

Legal Aspects of Real Estate Course Syllabus

Chapter 1: An Introduction to Law and the Legal System

- The Role of Law
- The Roots of U.S. Law
- Criminal and Civil Law
- Sources of Law
 - Constitutions
 - Legislatures: Statutory Law
 - The Courts: Case Law
 - Administrative Agencies

Chapter 2: Resolving Legal Disputes

- A Real Estate Dispute: *Green v. Taslow*
- Negotiated Settlement
- Alternative Dispute Resolution
- Litigating in Court
 - Determining the Proper Court for Trial: Jurisdiction
 - How a Lawsuit Begins
 - Discovery
 - Motions
 - The Trial
 - Enforcing Judgments
 - The Appeal

Chapter 3: Real Property

- Nature of Property
- Real Property vs. Personal Property
- Natural Attachments
- Fixtures
- Appurtenances

Chapter 4: Estates in Land

- Possessory Interests
- Classification of Estates
- Freehold Estates
 - Estates of Inheritance
 - Life Estates
- Leasehold Estates

- Term Tenancy
- Periodic Tenancy
- Tenancy at Will
- Tenancy at Sufferance
- Contingent Interests

Chapter 5: Co-ownership of Real Property

- Forms of Co-ownership
 - Tenancy in Common
 - Undivided Interests
 - Rights and Duties of Tenants in Common
 - Terminating a Tenancy in Common
 - Joint Tenancy
 - Creating a Joint Tenancy
 - Liens and Joint Tenancy
 - Right of Survivorship
 - Terminating a Joint Tenancy
 - Community Property
 - Who Can Own Community Property?
 - Classifying Property as Separate or Community
 - Changing the Character of Separate Property
 - Spousal Control over Community Property
 - Distribution of Community Property on Dissolution or Death
 - Community Property with Right of Survivorship
 - Ownership by Business Entities
 - Business Entities: the Basics
 - Considerations When Choosing a Form of Organization

Chapter 6: Agency Law

- Agency Law and the Real Estate Profession
- Agency Relationships in Real Estate Transactions
- Agency Authority and Liability
 - Scope of Authority
 - Actual and Ostensible Authority
 - Warranty of Authority
 - Liability Issues
 - Delegation of Agency Authority: Subagency
- Creation of an Agency Relationship
 - Agency Formation and Contract Law
 - Intent to Create an Agency
 - Methods of Creating an Agency Relationship
- Termination of an Agency Relationship

- Termination by Actions of the Parties
- Termination by Operation of Law
- Effect of Termination on Third Parties
- Agency Coupled with an Interest

Chapter 7: Duties to Clients and Customers

- Agency Disclosure Requirements
- Duties Owed to Clients
 - Fiduciary Duties
 - Utmost Care, Integrity, Honesty, and Loyalty
 - Fulfilling Fiduciary Duties
- Duties Owed to All Parties
 - Reasonable Skill and Care
 - Honest and Fair Dealing and Good Faith
 - Disclosure of Material Facts

Chapter 8: Regulation of Real Estate Licensees

- Administration of the License Law
- Real Estate License Requirement
- Regulation of Brokerage Office Practices
 - Business Name and Location
 - Retention of Records
 - Trust Funds
- Broker's Relationship to Principals and Salespersons
 - Broker's Relationship to Principal
 - Broker's Relationship to Salesperson
- Disciplinary Action
 - Grounds for Discipline
 - Disciplinary Procedures

Chapter 9: Real Estate Contract Law

- General Contract Law
 - Legal Status of a Contract
 - Elements of a Valid Contract
 - Modifying a Contract
 - Breach of Contract
- Listing Agreements
 - Types of Listing Agreements
 - Basic Requirements
 - Common Legal Issues
- Buyer Representation Agreements
 - Basic Requirements

- Common Legal Issues
- Purchase Agreements
 - Common Legal Issues
 - Disclosures Required in Sales Transactions
- Option Contracts
- Land Contracts
 - Rights and Responsibilities of the Parties
 - Remedies for Default
- Leases

Chapter 10: Transfer of Real Property

- Deeds
 - Requirements for a Valid Deed
 - Types of Deeds
- Transfer of Property After Death
 - Wills
 - Trusts
 - Community Property Agreements
 - Intestate Succession
 - Escheat
- Involuntary Transfers
 - Court Actions
 - Dedication

Chapter 11: Legal Descriptions and Recording

- Methods of Land Description
- Solving Land Description Problems
 - Reformation
 - Possession
 - Acquiescence or Agreement
 - Practical Location
 - Intent of Original Government Surveyor
- Recording
 - Procedures for Recording
 - Purpose of Recording

Chapter 12: Escrow and Title Insurance

- Escrow
 - Requirements for a Valid Escrow
 - Escrow Agents
 - Escrow Instructions
 - Ownership of the Deposits During Escrow

Tax-related Obligations in Escrow

Terminating Escrow

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Title Insurance

The Purpose of Title Insurance

The Title Insurance Contract

The Preliminary Report

Types of Coverage

Regulation of the Title Insurance Industry

Chapter 13: Real Estate Financing

Liens (Financial Encumbrances)

Security Instruments

Key Provisions in a Loan Agreement

Taxes, Insurance, and Maintenance Clauses

Acceleration Clause

Alienation Clause

Late Payment Penalty Provision

Prepayment Provision

Subordination Clause

Defeasance Clause

Foreclosure

Judicial Foreclosure

Nonjudicial Foreclosure

Choosing Between Judicial and Nonjudicial Foreclosure

Protecting the Borrower

Truth in Lending Act

California Financing Disclosure Laws

Predatory Lending

Chapter 14: Involuntary Liens

Mechanic's Liens

Mechanic's Lien Claimants

Creating a Mechanic's Lien

Foreclosure

Terminating a Mechanic's Lien

Design Liens

Attachment Liens

When Attachment is Allowed

Property Subject to Attachment

Terminating an Attachment Lien

Judgment Liens

Property Affected by Judgment Liens

Renewal and Termination

Tax Liens

Property Taxes

Special Assessments

Federal Tax Liens

Lien Priority

The Homestead Law

Chapter 15: Rights and Duties of Landowners

Protecting Rights of Possession and Use

Trespass

Nuisance

Encroachments

Adverse Possession

Requirements for Adverse Possession

Adverse Possession and Government Property

Adverse Possession and Encroachments

Easements

Distinguishing Easements from Other Interests

Types of Easements

Creation of Easements

Maintenance and Repair of Easements

Termination of Easements

Easements vs. Licenses

Disputes Between Neighbors

Trees

Fences

Right to Farm

Liability for Water Damage

Chapter 16: Common Interest Developments

Types of Common Interest Developments

Condominiums and Planned Developments

Community Apartments and Cooperatives

Subdivision Laws

Subdivision Map Act

Subdivided Lands Law

Vacation Ownership and Timeshare Act of 2004

Interstate Land Sales Full Disclosure Act

Homeowners Associations

Association Membership

Board of Directors
Governing Documents

Chapter 17: Private and Public Restrictions on Land

Private Restrictions on Land Use
 Creating Private Restrictions
 Requirements for Restrictions that Run with the Land
 Illegal Restrictions
 Enforcing Restrictions
 Terminating Restrictions
Public Restrictions on Land Use
 Constitutional Requirements for Land Use Laws
 Comprehensive Planning
 Zoning
 Building Codes

Chapter 18: Environmental Law

Environmental Law: Past and Present
Environmental Impact Assessments
 Federal and State Assessments
 The Assessment Process
Endangered Species Protection
 Federal Law
 State Law
Cleanup of Toxic Waste
 CERCLA

Chapter 19: Civil Rights and Fair Housing Laws

State Action vs. Private Action
Federal Antidiscrimination Laws
 Civil Rights Act of 1866
 Federal Fair Housing Act
 Fair Lending Laws
 Equal Access to Facilities
California Antidiscrimination Laws
 Fair Employment and Housing Act
 Unruh Civil Rights Act
 Housing Financial Discrimination Act (Holden Act)
 Real Estate License Law and Regulations
The Right to Sue
Antidiscrimination Law and the Real Estate Profession
 Advertising

- Selling and Renting
- Lending
- Zoning
- Employment by Brokers
- MLS Practices

Chapter 20: Landlord-Tenant Law

- Leasehold Interests
- The Lease Agreement
- Payment of Rent
 - Cash Payments
 - Late Fees
 - Rent Increases
- Security Deposits
 - Size of Deposit
 - Refunds and Deductions
 - Inspection of the Premises
- Use and Condition of the Premises
 - Landlord's Disclosures
 - Tenant's Responsibility for the Premises
 - Landlord's Responsibility for the Premises
- Transferring a Tenancy
 - Assignment and Subleasing Distinguished
 - Assignor and Sublessor Liability
 - Landlord's Consent
- Termination of a Tenancy
 - Expiration of Lease
 - Notice of Termination
 - Abandonment
 - Eviction

Chapter 21: Antitrust Law

- Antitrust Law
 - Purpose of Antitrust Law
 - History of Antitrust Law
- Prohibited Acts
 - Conspiracy
 - Unreasonable Restraints on Trade
 - Impact on Competition
- Enforcing the Law
- Antitrust Law and the Real Estate Profession
 - Price and Commission Fixing

Group Boycotts and the MLS

Tie-in Arrangements

Market Allocation

Avoiding Antitrust Violations