

**WESTERN STATE UNIVERSITY  
COLLEGE OF LAW  
COURSE SYLLABUS, POLICIES, AND ASSIGNMENTS  
2014 SPRING SEMESTER  
PROPERTY I  
SECTION 151A  
DEAN SHEPPARD**

**CLASS MATERIALS:**

**REQUIRED TEXT:** John G. Sprankling and Raymond R. Coletta, **Property, A Contemporary Approach, Second Edition** (2012 Thomson Reuters West Interactive Casebook Series) and Course Supplements posted to the course website.

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

Professor's Course Supplements

**RECOMMENDED,  
BUT NOT REQUIRED:** See Course Supplements No. 1 and No. 1A

**THE INTERACTIVE COURSE TEXT:**

Features of the required course text include Internet access to visual information relevant to course coverage, 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.

**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.

I have chosen the Sprankling and Coletta text of Property, A Contemporary Approach because in addition to your use of a hardbound edition of that book, you will be able to access the eBook version of this text by following the instructions set forth on the first page of the hardbound text which immediately follows the front cover of the hardbound text to supplement information contained in the hardbound version of the text. To that end, read page vii of the text, "*Features of this Casebook*" with care.

I have also chosen the Sprankling workbook that includes various "Property Law Simulations." The pages of that text that I have assigned as part of your course work are set forth in the table of reading assignments that appear on the last two pages of this document under the headings "Simulation" that appear in various rows of the fourth column labeled "Text and Simulation Pages." 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 have assigned various simulations for the purpose of using the same to assist you in developing and honing the core skills addressed in the 1992 MacCrate Report: problem solving, legal analysis and reasoning, factual investigation, communications, competency, self-development, and improvement of the Profession of Law.

### **SKILLS AND VALUES:**

A task force report exists that is commonly referred to as “The MacCrate 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 MacCrate 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 MacCrate 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 MacCrate Report prior to the publication of the Carnegie Report as is evidenced by Western State’s “Mission Statement” and various aspects of the law school’s course offerings both in terms of courses offered and the manner in which the courses are taught.

### **COURSE COVERAGE AND OPPORTUNITIES:**

Property I is the first semester of the year-long basic course on the law of Property. 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 of rights to real property; (3) forms of concurrent ownership of interests in real property; and (4) servitudes (i.e., burdens) on interests in real property in the form of licenses, profits, easements, and land use covenants.

In the fall semester, we will focus on the following topics during the Property II course: (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 instruction and material regarding residential real estate sale transaction (the purchase contract, deeds, mortgages, deeds of trusts, installment sale contracts, and various forms of title assurance including contract warranties, deed warranties, recording acts, and title insurance). Time permitting, introductions to zoning laws, the law of eminent domain, and the law of regulatory takings will also be covered in the Property II course.

### **COURSE METHODOLOGY:**

I utilize a combination of classroom methods to assist you in your efforts to achieve the objectives of this course, including use of the Socratic method of interaction to enable you to properly gauge the current level of your working knowledge of course subject matter, use of the case method of exploring and examining legal principles and methods of application of those principles, use of the problem solving method, use of role playing, and use of collaborative learning exercises.

***It will be incumbent upon you to engage in an appropriate study and review of each course assignment before we engage in classroom discussions about the course material that is part of that assignment. The primary focus of our classroom discussions will be the manner in which you should use the course material to raise and resolve issues that can arise in either a dispute resolution setting or a transactional or other non-dispute resolution setting. To engage in an appropriate study of course material, at a minimum, you must complete a critical reading of that material; and you must brief each principal case included in the course text, as well as any case which I might assign as additional reading. You should also read additional reference material (e.g., a hornbook or treatise). Your study habits must also include you engaging in activities that will hone your skills of legal analysis and exam taking and writing. I will also expect you to have prepared appropriate work product regarding text problems that are part of the assigned reading as well as having engaged in the preparation of appropriate work***

*product regarding the assigned simulations. You must be prepared to adhere to the IRAC method of legal analysis during classroom discussions as well as during any course quiz or the course final exam.*

#### **COURSE WEBSITE:**

Additional course material, information, practice exercises, and prior course exams are and will be posted to the course website. You will be able to enroll in the course website on and after Friday, December 20, 2013. To enroll in the course website:

1. Go to <http://webcourses.lexisnexis.com>.
2. Enter your Lexis identification number where indicated.
3. Click on the Browse Course Catalog link.
4. Click on the link for Western State.
5. Click on the "Enroll" button next to the course name: Property I, Property Law 101649.
6. Enter the access code where indicated. The access code is SHEPPARDISP14.
7. Click the submit button.

If you encounter any problem enrolling in the course website, 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 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.

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 in each exam packet. Some of my prior Property I final exams are posted to the course website for your edification. You **must** comply with all written and oral instructions and procedures regarding the course final exam. 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 conclusion of the semester. That will allow you ample time 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.

#### **Final Exam**

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 last day of instruction.

The final exam will be comprehensive in scope. If I do not advise you differently, the final exam will be comprised of questions and problems that collectively pertain to **every** major topic covered by the course reading and study assignments and classroom discussions.

The maximum number of points that you can earn on the final exam is 100. The score that you earn on the final exam will be used to determine your final grade in this class.

## Grading

Your academic performance in this course will be measured and recorded using a numeric grade system on a scale of 0.0 to 4.0. Please also read that portion of the current edition of the Student Handbook regarding the “Grading System and Student Honors.”

To earn a numeric grade of 4.0, your course grade points must equal 90 or better. The total of 89 course grade points results in a 3.9 course grade; 88 course grade points results in a 3.8 course grade and so forth. .

The foregoing illustrates that the highest accumulation of raw points earned by a student enrolled in this course is **not** automatically regarded as an “A.” For example, if the best aggregate, graded student work product in this class results in a total of 85 course grade points, then the highest grade in the class will be a 3.5. On the other hand, if the exam work product of **every** student in the class results in total course grade points for each student that is 90 or better, then the course grade of each student will be 4.0.

## “Extra Credit” Course Quizzes

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

You will be required to use your semester student exam number as the only “mark of identification” on your quiz answer sheet. Consequently, you must obtain your student exam number from records or from a faculty secretary **at the earliest possible moment**. In the event that you are not able to access your student exam number for whatever reason at the time I administer an extra credit course quiz, you should set forth a “bogus number” on the quiz answer sheet. After the conclusion of the class session, you will then need to notify one of the Faculty Assistants that you used a bogus number on a course quiz and also disclose your exam number to the Faculty Assistant so that she will be able to communicate that information to me while preserving your anonymity.

## Practice Exam Exercises

I admonish 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 ten minutes to twenty minutes.

I am amenable to reviewing your practice issue spotting exercises, or reviewing your outlines of answers to practice questions, or practice answers to essay problems 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 to the class. I do **not** critique student course outlines.

**OFFICE HOURS, OFFICE TELEPHONE, E-MAIL, FAX:**

I encourage you to communicate with me on a regular basis. If you are not able to meet with me during my office hours during a particular week for any reason whatsoever, please do not hesitate to communicate with me via e-mail. If it becomes necessary to do so, you may request for us to meet at a time other than my posted office hours.

I expect to maintain the following office hours **beginning** Monday, January 13, and **ending** Wednesday, April 30:

Mondays: 10:00 a.m. until 12:00 p.m. and 3:00 p.m. until 5:00 p.m.

Tuesdays: 10:00 a.m. until 12:00 p.m. and 4:15 p.m. until 6:00 p.m.

Wednesdays: 10:00 a.m. until 12:00 p.m.

You are required to “sign-up” for office appointments using the appointment book maintained by the faculty secretarial staff. Office appointments will be conducted in 15-minute blocks of time. You may reserve a maximum of two consecutive blocks of time (i.e., one-half hour) per office appointment. **Appointments for two or more students at a time are encouraged.**

You may contact me via e-mail by addressing your communication to [csheppard@wsulaw.edu](mailto:csheppard@wsulaw.edu)

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

**ATTENDANCE, CLASS PARTICIPATION, DECORUM, AND SEATING:**

**Attendance in class is mandatory.** If you miss 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 attendance requirements.

Due to possible differences in the manner in which course materials are covered in class, 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 have engaged in a proper preparation for class. Proper preparation for class by you will include, but not be limited to: proper time management; engaging in a critical reading and re-reading of text assignments; briefing case opinions included in the assigned reading; critically reading and re-reading text notes and footnotes; analyzing problems included in the assigned reading; critically reading court opinions of the cases cited in the text notes or text problems; reviewing and editing your class notes from prior class sessions; personally preparing and reviewing study aids (e.g., sections of your personally prepared course outline, flash cards, and/or flow charts); reading and re-reading appropriate segments of hornbooks, treatises, or commercial study aids; and including some form of exam taking exercise as part of your daily study habits.**

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 “law school predictors” by being an active learner and not a passive learner. That is an important message regardless of whether a person has been admitted to law school through a regular admissions program, 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 regular basis. 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 the comments of others, you should raise your hand to be recognized, and when recognized by me, you should voice your question. If you understand the comments, you should then assess whether you agree or disagree with those comments. More importantly, you should assess the reason or reasons for your agreement or disagreement. Please do not hesitate to seek recognition to voice your questions or comments along those lines as well.

If you are not prepared for a particular class session, please so notify me prior to the start of that class session. You will not be penalized for being unprepared for a class session **unless** you have been unprepared for two prior class sessions. If you have not been prepared for two prior class sessions, I may regard you as being absent from the third class session for which you are also unprepared. Furthermore, I may regard you as being absent from any subsequent class session for which you are not prepared. Of course, you will not be regarded as being unprepared for class if you make a good faith, but erroneous, attempt at analyzing a particular question or point that is a subject matter of discussion during a class session.

You are expected 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, of course, the College of Law's "Honor Code."

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 Kelley Jones-Horwood, Disabilities Services Coordinator whose office is in the Third Floor Faculty Suite. Mrs. Jones-Horwood's phone number and email address are: (714) 459-1159; [khorwood@wsulaw.edu](mailto:khorwood@wsulaw.edu). When seeking accommodations, a student should notify Mrs. Jones-Horwood of their specific limitations and, if known, their specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are 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 Disability Services Coordinator Kelley Jones-Horwood to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Mrs. Jones-Horwood or please so 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 the course material. You do not want to be “left in the dust” when the class “catches up” to the course schedule.

**NOTE THE FOLLOWING COMMENTS WITH CARE:**

Do not lull yourself into a fall sense of preparedness by only reading the content of the assigned text pages and course supplements. I expect you to have not only read that material, but to have also briefed text cases; read the unedited opinion of a text case if you deem it will be helpful to do so to gain a better understanding of the reason the authors included the case as part of the course text; read cases, statutes, or other sources of law cited in text “Points for Discussion” or other text notes; accessed information provided by the authors via the eBook version of the course text prior to attending class; engaged in an analysis of text problems included as part of the assigned reading; compared your assessment of a text problem with comments regarding a text problem that are posted to the Assignments section of the web course; and formulated a list of questions that you want addressed during an ensuing class session.

Week	Dates	Course Topics	Text & Simulation Pages	Supplements
01	M: 01-13-2014 W:01-15-2014	The Concept of Property: Property defined; theories or images; right to transfer	v – vii; 95 – 96; 1 – 8; 25 – 48 Simulation 1 - 3	Gen Info 1–6; Concept 1-3
02	M:01-20-2014 W:01-22-2014	No Class – MLK Jr. Day  Right to exclude; right to use; right to destroy	-----  48 – 94	-----  Concept 4
03	M:01-27-2014 W:01-29-2014	Possessory Estates: Fee Simples, Fee Tails, Life Estates, and Leaseholds	304 – 345	Estates, etc. 1 – 10
04	M:02-03-2014 W:02-05-2014	Future Interests: Reversion, Possibility of Reverter, Right of Entry, Remainders, and Executory Interests	345 – 356 Simulation 35 – top of 37; 38 - 45	Estates 11
05	M:02-10-2014 W:02-12-2014	Rule in Shelley’s Case, Doctrine of Worthier Title, Destructibility of Contingent Remainders	357 – 362	Estates 11
06	M:02-17-2014 Tu:02-18-2014 W:02-19-2014	No Class – Presidents’ Day  Rule Against Perpetuities Rule Against Perpetuities	-----  362 – 374	-----  Estates 12
07	M:02-24-2014 W:02-26-2014	Forms of Non-marital and Marital forms of Concurrent Ownership; Severance of Joint Tenancy	375 – 386	Concurrent Ownership 1 – 3
08	M:03-03-2014 W:03-05-2014	Concurrent Ownership: Partition; Cotenant Rights & Duties; More re Marital forms of Concurrent Ownership	386 – 409 Simulation 47 - 59	Concurrent Ownership 4
09	M:03-10-2014 W:03-12-2014	No Class – Semester Break No Class – Semester Break	----- -----	----- -----

10	M:03-07-2014 W:03-19-2014	Servitudes: Licenses, Profits, and Easements; Express Easements; Easements Implied by Prior Use	651 – 664	Servitudes – Easements 1 – 6
11	M:03-24-2014 W:03-26-2014	Easements Implied by Necessity; Private and Public Prescriptive Easements; Irrevocable Licenses	664 – 685 Simulation 125 - 139	Servitudes – Easements 6
12	M:03-31-2014 W:04-02-2014	Interpreting Easements (Scope); Termination of Easements; Negative Easements	685 – 701	Servitudes – Easements 7 – 9
13	M:04-07-2014 W:04-09-2014	Land Use Covenants: Covenants Real; Equitable Servitudes; Comparison of Restatement Approach to Common Law Approach re Land Use Covenants	701 – 715	* See below Servitudes – Covenants 1 – 4
14	M:04-14-2014 W:04-16-2014	Land Use Covenants: Common Interest Communities	716 – 732	Servitudes – Covenants 5
15	M:04-21-2014 W:04-23-2014	Land Use Covenants: Termination and Defenses Against Enforcement	732 – 738 Simulation 141 - 157	Servitudes – Covenants 6
16	M:04-28-2014	Land Use Covenants: Common Interest Communities – Governing the Development	739 – 751	Servitudes – Covenants 3; 7 – 9
	Tu:05-06-2014	FINAL EXAM 1 PM – 4 PM		

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