

LEGAL ISSUES IN REAL ESTATE

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This course will cover key topics in real development and management, drawing on diverse areas of law and the expertise of a number of guest speakers. The course requirements are a take-home examination and class attendance and participation. All readings will be posted on Blackboard.

Class One (9/23): The Land Contract

The goal of this class session to introduce students to basic principles of contract law generally, core legal issues surrounding the real estate contract, and issues of title assurance.

Readings:

Hickey v. Green, 442 NE2d 37 (Mass App 1982)

Stamborsky v. Ackley, 572 NYS2d 672 (NY 1991)

Officemax v. Sapp, 132 F Supp2d 1079 (MD Ga 2001)

Class Two (9/30): Environmental Legal Issues in Land Acquisition and Development

Potential environmental liabilities and restrictions on land use are a critical aspect of real estate development, as well as corporate transactions involving corporations that may have environmental liabilities associated with their assets or past activities. This class provides a general overview of U.S. environmental law and due diligence and focuses upon the hazardous waste contamination, wetlands, endangered species laws. The class will also introduce students to the topic of regulatory takings litigation.

Readings:

US v Bestfoods, 529 US 51 (1998)

Burlington Industries

Lucas v. South Carolina Coastal Commission, 505 US 1003 (1992)

Class Three (10/7): Corporate/Partnership Issues in Real Estate Ventures, and Commercial Financing

Real estate development is typically undertaken in the context of either a partnership or limited liability corporation, and we will explore the advantages of these different organization forms and the liability and other legal issues that potential participants in a partnership or LLC should consider. The basic law of mortgages will be overviewed, and certain core financing issues in commercial finance will be addressed.

Readings:

Blue Chip Emerald LLC v. Allied Parties, 299 A2d 278 (NY 2002)

Miller v. American Real Estate Partners, 2001 WL 1045634 (DEL)

TIAA v. Ormesa Geothermal, 791 F Supp 401 (SDNY 1991)

Penthouse Intl Ltd v. Dominion Federal, 855 F2d 963 (2d Cir. 1988)

Class Four (10/14): Architectural and Construction Contracts

This class explores legal issues in connection with the development and governance of condominiums and planned communities, and the leasing of residential and commercial real estate. Federal and state civil rights laws, and their relevance to development and leasing, also will be considered.

Guest Lecturers: Tom Corning and Robert Harris

Readings:

An Overview of Design & Construction Delivery Systems

"A Leading Construction Company Files for Chapter 11" from NYT, May 15, 2001

"The New AIA Design-Build Contract from the Design-Builder's Perspective" from Probate & Property, by Sidney G. Saltz, July/August 2007

Class Five (10/21): Condominiums, Landlord-Tenant and Government Incentives for Development

Guest Lecturer: Glenn Azuma

Tax Increment Financing" from Illinois Municipal League-Legal Department

“Illinois’ TIF Laws” from Illinois Tax Increment Financing

“City’s TIF take passes \$500-million mark” from Chicago Business

IRS Notification re: Tax Treatment of TIF Funds

Class Six (10/28): Bankruptcy Implications

Guest Lecturer: David Neff

Readings TBA

Class Seven (11/4): Zoning and Real Estate Development

Guest Speaker: David Meek

Readings TBA

Class Eight (11/11): Siting and Other Issues Facing Energy and Renewable Energy Industries

Guest Speakers: Edward Maelstrom

Howard Learner

Readings TBA

Class Nine (11/18): Tax Implications in Real Estate Development and Management

Class Speaker: David Cameron

Readings TBA

Class Ten (12/2): Eminent Domain and Exactions

Kelo v City of New London

County of Wayne v Hathcock

Nollan v. Coastal Commission

Dolan v. City of Tigard