

**WESTERN STATE
COLLEGE OF LAW
REAL ESTATE TRANSACTIONS
SECTION 472A**

**SYLLABUS, POLICIES, AND ASSIGNMENTS
2016 SPRING SEMESTER
Dean C. Sheppard**

CLASS MATERIALS:

Required Text: George Lefcoe, **REAL ESTATE TRANSACTIONS, FINANCE, AND DEVELOPMENT**, 6th Ed., (2009 LexisNexis)

COURSE COVERAGE AND OPPORTUNITIES:

You will be presented with opportunities to learn how an interest in residential and commercial real property is bought, sold, financed, or developed and the services an attorney might render with respect to a particular type of real estate transaction. You will have the opportunity to review and apply various principles of property law that you first encountered in the basic Property courses (Property I and Property II). You will also have the opportunity to learn principles of property law that were not, or which may not have been, covered in your Property I and Property II classes.

The **topics that will be covered in this course** are:

- General observations about buying and selling real estate in the United States.
- Deciding whether to rent or to buy, federal income tax considerations, and negotiating pointers
- The marketing of residential or commercial realty: real estate brokers, listing agreements, applicable securities law
- Purchase-and-sale agreements:
 - Parties to such agreements; statutes of frauds
 - Following the money – the purchase price, initial deposits, components of mortgage debt, and financing contingencies; the subject property
 - The subject property – inspections, seller liability for defective conditions, fixtures, risk of loss
 - The quality of a seller’s title – marketable title, alternatives to the marketable title standard, contract provisions, building and zoning codes
 - Time for performance
 - The merger doctrine

- Remedies for breach: mediation, arbitration, judicial review; specific performance; liquidated damages
- Residential mortgage lending
- Commercial mortgage lending
- Prepayment of Mortgage Loans
- The selling or further hypothecating of mortgaged property by the debtor
- Recording Acts
- Title Insurance
- Real estate escrows and closings
- Deeds
- Descriptions of lands and boundary disputes
- The Mortgagee's interest in the security property
- The Mortgagee's right to rents before and after foreclosure
- Mortgage foreclosure
- Allocating foreclosure proceeds and anti-deficiency legislation
- Alternatives to foreclosure: Workouts and deeds in lieu of foreclosure
- Development and construction financing
- Construction contracts
- Mechanics' liens
- Methods of financial analysis for real estate investments
- Selecting an entity for real estate investment
- Alternative mortgage instruments (AMI's)
- Leases as financing devices
- Commercial leasing
- Obtaining entitlements for real estate development

Topics addressed in the text that are **NOT** part of the assigned reading for this course are:

- Public/Private Real Estate Ventures (Chapter 34)

COURSE METHODOLOGY:

Classroom instruction and interaction in this course will take the form of in-class discussions and collaborative problem solving exercises. Some class sessions may include in-class student presentations or simulations.

FINAL EXAM AND GRADING:

Your grade in the course will be determined by points that you earn regarding course assignments and your final exam score. Forty percent of your course grade will be based on the points you earn regarding semester assignments. Sixty percent of your course grade will be based on your final exam score.

If I do not notify you to the contrary, the final exam will be a three-hour, in-class open notes, open book, performance exam. I will confirm the format of the final exam prior to the last class session.

If the final exam will be in the form of a three-hour, open notes, open book, in-class performance exam, you will be required to perform a particular task or set of tasks using the statement or statements of facts [“the file”] and the statements of law [“the library”] which will comprise part of the exam packet. As with any performance exam, you will need to expend most of your time reading and assessing the exam facts and law prior to performing the required task or tasks. Following instructions, paying attention to details, and responding to the call of the question (i.e., performing the required task) are the keys to a student’s successful completion of a performance exam. Professor Dennis Tonsing notes on page 142 of his text “1000 Days to the Bar—But the Practice of Law Begins Now: How to Achieve Your Personal Best in Law School” that “[u]nlike an essay test or a multiple choice test, [a performance exam] does not test examinees’ knowledge of particular laws—rather, it tests their ability to *use* laws to produce a lawyerlike product, for example, a will, a lease, or a legal memorandum.” (*Italics* in the original)

Semester Assignments

Semester assignments will be collaborative. After the expiration of the “add/drop period,” each member of the class will be assigned to a “firm.” There will be at least three members in each “firm.” From time-to-time during the semester, I will assign tasks for completion by each “firm.” Each member of a “firm” will receive the same score regarding a semester assignment. For example, if I assess the work product submitted by “firm #1” to be worth 80 points out of a possible 100 points, each member of the “firm” will be credited with 80 points for that assignment.

Course Final Exam

If the final exam is administered as an in-class performance exam, it will **not** be a collaborative exercise. You will be required to complete the tasks required by the final exam without assistance from another person. The quality of your response to an exam question or task will be assessed on its own merit or lack of merit without regard to the level of quality of the response of any other member of the class. In other words, I do not use any predetermined curve as part of the grading process.

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

I expect to maintain the following office hours **beginning** Tuesday, January 19, and **ending** Tuesday, May 3.

Tuesdays: 10:00 a.m. until 1:00 p.m. and 3:15 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 3:15 p.m. until 5:00 p.m.

To make an appointment to meet with me during my office hours, you are required to “sign-up” for office appointments using the appointments 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.

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

COURSE WEBSITE:

Additional course material, information, and other matters are and will be posted to the course website. You will be able to enroll in the course website on and after Wednesday, December 31, 2015. To enroll in the course website:

1. Go to <http://webcourses.lexisnexis.com>.
2. Enter your LexisNexis 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:
6. Enter the access code where indicated. The access code is SHEPPARDRET16.
7. Click the submit button.

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

ATTENDANCE, CLASS PARTICIPATION, DECORUM, AND SEATING:

Class attendance is mandatory. If you miss more than six hours of class sessions, you will be subject to being administratively withdrawn from the course. I refer you to the applicable sections of the Western State University College of Law “Student Handbook” (“the Handbook”) regarding attendance. Please take note that those provisions of the

Handbook are to be treated as being part of this syllabus as though they were reprinted verbatim in this portion of this syllabus.

You should be prepared to participate in class on a regular basis. In order to be properly prepared for class, you are required to study all portions of the reading assignments. Properly preparing yourself for class includes, but is not limited to, reading and briefing each of the principal cases included in the assigned reading, making an effort to resolve each of assigned text questions and reading and reviewing all footnotes included in the assigned reading.

You are expected to maintain proper decorum when entering, participating in, and leaving class sessions. You should become familiar with the appropriate provisions of the Handbook regarding the behavior expected of you as a member of the Western State community.

A seating chart will be distributed during the initial session of the class.

DISABILITY SERVICES STATEMENT:

Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities 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 Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Second Floor Students 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 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 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:

You are required to complete the study of all of the text material included in the assigned reading prior to the commencement of the class during which that material will be addressed. You will not gain the full benefit of the classroom discussions or other in-class activities or exercises if you have not actively studied the assigned reading.

Wk.	Date.	Reading Assignments	Topics
1	01-21	001 – 061	Buying and Selling Real Estate in the U.S.; Deciding to Own or Rent; Real Estate Brokers, Listing Agreements, and Applicable Securities Laws
2	01-28	063 – 125	Parties to Purchase and Sale Agreements; Statute of Frauds; Purchase Price; Financing contingencies; Conditions of the property; Fixtures; Risk of Loss
3	02-04	127 – 195	The Quality of Seller’s Title; Time for Performance; The Merger Doctrine; Terminating Real Estate Contracts; Residential Mortgage Lending; Commercial Mortgage Lending
4	02-11	197 – 285	Prepayment of Mortgage Loans; The Sale or Pledge of Mortgaged Property by the Borrower; Recording Acts
5	02-18	287 – 359	Title Insurance; Real Estate Closings and Escrows;
6	02-25	361 – 427	Surveys, Land Descriptions, and Boundary Disputes; Mortgagee’s Interest in the Security Property; Mortgagee’s Right to Rents Before and After Foreclosure
7	03-03	429 – 479	Mortgage foreclosure; Allocating Foreclosure Sale Proceeds and Understanding Anti-Deficiency Legislation
8	03-10	-----	No Class Session – Semester Break
9	03-17	481 – 540	Alternatives to Foreclosure: Workouts and Deeds-in-Lieu of Foreclosure; Development and Construction Financing; Construction Contracts
10	03-24	540 – 606	Construction Contracts; Mechanics’ Liens and Stop Notices; Methods of Financial Analysis for Real Estate Investments
11	03-31	606 – 621; 661 – 710	Real Estate Appraisals; Selecting an Entity for Real Estate Investment; Alternatives to the “Plain Vanilla” Mortgage
12	04-07	711 – 779	Arrangements in Which the Financial Investment is Secured by an Interest in Realty; The Lease as a Financing Device; Commercial Leasing

13	04-14	779 – 836	Commercial Leasing; Obtaining Entitlements for Real Estate Development
14	04-21	836 – 854	Obtaining Entitlements for Real Estate Development; Public/Private Real Estate Ventures
15	04-28	855 – 891	Public/Private Real Estate Ventures
16	TBD		FINAL EXAM