

# REAL ESTATE LAW

SYLLABUS -BLAW 481 - SILVIA

"WHEN YOU GET THESE JOBS THAT YOU HAVE SO BRILLIANTLY TRAINED FOR, JUST REMEMBER THAT YOUR REAL JOB IS THAT IF YOU ARE FREE, YOU NEED TO FREE SOMEBODY ELSE. IF YOU HAVE SOME POWER, THEN YOUR JOB IS TO EMPOWER SOMEBODY ELSE."

-Toni Morrison

BLAW481

**Professor Hilary Silvia, J.D.**

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Office hours: W 12:15-2:15 pm; TH 1:45-2:45 pm & by appt. via zoom

ZERO COST COURSE  
NO TEXTBOOK  
REQUIRED READING:  
OPEN SOURCE TEXTBOOK  
AND LINKS AVAILABLE ON  
CANVAS ONLY

**CHECK CANVAS DAILY**

## COURSE DESCRIPTION

### Real Estate Law

This course provides an overview of real estate law, including the acquisition of real property and the rights of ownership and tenancy. Topics covered in the course include acquisition of titles, easements, leases and contracts, community property, joint tenancy, tenancy in common, brokerage and land-use regulation. This class will also cover the role of brokers,

adverse possession and new and emerging topics, including sustainability and environmental issues.

In this class, you will prepare written briefs, analyze problems, and conduct research. This course is fully online, asynchronous, with no class Zoom sessions. All work will be done online on Canvas.

## FALL 2021

**Section 13953: T 4-5:15p**

**Section 13633: W 11-12:15p**

(online- zoom links on canvas)

## Grade Breakdown

30%: Weekly Assignments

5%: Assigned Presentation

20%: Exam 1

20%: Exam 2

25%: Final Project

Total = 100%

Grading Scale: A-/A – 90% and above

B-/B/B+ – 80% - 89%

C-/C/C+ – 70% - 79%

D-/D/D+ – 60% - 69%

The grade reached after averaging assignments will be the minimum grade you can receive in the course. Plus/minus grading is used.

**COURSE OBJECTIVES:**

REGARDLESS OF YOUR CAREER CHOICE, YOU WILL BE IMPACTED BY REAL ESTATE LAW. THE GOAL OF THIS COURSE IS TO HELP YOU NAVIGATE THIS EXCITING AND DYNAMIC FIELD. SPECIFICALLY, YOU WILL LEARN TO:

- IDENTIFY THE LEGAL ISSUE PRESENTED IN A SET OF FACTS AND FIND THE LAW THAT WILL GUIDE YOU TO THE CORRECT RESULT;
- READ, INTERPRET AND ANALYZE LEGAL REGULATIONS, STATUTES AND LAWS;
- WRITE AND SPEAK WITH CLARITY ABOUT REAL ESTATE LAW AND HOW IT IMPACTS THE FACTUAL SITUATION PRESENTED;
- REFLECT ON ETHICAL ISSUES AND IDENTIFY THE RELATIONSHIP BETWEEN WHAT IS LEGALLY PERMISSIBLE AND WHAT IS ETHICALLY ADVISABLE.

**HYBRID COURSE POLICIES**

This hybrid course will have both an asynchronous and a synchronous component. You will be provided with interactive reading, watching, and work to be completed on your own time. We will meet once per week in a discussion format to explore course content.

**Weekly Assignments:** You will turn in weekly assignments on canvas. These assignments vary by topic and will include IRAC case briefs, case problems, short answer, short essay, and questions. If your weekly assignment includes a case brief, it must be briefed in "IRAC" format. If you have never prepared an IRAC, please contact me to schedule a zoom session to review this concept.

**Assigned Presentation:** Students will form groups, select a Section and topic, and present to the class (1) a current case, and (2) why their chosen area of law matters in light of current events and other relevant factors.

**Exams:** You will be assigned two exams that will be held and/or due to be completed during our synchronous class meeting time. Your exam may include written IRACs, multiple choice, short answer, fill in the blank, and true/false questions.

**Final Project:** You will complete a culminating final project. The details will be provided on canvas. You may complete the final project independently or in groups of 2.

**Academic Dishonesty:** Plagiarism and cheating will not be tolerated. Any student found to have either submitted work that was not their own (this includes either another student's work or information from an uncredited, on-line source) will be given an "F" on the assignment, potentially in the class, and may be referred to the office of student affairs for further discipline.

Please maintain a professional tone in both online chat sessions and in emails to your professor and classmates.

**Professionalism:** You are expected to show respect for your classmates, your professor, and the university, and not to engage in disruptive behavior. Improper online conduct may require a meeting with the Student Conduct Coordinator. Please maintain a professional tone in both online chat sessions and in emails to your professor and classmates.

Business Law Department Mission: Our mission is to equip students with the academic knowledge, problem solving, analytical and professional skills in the areas of business law, business ethics, and real estate necessary to achieve their personal and professional goals.

Student Learning outcomes of the Undergraduate Program: Classes are taught using the Socratic method, with its goal of participatory learning and the development of reasoning skills. This active learning process requires students to articulate, develop and defend positions, to think critically and to engage in problem-solving. Students learn to formulate an effective legal analysis by synthesizing information, identifying legal issues, distinguishing relevant from irrelevant facts, using facts and law to support argument, reasoning by analogy and reaching conclusions based on analysis. In addition, students in all BLAW courses study ethical issues in a business context, with actual topics depending on course content.

**DRES.** If you have a disability and need accommodations, please register with the Disability Resources and Educational Services (DRES) office or the National Center on Deafness (NCOD). The DRES office is located in Bayramian Hall, room 110 and can be reached at 818.677.2684. NCOD is located on Bertrand Street in Jeanne Chisholm Hall and can be reached at 818.677.2611. If you would like to discuss your need for accommodations with me, please contact me to set up an appointment. Due to privacy concerns, you must be the one to initiate this conversation.

**Legal Advice.** While I am a lawyer, I am not your lawyer. I am your professor and I am here to teach you the law, so that you will be empowered to make educated, thoroughly analyzed choices. CSUN prohibits faculty members from providing legal advice or services to students. If you need legal advice or information regarding the law, resources can be found at the Department of Business Law web page at <http://www.csun.edu/blaw/student-resources>.

### Schedule of Classes

**Weekly Reading:** Reading, watching, and work assignments are listed below on a weekly basis. The syllabus may be updated during the semester. Any changes will be posted in writing on CANVAS. If there is a conflict between CANVAS and the Syllabus, CANVAS governs. Homework is due BEFORE class each week. Homework may be turned in late for a maximum of ½ credit, no exceptions unless discussed in advance.

Week	Required reading & viewing – all materials & links posted to Canvas  Instructional videos and lectures will be posted to canvas.	Work to complete All briefs must be in IRAC format- all cases have problems at the end- answer those in paragraph format. Turn in all work to Canvas.
Intro to Real Estate Law 8/30/21	Introduction to course and expectations; review course materials and online book	Review syllabus and tour canvas class
Section 1 9/6/21	Read: Chapter 1 - Ownership  Watch: 1. Introductory video 2. Why is the air above Grand Central worth millions? <a href="https://youtu.be/yjrfyUPCISM">https://youtu.be/yjrfyUPCISM</a>	Brief:  1. Jacque v. Steenberg Homes, Inc. (pg 12) <b>and</b> choose two "Notes and Questions" problems immediately following the case to answer  2. State of NJ v. Shack (pg 17) <b>and</b> choose two "Notes and Questions" problems immediately following the case to answer
Section 2 9/13/21	Read: Chapter 2 – Property Torts & Crimes (trespass & nuisance) and Chapter 3 - Nuisance  Watch: 1. <a href="#">Apartment Owner Liability for "Attractive Nuisance"</a>	Brief: 1. Google v. Boring – only IRAC trespass claim (posted to canvas) 2. Puritan Holding Co. V. Holloschitz (pg 38) <b>and</b> choose two "Notes

	2. Lecture/presentation posted to canvas	and Questions" problems immediately following the case to answer
Section 3 9/20/21	<p>Read:</p> <ol style="list-style-type: none"> <li>1. Premises Liability (content posted to canvas)</li> <li>2. Chapter 4 - Adverse Possession</li> </ol> <p>Watch:</p> <ol style="list-style-type: none"> <li>1. <a href="#">Adverse Possession</a></li> <li>2. Lecture/presentation posted to canvas</li> </ol>	<ol style="list-style-type: none"> <li>1. Gregory v. Johnson (pg 538)</li> <li>2. McClung v. Delta Square LP (pg 540)</li> <li>3. Tieu v. Morgan (Ch 4, pg. 68)</li> <li>4. Dombkowski v. Ferland (Ch 4, pg. 80)</li> </ol>
Section 4 9/27/21	<p>Read: Chapter 5 – Estates and Future Interests</p> <p>Watch:</p> <ol style="list-style-type: none"> <li>1. <a href="#">Estates and Future Interests</a></li> <li>2. Lecture/presentation posted to canvas</li> </ol>	<ol style="list-style-type: none"> <li>1. In the Estate of Dalton Edward Craigen (pg 99) <b>and</b> choose two "Notes and Questions" problems immediately following the case to answer</li> <li>2. Jackson v. Brownson (pg 105) <b>and</b> choose two "Notes and Questions" problems immediately following the case to answer</li> <li>3. Present &amp; Future Interests Worksheet (posted to canvas)</li> </ol>
Section 5 10/4/21	Review materials on canvas and exam 1	Exam 1

Section 6 10/11/21	<p>Read: Chapter 6 - Easements</p> <p>Watch: 1. Lecture/presentation posted to canvas</p>	<ol style="list-style-type: none"> <li>1. Felgenhauer v. Soni <b>and</b> choose two "Notes and Questions" problems immediately following the case to answer</li> <li>2. Richardson v. Franc <b>and</b> choose two "Notes and Questions" problems immediately following the case to answer</li> </ol>
Section 7 10/18/21	<p>Read: Chapter 7 – Co-Ownership and Marital Property</p> <p>Watch: 1. Lecture/presentation posted to canvas</p>	<ol style="list-style-type: none"> <li>1. Martin v. Martin <b>and</b> choose two "Notes and Questions" problems immediately following the case to answer</li> <li>2. Harms v. Sprague (pg 21) <b>and</b> choose two "Notes and Questions" problems immediately following the case to answer</li> </ol>
Section 8 10/25/21	<p>Read: Chapter 8 – Leasing Real Property (pgs. 1-31)</p> <p>Watch: 1. Lecture/presentation posted to canvas</p>	<ol style="list-style-type: none"> <li>1. Fair Housing Council of San Fernando Valley v. Roommate.com, LLC <b>and</b> choose two "Notes and Questions" problems immediately following the case to answer</li> <li>2. Sommer v. Kridel <b>and</b> choose two "Notes and Questions" problems immediately following the case to answer</li> </ol>
Section 9 11/1/21	<p>Read: Chapter 8 – Leasing Real Property (pgs. 32-60)</p> <p>Watch:</p>	<ol style="list-style-type: none"> <li>1. Fidelity Mutual Life Ins. V. Kaminsky <b>and</b> choose two "Notes and Questions" problems immediately</li> </ol>

	<p>Why did we build high-rise public housing projects?</p> <p><a href="#">VIDEO 1</a> <a href="#">VIDEO 2</a></p> <p>Optional: How to Negotiate a Commercial Lease <a href="#">Commercial Lease Negotiation Tips</a></p>	<p>following the case to answer</p> <p>2. Hilder v. St. Peter <b>and</b> choose two "Notes and Questions" problems immediately following the case to answer</p>
<p>Section 10 11/8/21</p>	<p>Read: Chapter 9 – Land Transactions</p> <p>Reed v. King The Watcher (Broker Duty of Care &amp; Disclosures)</p> <p>Watch: 1. <a href="#">Concealment/Nondisclosure</a> 2. <a href="#">Misrepresentation</a> 3. Lecture/presentation posted to canvas</p> <p>Watch: 1. <a href="#">Making an Offer</a> 2. <a href="#">How to fill out the Residential Purchase Agreement</a></p>	<p>1. Reed v. King. 2. Engelhart v. Kramer 3. Harding v. Ja Laur 4. Brush Grocery Kart, Inc. v. Sure Fine Market</p>
<p>Section 11 11/15/21</p>	<p>Review materials posted to canvas and exam 2</p>	<p>Review and exam 2</p>
<p>Section 12 11/22/21</p>	<p>Read: Chapter 11 – Eminent Domain and Chapter 12 – Regulatory Takings</p> <p>Watch: 1. Lecture/presentation posted to canvas</p>	<p>1. Kelo v. City of New London <b>and</b> choose two "Notes and Questions" problems immediately following the case to answer 2. Penn Cent. Transpo v. City of NY <b>and</b> choose two "Notes and Questions" problems</p>

		immediately following the case to answer
Section 13 11/29/21	Read: Chapter 13 – Zoning  Watch: 1. Lecture/presentation posted to canvas	1. 1. Matthew v. Smith <b>and</b> choose two “Notes and Questions” problems immediately following the case to answer
Section 14 12/6/21	Read: Chapter 14 – Common Interest Communities  Watch: 1. Lecture/presentation posted to canvas	1. Hidden Harbor v. Norman <b>and</b> choose two “Notes and Questions” problems immediately following the case to answer 2. 40 West 67 <sup>th</sup> Street v. Pullman <b>and</b> choose two “Notes and Questions” problems immediately following the case to answer
Section 15 12/13/21	Final project due	



### How to Brief or IRAC a case:

**Issue:** A good issue statement includes the party names, the name of the rule of law the brief is analyzing, and a key fact. What is the issue before the court? What Problem is the court trying to solve? The issue should be one or two sentences, state the party names and the relevant legal terms.

**Rule:** The rule is the law that governs the outcome of the case. It should be stated as a general principle and not include any party names or facts. The rule should be stated as a list or an outline- not in paragraph form.

**Application:** The application is a discussion of how the rule applies to the facts of a case. The application shows how you can analyze arguments on both sides and is the most important skill you will learn. The application is normally paragraphs long. It should be written debate - not simply a statement of the conclusion. Whenever possible, present both sides of any issue.

**Conclusion:** What was the result of the case? Who wins? With cases, the text gives you a background of the facts along with the judge's reasoning and conclusion. When you brief cases, you are basically outlining the judge's opinion. With essay questions and problems, you have a summary of the facts of an actual case, and your job is to act as the judge in reasoning your way to a ruling, again using the IRAC format.

### Sample:

**Issue:** Does Weinstein hold title to the Cliff Street property owned by Hurlbert through adverse possession?

#### **Rule:**

A party claiming title by adverse possession has the burden of proving:

1. Actual and Exclusive Possession
2. Open, Visible and Notorious Possession
3. Continuous and Peaceable Possession
4. Hostile and Adverse Possession

#### **Application:**

Weinstein argues that that he is entitled to the property because he had sole physical occupancy of the property. The lawn of the Cliff Street had been maintained and mowed by Weinstein. Weinstein argues that the possession was open, visible and notorious because members of the community historically used the property for games, for children to play and for storing boats. Although most of this activity diminished in the mid-1980s, Weinstein argues that the property continues to be used for boat storing. Weinstein argues that the possession was continuous because the lawn has been kept up and used by the previous owners as well since 1984, and Hurlbert never maintained the property then. Weinstein argues that the possession was hostile and adverse because Hurlbert did not agree with such possession. A notice was posted by Hurlbert intending to prevent a prescriptive easement.

Hurlbert argues that Weinstein is not entitled to the property because the use of the property was not sufficiently hostile and notorious. During the full time of the prescriptive period, the adverse use of the property was limited to seasonal lawn mowing, planting and taking care of several bushes. There needs to be more for the possession to be adverse. Hurlbert argues that all activities that occurred on the lawn were not consistent, only seasonal and isolated. Hurlbert argues that the possession was not made aware to the public because neighbors did not occasionally use the land after the 1980s. Once again showing its inconsistency.

**Conclusion:** No, Weinstein does not hold title to the Cliff Street property because his use of the property was not sufficiently hostile and notorious.