THE UNIVERSITY OF ALABAMA SCHOOL OF LAW

PROPERTY

SYLLABUS

MR. BREWBAKER

SPRING 2017

1. **COURSE OBJECTIVE:** Students should develop proficiency in the basic elements of property law.

2. **TEXT:** Merrill and Smith, *Property: Principles and Policies* (3d ed. 2017) and supplementary materials to be made available on the class web site (See #6 below).

3. **ATTENDANCE:** See Law School's attendance policy.

4. **PARTICIPATION:** I will call upon one or more students at random in each class to brief and/or discuss the assigned material and related questions. Lack of class participation may be considered in determining your final course grade and may affect it negatively by as much as one grade level (i.e., 0.5).

5. **PREPARATION:** Students are expected to be prepared for class. Specifically, you should (1) read the assigned materials for each class; (2) understand thoroughly the facts of the case(s); (3) understand and criticize the reasoning of judicial opinions and other materials; and (4) familiarize yourself with the legal rules presented in assigned materials. Students often find study aids such as hornbooks and commercial outlines useful in organizing the doctrines we will study. I have no objection to your use of such materials provided they are not a substitute for assigned readings. However, I strongly discourage the use of so-called “canned briefs,” and possession of them in class is likely to invite your being called on.

6. **CLASS WEB SITE:** A class web site has been established on The West Education Network (TWEN). Please register for this website immediately. When you register, please be sure to provide an e-mail address that you check on a regular basis. You are responsible for materials I post on the web site. TWEN includes a feature that allows me to notify you of new postings by email, but if you do not provide TWEN with a good email address, or if you fail to check your e-mail, this feature is of little use. You are responsible for the content of email messages sent via TWEN.

7. **EXAMINATION:** Approximately four hours and entirely closed book. If you want to take your exam on a computer, you must use the Examsoft software available through the Records Office.
8. **SCHEDULE**: This class meets regularly from 9:45 a.m. until 10:35 a.m. on Mondays, Tuesdays, Wednesdays, and Thursdays in Room 187. Class will not meet on **Thursday, March 9** and **Monday, April 3**. We will make up these lost classes by meeting for 75 minutes (i.e., from 9:45-11:00) on the following Tuesdays: **January 17, January 24, January 31**, and **February 7**. If additional cancellations/make-ups are needed, I will advise you as soon as reasonably possible. I will provide an optional question-and-answer class session to be scheduled between the end of classes and the examination. A current schedule of class cancellations and make-up classes will be maintained on the TWEN website course calendar.

9. **OFFICE HOURS**: It is my practice to remain in the classroom after each class for as long as it takes to accommodate student questions, and many students find that this is a good time for extra discussion. In addition, I have scheduled regular office hours on Wednesdays from 3:00-5:00 p.m. You may also make an appointment if you prefer. My office is in Room 320, and my office phone number is 8-1132 (348-1132). My e-mail address is wbrewbak@law.ua.edu.

10. **VIDEO AND/OR AUDIO RECORDING**: Not allowed.

11. **VISITORS**: Permission granted.

12. **STUDENTS WITH DISABILITIES**: Students with disabilities are encouraged to contact Associate Dean Grace Lee, at 348-7190 or glee@law.ua.edu so that the individual’s needs for support services can be evaluated and accommodated in a timely manner. Thereafter, you are invited to schedule appointments to see me during my office hours or at other times to discuss accommodations and other special needs.

13. **READING ASSIGNMENTS**: Reading assignments for the course are attached. Please come to class having read at least one full assignment ahead of where the previous class discussion ended. (E.g., if class ends and discussion of assignment #7 is still underway, please read assignment #8 in its entirety for the next class.)
READING ASSIGNMENTS

Page numbers refer to the Merrill and Smith casebook; other readings will be available on the TWEN course web page.

What is Property?
1. 1-16 (Trespass)
2. 16-32 (Conceptions of Property)
3. 32-42 (The Coase Theorem)
4. 42-55 (Building Encroachments and Remedies)

Acquisition of Property
5. 57-72 (Wild animals)
6. 72-90 (Common property and first possession)
7. 107-21 (Creation)
8. 121-132 (Possession)
9. 161-174 (Adverse Possession)
10. 175-187 (Adverse Possession)
11. 193-208 (Competing Original Acquisition Principles)
12. 288-303 (Surface Waters)
13. 303-311 (Groundwater)
14. 354-366 (Repossession)

Owner Sovereignty and its Limits
15. 366-391 (Exceptions to the Right to Exclude)
16. 403-413 (Anti-discrimination laws)
17. 413-425; 432-443 (Equitable Limits: Repeated Trespasses; Mistaken Improver)
18. 487-501 (Abandonment; Destruction)

The Forms of Ownership
19. 503-521 (Divisions by Time)
20. 528-545 (The Flexibility of the Estate System)
21. 548-566 (Waste; Restraints on Alienation)
22. 566-575 (The Rule Against Perpetuities)
23. 575-586 (RAP: Commercial Application)
24. 596-620 (Co-tenancy)

Leaseholds
25. 641-655 (Types of Leases; Independent Covenants; Duty to Deliver Possession)
26. 655-672 (Constructive Eviction; Surrender)
27. 680-697 (Implied Warranty of Habitability)
28. 698-712 (Mitigation of Damages; Assignments and Subleases)
29. 712-729 (Assignments and Subleases; Counseling Clients)
Mortgages
30. 818-828 (Terminology; Foreclosure Sales)
31. 828-841 (Rights to Possession)

Real Estate Transactions
32. 871-882 (The Land Transaction)
33. 888-899 (The Good-Faith Purchaser)
34. 915-927 (Recording Acts)
35. 927-936 (Recording Acts)

Servitudes
36. 449-457; 982-998 (Licenses; Creation of Easements)
37. 998-1015 (Creation of Easements)
38. 1015-1027 (Easement Termination and Misuse)
39. 1027-1041 (Introduction to Real Covenants and Equitable Servitudes)
40. 1041-1055 (Covenants “Running with the Land”)
41. 1055-1067 (Conservation Easements; Terminations of Covenants)

Land Use Regulation
42. 1067-1079 (Introduction to Zoning)
43. 1080-1091 (Nonconforming Uses)
44. 1170-1198 (Eminent Domain; Public Use)
45. 1219-1237 (Regulatory Takings)