

**WESTERN STATE COLLEGE OF LAW
COURSE SYLLABUS, POLICIES, AND ASSIGNMENTS
2016 SPRING SEMESTER
PROPERTY I
SECTION 151B
DEAN SHEPPARD**

CLASS MATERIALS:

REQUIRED TEXT: John G. Sprankling and Raymond R. Coletta, **Property, A Contemporary Approach, Third Edition** (2015 West Academic Publishing Interactive Casebook Series)

REQUIRED SUPPLEMENTS: Professor's Course Supplements posted to the Web Course

RECOMMENDED TEXT: John G. Sprankling, **Property Law Simulations** (2013 West Bridge to Practice Series)

THE INTERACTIVE COURSE TEXT:

Features of the required course text include Internet access to visual information and audio files relevant to various course topics, and Westlaw search terms that enable you to find state law regarding certain course topics. You are also able to access online chapter quizzes and answers and explanations regarding the problems that comprise those quizzes. I urge you to access those quizzes and the answers to the questions at appropriate intervals.

Note with care that you are able to obtain a license to access the online information provided by or organized by the authors for your edification by using the "KeyCode" that appears on the face page of the text you acquired. If you have acquired a used text, you will have to pay a separate fee to West publishing to obtain a license to access the eBook version of the course text. You may be able to acquire a license to use the online version of the text without having to obtain a hard copy of the text if you prefer to do so.

I expect that you will study page ix of the text, "*Features of This Casebook*," with care.

I recommend that you refer to those portions of the Sprankling workbook noted in the Reading Assignments segment of this document. That workbook is comprised of summaries of principles of law studied in this course and simulation exercises. Although Professor Sprankling has devised the simulations with the idea in mind of providing opportunities to students to develop and hone negotiation and advocacy skills, I urge you to access information in that text notwithstanding that we will not be able to devote class time to engage in the simulations suggested by Professor Sprankling. You will also benefit from a critical reading of the sample letters, pleadings, and other documents, set forth in that text.

SKILLS AND VALUES

A task force report exists that is commonly referred to as “The McCrate Report.” The authors of that report examined the legal skills and values listed above as well as other skills and values. [Section on Legal Education & Admissions to the Bar, American Bar Association Legal Education and Professional Development – An Educational Continuum (Report of the Task Force on Law Schools and the Profession: Narrowing the Gap, 1992). A collection of law review articles that represent supporting and critical views of “The McCrate Report” appear in Volume 69 of the *Washington Law Review* published in July of 1994.]

On page 1 of his “Property Law Simulations” text, Professor Sprankling notes: “The McCrate Report had little impact on legal education. But the Carnegie report has been more successful, prompting many law schools to make curricular changes that expand opportunities for experiential learning.” Actually, Western State was one of the few law schools that took special note of the The McCrate Report prior to the publication of the Carnegie report as evidenced by its Mission Statement, course offerings, and methods of instruction.

COURSE COVERAGE AND OPPORTUNITIES:

Property I is the first semester of the year-long basic course regarding various aspects of American property law. We will focus on the following topics during this semester: (1) the concept of property including the “bundle of rights theory” of property; (2) the estates system of ownership rights in real property; (3) forms of concurrent ownership of interests in property; and (4) servitudes (i.e., burdens on interests in real property known as licenses, profits, easements, and land use covenants).

During the second semester, Property II, our attention will be focused on: (1) leasing real property and landlord/tenant law; (2) methods of acquiring ownership of property including by find, gift, adverse possession, and purchase which will include introductory material regarding various aspects of residential real estate sale transactions (the purchase contract, deeds, mortgages, deeds of trusts, installment land sale contracts, and various forms of title assurance including contract warranties, deed warranties, recording acts, and title insurance); and (3) an introduction to the law of eminent domain, zoning, and regulatory takings.

COURSE METHODOLOGY:

I utilize a combination of classroom methods to assist you in your efforts to achieve the objectives of this course. Those methods include lectures; use of the Socratic method of interaction to enable you to gauge your current level of knowledge of course material, use of the case method of exploring and examining legal principles and methods of application of those principles of law to various facts; use of the problem solving method; use of role playing; and use of collaborative learning exercises.

It is incumbent upon you to study each course assignment before we engage in classroom discussions about a course assignment. Classroom activities will provide you with opportunities to develop and hone your understanding of various principles of property law and how to apply those principles to resolve dispute resolution or transactional issues. To be properly prepared for class, you must complete a critical reading of assigned material, brief each principal case, note case, and any additional case(s) that I might assign that are not cited in the course text. You should also engage in exam prep exercises on a weekly basis.

LEXISNEXIS WEB COURSE:

Additional course material, information, practice exercises, comments regarding text problems, and prior course exams are and will be posted to the web course. You will be able to enroll in the web course on and after 9:00 AM, Monday, December 21, 2015. To enroll in the web course:

1. Go to <http://webcourses.lexisnexis.com>.
2. Enter your Lexis identification number where indicated.
3. Click the Browse Course Catalog link.
4. Click the link for Western State.
5. Click the "Enroll" button next to the course name: Property I, Property Law 101649.
6. Enter the access code where indicated. The access code is: SHEPPARDISP16.
7. Click the submit button.

If you encounter any problem enrolling in the web course, please let me know.

EXAMINATION AND GRADING:

There will not be a midterm exam in this course.

There will be one on-campus, graded, closed book/closed notes course examination. That exam will be the course final exam. You will not be allowed to use books, notes, or other reference material during the final exam. The final exam will be a three-hour exam.

General examination procedures are noted in the current edition of the *Student Handbook*. Additional procedures and instructions that pertain to the exam to be administered in this course will be included as part of each final exam packet. Some of my prior Property II final exams are posted to exams folder that is part of the Course Documents section of the web course for reasons noted in the memorandum that is also posted to the web course regarding changes in course coverage that were made when the basic one-year Property course was changed from a six-unit course to a five-unit course. I am in the habit of posting the exam instructions that will be included in the final exam packet about two weeks prior to the last day of instruction. That will allow ample time for you to become familiar with those instructions and procedures prior to the date upon which the final exam will be administered. If you fail to comply with any of those instructions or procedures, you will be subject to academic penalties, or administrative penalties, or both.

I also expect you to adhere to the essay answer criteria also posted to the exam folder located in the Course Documents section of the web course.

FINAL EXAM FORMAT:

As noted in the preceding segment of this document, a three-hour final exam will be administered as part of this course. Information about the format of the final exam will be provided to you prior to the Please also read that portion of the current edition of the *Student Handbook* regarding the "Grading System and Student Honors."

CALCULATION OF COURSE GRADE:

Course grades will be recorded using a numeric grade system on a scale of 0.0 to 4.0. Please note with care that I do not grade on a curve. The grade you earn in this course will be based solely on your individual level of performance in the course. Consequently, the level of performance of other members of the class will not affect the manner in which your course grade will be calculated.

To earn a numeric grade of 4.0, you must accumulate at least 90 course grade points. A total of 89 course grade points results in a numeric grade of 3.9; 88 course grade points results in a numeric grade of 3.8; and so forth.

“EXTRA CREDIT” COURSE QUIZZES

I will administer at least three “pop” quizzes during the semester. Each pop quiz will be worth 100 points. If your average score on the course quizzes is 70 to 74, you will have earned one extra-credit course grade point. If your average score on the course quizzes is 75 to 79, you will have earned one and one-half extra-credit course grade point. If your average score on the course quizzes is 80 to 84, you will have earned two extra-credit course grade points. If your average score on the course quizzes is 85 to 89, you will have earned two and one-half extra-credit course grade points. If your average score on the course quizzes is 90 to 94, you will have earned three extra-credit course grade points. If your average score on the course quizzes is 95 – 100, you will have earned four extra-credit course grade points. If your average score on the course quizzes is 69 or less, you will not have earned any extra-credit grade points.

If you earn one extra-credit grade point, or more than one extra-credit grade points, your extra-credit grade point or points will be added to your final exam grade points and the total thereof will determine your numeric course grade.

You will be required to enter your semester student exam number in the space provided therefor on the first page of a quiz packet. In the event you are not able to access your student exam number for insertion on a quiz packet, enter a “bogus number” on the quiz packet. After the conclusion of the class session during which the quiz was administered, notify one of the Faculty Assistants that you used a “bogus number” on a course quiz. Communicate the bogus number you used to the Faculty Assistant and also communicate your student exam number to the Assistant. The Assistant will communicate that information to me without disclosing your identity.

PRACTICE EXAM PREP AND WRITING EXERCISES:

I strongly urge you to include exam writing, or exam taking, **exercises** as part of your daily study habits beginning in the second week of the semester and continuing throughout the semester and during the interim between the last day of class and the administration of the final exam. The time devoted to any such **exercise** can range from about 10 to 20 minutes.

I am willing to critique your practice issue spotting exercises, or reviewing your outlines of answers to practice questions, or practice answers to essay problems, or some portion of an essay problem, during the semester **provided** you have first studied the exam preparation material posted to the web course. If you wait until close to the end of the semester to submit any such work product to me for review and

comment, you will run the risk that I will not have sufficient time to provide feedback to you before the final exam is administered. I do **not** critique student course outlines.

OFFICE HOURS, OFFICE TELEPHONE, E-MAIL ADDRESS, FACULTY FAX NUMBER:

I encourage you to communicate with me regularly. If you are not able to meet with me during my office hours, please do not hesitate to communicate with me via e-mail. If it becomes necessary to do so, you may request that we meet at a time other than my posted office hours.

I plan to maintain the following office hours **beginning** Tuesday, January 19, 2016, and **ending** Tuesday, May 3, 2016:

Tuesdays: 10:00 a.m. until 1:00 p.m. and 3:45 p.m. until 6:00 p.m.
Wednesdays: 10:00 a.m. until 1:00 p.m.
Thursdays: 10:00 a.m. until 1:00 p.m. and 3:45 p.m. until 5:00 p.m.

To reserve time to meet with me during my office hours, you must use the faculty appointment book maintained by the faculty support team. You must reserve time to meet with me during office hours at least 24 hours prior to the time you wish to meet with me. You may reserve a maximum of two consecutive blocks of time (i.e., one-half hour) per office appointment. **Appointments for a set of two or more students at a time are encouraged.**

You may contact me via e-mail by addressing your communication to csheppard@wsulaw.edu.

You may contact me via telephone by calling (714) 459-1152. The faculty fax number is (714) 525-2786.

MANDATORY ATTENDANCE, CLASS PARTICIPATION, DECORUM, AND SEATING

Attendance in class is mandatory. If you are absent from more than six hours of class sessions, you will be subject to being administratively withdrawn from the course. If you have not already done so, you should study the appropriate portions of the current edition of the *Student Handbook* regarding the College of Law's attendance policy.

Due to possible differences in the manner in which course materials are covered different sections of a course, you are **not** permitted to "make-up" a missed class by attending another section of this course regardless of whether the other section is taught by another professor or by me.

To be successful in law school, you must be an active learner. You will gain maximum benefit from class attendance only if you are prepared for class. Proper preparation for a class session by you will include, but not be limited to: engaging in effective time management; engaging in a critical reading and re-reading of assigned course material; briefing cases; critically reading and re-reading text notes and footnotes; analyzing problems included as part of assigned reading; critically reading court opinions of cases cited as part of text notes or Points for Discussion; reviewing and editing your notes you have taken regarding prior class sessions; reading, and re-reading if necessary, course computer slides posted to the web course; personally preparing and reviewing study aids (e.g., sections of your personally prepared course outline, flash cards, and/or flow charts or diagrams); reading and re-reading to the extent necessary appropriate segments of hornbooks, treatises, workbooks or other

study aids; engaging in exam prep or exam taking exercises; and preparing questions that you want addressed during an ensuing class session.

I call your attention to the following law review article: Laurel Currie Oates, *Beating The Odds: Reading Strategies of Law Students Admitted Through Alternative Admissions Program*, 83 IOWA L. REV. 139 (1997). Portions of that law review article illustrate how a student might “outperform” his or her first-year “law school predictors” (e.g., undergrad grade point average and LSAT score) by being an active learner and not a passive learner. That is an important message regardless of whether a person was admitted to law school through a regular admissions process, as you were, or an alternative admissions program (e.g., an admissions by performance program).

You should be prepared to participate in class on a regularly. You should be an active listener in class at all times when you are not speaking in class. Being an active listener includes assessing whether you understand, or you do not understand, comments being made by me, or by one of your classmates. If you conclude that you do not understand my comments or the comments of a classmate and you have a question in that regard, you should raise your hand to be recognized. Upon being recognized by me, you should voice your question. If you understand my comments or the comments of a classmate, you should assess whether you agree or disagree with those comments. More importantly, you should assess the reason or reasons for you agreeing or disagreeing with those comments. Do not hesitate to seek recognition to voice your questions or comments along those lines as well.

I expect you to maintain proper decorum when entering the classroom, while attending and participating in each class session, and when departing the classroom. You are also required to adhere to the College of Law’s “Principles of Community” and the College of Law’s “Honor Code” and other conduct policies noted in the current edition of the *Student Planner & Handbook*.

A seating chart will be circulated during the first class session.

DISABILITY SERVICES STATEMENT:

Western State College of Law provides accommodations to qualified students with disabilities. The Disability Services office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean of Student Services and Disabilities Services Coordinator, Donna Espinoza, whose office is located in the Student Services Suite. Dean Espinoza’s phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be required to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with the Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza, or please notify me in my capacity as Associate Dean of Students. Complaints will be handled in accordance with the College of Law’s “Policy against Discrimination and Harassment.”

READING ASSIGNMENTS:

I encourage you to complete your initial study of each set of assignments prior to the week during which we are scheduled to address that material.

Be sure to note whether the reading assignment includes the study of supplemental material.

Complete all reading as assigned. If the class “falls behind” in the assessment of a particular aspect of the course, do not “fall behind” in your reading of assigned course material. You do not want to be “left in the dust” when the class “catches up” to assignments as scheduled.

Do not lull yourself into a false sense of preparedness by only reading the content of the assigned text pages and course supplements. I expect you to:

- **Look up the definitions of words and phrases that are not familiar to you.**
- **Brief cases.**
- **Read the unedited opinion of a case if the edited version included in the book is confusing to you.**
- **Read cases, statutes, or other sources of law cited in a text “Point for Discussion” or other text note.**
- **Use eBook features to access supplemental information provided by the authors of the text.**
- **Analyze each problem that is part of a reading assignment and to compare your analysis with the comments regarding each problem that are posted to the Assignments section of the web course.**
- **Write or type questions that you want me to address during an ensuing class session.**
 - **I will post the word document that is comprised of information that I plan to display during a class session to the folder titled “Professor’s Computer Panels” that is located in the Course Documents section of the web course the week prior to the week during which I will use that course material in class. For example, the “panels” that I expect to display during the first week of the course are already posted to the web course for your study.**

The table of reading assignments begins on the next page.

Week	Dates	Course Topics	Text Pages	Supplements & Simulation Text
01	TU: 01-19-16 TH: 01-21-16	The Concept of Property: Property Defined; Property Theories or Images; Right to Transfer	Vii – ix; 97 – 98; 1 – 8; 25 – 49	<u>Supplements:</u> Gen. Info. 1 – 6; Concept 1 – 3 <u>Simulation Text:</u> pp. 1 – 3
02	TU: 01-26-16 TH: 01-28-16	Right to Exclude; Right to Use; Right to Destroy	49 – 95	<u>Supplement:</u> Concept 4
03	TU: 02-02-16 TH: 02-04-16	Possessory Estates: Fee Simple, Fee Tails, Life Estates, and Leaseholds; Introduction to Future Interests	311 – 351	<u>Supplements:</u> Estates, etc. 1-10
04	TU: 02-09-16 TH: 02-11-16	Future Interests: Reversion, Possibility of Reverter, Right of Entry, Remainders, and Executory Interests; Rule in Shelley's Case; Doctrine of Worthier Title; Destructibility of Contingent Rmdrs	351 – 368	<u>Supplement:</u> Estates, etc. 11 <u>Simulation Text:</u> pp. 35-top of 37; 38 – 45
05	TU: 02-16-16 TH: 02-18-16	No Class – Mon. Classes Meet Rule against Perpetuities	 368 – 381	 <u>Supplement:</u> Estates, etc. 12
06	TU: 02-23-16 TH: 02-25-16	Rule against Perpetuities; Non-Marital and Marital Forms of Concurrent Ownership; Severance of Joint Tenancy	383 – 394	<u>Supplements:</u> Concurrent Ownership 1 – 3
07	TU: 03-01-16 TH: 03-03-16	Forms of Concurrent Ownership: Partition; Cotenants Rights and Duties; Marital Forms of Concurrent Ownership	395 – 418	<u>Supplement:</u> Concurrent Ownership 4 <u>Simulation Text:</u> pp. 47 – 59
08	TU: 03-08-16 TH: 03-10-16	No Class – Semester Break No Class – Semester Break	----- -----	----- -----
09	TU: 03-15-16 TH: 03-17-16	Servitudes: Licenses, Profits, and Easements; Express Easements; Easements Implied by Prior Use; Easements Implied by Necessity	665 – 685	<u>Supplements:</u> Easements 1 – 6
10	TU: 03-22-16 TH: 03-24-16	Servitudes: Private and Public Easements by Prescription; Irrevocable Licenses; Interpreting Easements (Scope)	685 – 707	<u>Supplements:</u> Easements 7 – 8

11	TU: 03-29-16 TH: 03-31-16	Terminating Easements; Negative Easements; Land Use Restrictions: Real Covenants	707 – 725	Supplements: Easements 9 ** See Below** Covenants 1 – 4
12	TU: 04-05-16 TH: 04-07-16	Land Use Restrictions: Equitable Servitudes	725 – 741	Supplements: Covenants 1 – 4
13	TU: 04-12-16 TH: 04-14-16	Land Use Restrictions: Defenses against Enforcement; Methods of Termination; Common Interest Communities	741 – 765	Supplements: Covenants 3 and 5 - 9
14	TU: 04-19-16 TH: 04-21-16	Zoning: Constitutionality; Non-Conforming Uses; Amendments	783 – 809	Supplements: Zoning 1 - 2
15	TU: 04-26-16 TH: 04-28-16	Zoning: Variances; Eminent Domain	810 – 820; 901 – 924	
16	TU: 05-03-16	Introduction to the Law of Takings	-----	Supplements: Regulatory Takings 1 – 4
	TBD	FINAL EXAM		

** See my law review article re land use covenants at 37 Western State University Law Review 27 (Summer 2009)