eviction</b> 1/23/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 441-451</li> <li>➤ <i>Fidelity Mutual Life Insurance Co. Kaminsky</i></li> <li>➤ <i>JMB Properties Urban Co. Paolucci</i></li> <li>➤ Quiz #5</li> </ul>

<ul style="list-style-type: none"> <li>• <b>Condition of the Premises/Implied Warranty of Habitability</b> 1/25/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 451-460</li> <li>➤ <i>Wade v. Jobe</i></li> <li>➤ <i>Teller v McCoy (dissent only)</i></li> <li>➤ Quiz #6</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Transferring the Tenant's Interest</b> 1/27/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 460-470</li> <li>➤ <i>Ernst v. Conditt</i></li> <li>➤ Quiz #7</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Transferring the Tenant's Interest</b> 1/30/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 470-477</li> <li>➤ <i>Kendall v. Ernest Pestana, Inc.</i></li> <li>➤ Quiz #8</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Ending the Tenancy</b> Abandonment/ Security Deposits 2/1/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 477-486</li> <li>➤ <i>Sommer v. Kridel</i></li> <li>➤ Quiz #9</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Ending the Tenancy</b> Eviction 2/3/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 492-499</li> <li>➤ <i>Elk Creek Management Co. v. Gilbert</i></li> <li>➤ <i>Berg v. Wiley</i></li> <li>➤ Quiz #10</li> </ul>

**SECTION 2. CH. 10 PRIVATE LAND USE PLANNING (EASEMENTS & COVENANTS/SERVITUDES)**

**--20 QUESTIONS—10 FOR EASEMENTS; 10 FOR COVENANTS/SERVITUDES**

<p><b><u>Ch. 10 Private Land Use Planning</u></b></p> <ul style="list-style-type: none"> <li>• <b>Creating Easements/Creating Easements</b> 2/6/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 637-648</li> <li>➤ <i>Millbrook Hunt, Inc. v. Smith</i> (posted under Course Materials on TWEN)</li> <li>➤ <i>Emanuel v. Hernandez</i></li> <li>➤ Quiz #11</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Creating Easements/Creating Easements</b> 2/8/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 648-661</li> <li>➤ <i>Berge v. State of Vermont</i></li> <li>➤ <i>O'Dell v. Stegall</i></li> <li>➤ Quiz #12</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Creating Easements/Creating Easements/Interpreting Easements</b> 2/10/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 661-675</li> <li>➤ <i>Kienzle v. Myers</i></li> <li>➤ <i>Marcus Cable Associates, L.P. v. Krohn</i></li> <li>➤ Quiz #13</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Creating Easements/Terminating Easements/Negative Easements</b></li> <li>• <b>Land Use Restrictions/Traditional Approach: Real Covenants</b> 2/13/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 675-687</li> <li>➤ <i>Presault v. United States</i></li> <li>➤ Quiz #14</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Land Use Restrictions/Traditional Approach: Equitable Servitudes/Restatement Approach/Discriminatory Covenants</b> 2/15/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 688-698</li> <li>➤ <i>Deep Water Brewing, LLC v. Fairway Resources Ltd</i></li> <li>➤ <i>Gambrell v. Nivens</i></li> <li>➤ Quiz #15</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Land Use Restrictions/Common Interest Communities</b> 2/17/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 699-717</li> <li>➤ <i>Shelley v. Kraemer</i></li> <li>➤ <i>Nahrstedt v. Lakeside Village Condominium Association Inc.</i></li> <li>➤ Quiz #16</li> </ul>

<ul style="list-style-type: none"> <li>• <b>Land Use Restrictions/Common Interest Communities</b> 2/20/23</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 717-727</li> <li>➤ <i>Fink v. Miller</i></li> <li>➤ <i>Vernon Township Volunteer Fire Department, Inc. v. Connor</i></li> <li>➤ Quiz #17</li> </ul>
<p>PRE-MIDTERM REVIEW 2/22/23</p>	
<p>MIDTERM ESSAY EXAM 2/24/23</p>	<ul style="list-style-type: none"> <li>➤</li> </ul>
<p>MIDTERM M/C EXAM 2/27/23</p>	<ul style="list-style-type: none"> <li>➤</li> </ul>
<p>POST-MIDTERM M/C REVIEW 3/1/23 or 3/3/23</p>	<ul style="list-style-type: none"> <li>➤ Extra credit for attendees.</li> </ul>
<p>SPEAKER TBA 3/1/23 or 3/3/23</p>	<ul style="list-style-type: none"> <li>➤ Extra credit for attendees.</li> </ul>

**SECTION 3. CH. 11 LAND USE REGULATION (ZONING)—**

**--2 QUESTIONS ON COMP**

<p><b><u>Ch. 11 Land Use Regulation</u></b></p> <ul style="list-style-type: none"><li>• <b>Basics of Zoning/Constitutionality of Zoning/Typical Zoning Ordinance/Nonconforming Uses</b></li></ul> <p>3/6/22</p>	<ul style="list-style-type: none"><li>➤ Read: pp. 749-767</li><li>➤ <i>Village of Euclid v. Ambler Realty Co.</i></li><li>➤ <i>Trip Associates, Inc. v. Mayor and City Council of Baltimore</i></li><li>➤ Quiz #18</li></ul>
<p>TBA</p> <p>3/8/23</p>	<ul style="list-style-type: none"><li>➤ Extra credit for attendees.</li></ul>
<p>POST-ESSAY REVIEW</p> <p>3/10/23</p>	<ul style="list-style-type: none"><li>➤ Extra credit for attendees.</li></ul>
<p>SPRING BREAK</p> <p>BE SAFE &amp; HAVE FUN!!!</p> <p>WEEK OF 3/13/23</p>	

**SECTION 4. CH. 8 SELLING REAL PROPERTY (CONVEYANCING: REAL ESTATE CONTRACTS, DEEDS, STATUTE OF FRAUDS, RECORDING, TITLE INSURANCE)**

**--24 QUESTIONS ON COMP**

<p><b><u>Ch. 8 Selling Real Property</u></b>          • <b>The Purchase Contract/Statute of Frauds</b>          3/20/23</p>	<ul style="list-style-type: none"> <li>➤ Read: pp. 501-510</li> <li>➤ <i>Hickey v. Green</i></li> <li>➤ Quiz #19</li> </ul>
<p>• <b>The Purchase Contract/ Marketable Title</b>          3/22/23</p>	<ul style="list-style-type: none"> <li>➤ Read: pp. 510-516</li> <li>➤ <i>Lohmeyer v. Bower</i></li> <li>➤ Quiz #20</li> </ul>
<p>• <b>The Purchase Contract/ Equitable Conversion/Duty to Disclose</b>          3/24/23</p>	<ul style="list-style-type: none"> <li>➤ Read: pp. 517-529</li> <li>➤ <i>Brush Grocery Kart, Inc. v. Sure Fine Market, Inc.</i></li> <li>➤ <i>Stambovsky v. Ackley</i></li> <li>➤ Quiz #21</li> </ul>
<p>• <b>The Purchase Contract/Duty to Disclose</b>          • <b>The Closing/Deeds</b>          3/27/23</p>	<ul style="list-style-type: none"> <li>➤ Read: pp. 529-540</li> <li>➤ <i>Strawn v. Canuso</i></li> <li>➤ <i>Rosengrant v. Rosengrant</i></li> <li>➤ Quiz #22</li> </ul>
<p>• <b>The Closing/ Deeds/Remedies for Breach</b>          3/29/23</p>	<ul style="list-style-type: none"> <li>➤ Read: pp. 540-549</li> <li>➤ <i>Vasquez v. Vasquez</i></li> <li>➤ <i>Giannini v. First Nat'l Bank of Des Plaines</i></li> <li>➤ Quiz #23</li> </ul>
<p>• <b>Title Assurance/Title Covenants</b>          3/31/22</p>	<ul style="list-style-type: none"> <li>➤ Read: pp. 549-558</li> <li>➤ <i>Brown v. Lober</i></li> <li>➤ Quiz #24</li> </ul>
<p>• <b>Title Assurance/Title Opinion Based on Search of Public Records</b>          4/3/22</p>	<ul style="list-style-type: none"> <li>➤ Read: pp. 558-570</li> <li>➤ <i>Luthi v. Evans</i></li> <li>➤ Quiz #25</li> </ul>
<p>• <b>Title Assurance/Title Opinion Based on Search of Public Records</b>          4/5/22</p>	<ul style="list-style-type: none"> <li>➤ Read: pp. 571-579</li> <li>➤ <i>Messersmith v. Smith</i></li> <li>➤ Quiz #26</li> </ul>



<p>GOOD FRIDAY HOLIDAY 4/7/22</p>	
<ul style="list-style-type: none"> <li>• <b>Title Assurance/Title Opinion Based on Search of Public Records</b> 4/10/22</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 579-586</li> <li>➤ <i>Board of Education of Minneapolis v. Hughes</i></li> <li>➤ Quiz #27</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Title Assurance/Title Insurance</b> 4/12/22</li> </ul>	<ul style="list-style-type: none"> <li>➤ Read: pp. 586-600</li> <li>➤ <i>Raub v. General Income Sponsors of Iowa, Inc.</i></li> <li>➤ <i>Riordan v. Lawyers Title Insurance Corp.</i></li> <li>➤ Quiz #28</li> </ul>

## SECTION 5. CH. 9 FINANCING REAL PROPERTY (MORTGAGES)

### --3 QUESTIONS ON COMP

<p><b><u>Ch. 9 Financing Real Property</u></b></p> <ul style="list-style-type: none"><li>• <b>Creating the Obligation</b></li><li>• <b>Providing the Security/Mortgage/Deed of Trust/Installment Land Contract</b></li></ul> <p>4/14/22</p>	<ul style="list-style-type: none"><li>➤ Read: pp. 601-615</li><li>➤ <i>Slone v. Calhoun</i></li><li>➤ Quiz #29</li></ul>
<ul style="list-style-type: none"><li>• <b>Foreclosing on the Security/Borrower's Rights Before the Foreclosure Sale/Judicial Foreclosure/Nonjudicial Foreclosure/Results of the Foreclosure Sale/Special Mortgage Priority Rules</b></li><li>• <b>Exercising Rights After Foreclosure/Protecting the Borrower/Protecting the Lender</b></li></ul> <p>4/17/22</p>	<ul style="list-style-type: none"><li>➤ Read: pp. 621-624, 625-635</li><li>➤ <i>Wansley v. First Nat's Bank of Vicksburg</i></li><li>➤ Quiz #30</li></ul>
PRE-FINAL EXAM REVIEW 4/19/22	
TBA 4/21/23	
FINAL EXAM 4/24/23	
POST-FINAL EXAM REVIEW  LAST DAY OF CLASS 4/26/23	<ul style="list-style-type: none"><li>➤ Extra credit to all attendees.</li></ul>

### **Zoom Office Hours & On-Line Class Info (same as last semester):**

Ericka Kelsaw is inviting you to a scheduled Zoom meeting.

Topic: Ericka Kelsaw's Zoom Property Class

Time: This is a recurring meeting Meet anytime

Join Zoom Meeting

<https://us02web.zoom.us/j/83151014329?pwd=aGx5SFJpNnY3M3NxDjRlVldTSIFUUT09>

Meeting ID: 831 5101 4329

Passcode: 188802

One tap mobile

+13462487799,,83151014329#,,,,\*188802# US (Houston)

+16699006833,,83151014329#,,,,\*188802# US (San Jose)

Dial by your location

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

Meeting ID: 831 5101 4329

Passcode: 188802

Find your local number: <https://us02web.zoom.us/j/83151014329?pwd=aGx5SFJpNnY3M3NxDjRlVldTSIFUUT09>

### **Top Hat Joining Information (same as last semester)**

- Account Creation & Login - <https://tophat-1.wistia.com/medias/m55nsiyiiw>
- Payment, Free Trials & Code Redemption - <https://tophat-1.wistia.com/medias/rj6mn5d1gr>
- Requesting a Refund - <https://tophat-1.wistia.com/medias/btf5697eyc>
- Account Settings - <https://tophat-1.wistia.com/medias/lk7dgkl0op>